# FAIR TRADING COMMISSION

# DECISION
# On the
# PRICE CAP PLAN 2025 for
# CABLE & WIRELESS (BARBADOS) LTD.

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## ANTECEDENT DOCUMENTS

| Document Number | Description | Date |
|---|---|---|
| FTCUR/CONSRVPCP/2024-03 | Consultation Paper Review of Price Cap Plan 2021 for Cable & Wireless (Barbados) Limited | October 7, 2024 |
| FTC/UR/DEC/2021-01 | Decision On the Price Cap Plan 2021 (amended) | December 13, 2022 |
| FTC/UR/DEC/2021-01 | Decision On the Price Cap Plan 2021 | March 12, 2021 |
| FTC/UR/CONPCP/2020-02 | Consultation on Review of the Price Cap Plan 2016 | September 8, 2020 |
| FTC/UR/PCP/2016-02 | Price Cap Plan 2016 Compliance Rules and Procedures | June 16, 2016 |
| FTC/UR/DEC/2016-01 | Decision on the Price Cap Plan 2016 | March 31, 2016 |
| FTC/UR/CONS/2016-01 | Consultation on Review of the Price Cap Mechanism 2012 | February 8, 2016 |
| FTC/UR/DEC/2012-02 | Decision on Price Cap 2012 Compliance Rules and Procedures | May 22, 2012 |
| FTC/UR/DEC/2012-01 | Decision on Price Cap Plan | March 29, 2012 |
| FTC/UR/CONS/2012-01 | Consultation on Review of the Price Cap Plan 2008 | February 10, 2012 |
| FTC/UR/2008-03 | Decision on Price Cap Plan 2008 | June 23, 2008 |
| FTC/UR/2008-02 | Second Decision on Price Cap Plan 2008 | June 23, 2008 |
| FTC/UR/2008-01 | First Decision on Price Cap Plan 2008 | February 1, 2008 |
| FTC/CONS/2007-01 | Consultation on Review of the Price Cap Mechanism | September 19, 2007 |
| FTC/UR/2005-02 | Decision on Price Cap Mechanism | June 15, 2005 |
| FTC/CONS/2005-01 | Consultation on Price Cap Mechanism: Principles and Methodology Part 11 | February 2, 2005 |
| FTC/UR/2005-01 | Decision on Price Cap Mechanism | April 15, 2005 |
| FTC/CONS/02-04 | Consultation on Price Cap Mechanism | September 6, 2004 |

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## INTERPRETATION OF TERMS

**Actual Price Index (API) –** means the actual level of prices in a service basket and should not exceed the Price Cap Index.

**Annual Compliance Filing (ACF) –** means the formal compliance document in which prices (and historically, volumes) are recorded for those services that are subject to a price cap during each relevant Price Cap Period, for the purpose of measuring compliance in that period.

**Capped Services** – means services price-capped under the Price Cap Plan 2021: Residential and Business standard standalone fixed telephony services including value-added services.

**C&W (or "the Company") –** means Cable & Wireless (Barbados) Limited, the regulated provider of domestic and international telecommunications services, pursuant to Utilities Regulation Order S.I. 2014 No. 65 and the Barbados subsidiary of Cable and Wireless Communications Plc.

**End of Term Price Cap Review ("End of Term Review") –** a review, initiated by the Commission, of the effectiveness and proportionality of the price cap plan as a continuing remedy. It may also include an assessment of the Company's performance.

**Fair Trading Commission –** means the Fair Trading Commission (also known as the Commission, or FTC), the body responsible for consumer protection, fair competition and utilities regulation in Barbados.

**Inflation Factor (I Factor) –** means the percentage change in the retail price index (RPI) between two (2) periods.

**Over-the-top (OTT) Services** – are communications services provided over the internet.

**Price Cap Index (PCI)** – means the constraint that specifies the maximum level of aggregate price change for a service basket. The PCI within the PCP 2021 consists of an inflation factor (I) and a productivity offset (X).

**Price Cap Plan Compliance Rules and Procedures** – means the formal document setting out the official set of rules and procedures which the Company must follow in relation to the Price Cap Plans set by the Commission, and which are published separately.

**Productivity Offset (X Factor)** – means the target productivity to offset the inflation rate in the price cap formula.

**Regulated Services –** means the utility services designated by the Minister pursuant to the Telecommunications (Regulated Services) Order S.I. 2006 No. 5.

**Service Baskets** – means a group of services subject to pricing constraints in the Price Cap Plan.

**Value-Added Services** – are fixed-line services which add value to the main landline service. Examples are call waiting, voicemail, caller ID, call forwarding, and automated assistance for customers.

## SECTION 1 EXECUTIVE SUMMARY

1. The Fair Trading Commission (hereinafter referred to as the FTC or the Commission) has determined that the new Price Cap Plan 2025 (PCP 2025), as detailed within this Decision, will govern the adjustments of rates of regulated telecommunications services (Regulated Services) of C&W from February 1, 2025, to December 31, 2027, i.e. a period of two (2) years and eleven (11) months. This will supersede the current Price Cap Plan, which was introduced on April 1, 2021 and will remain in force until a new framework is implemented.

2. The PCP 2025 may be extended, at the discretion of the Commission, for up to two additional years[1]. Upon a decision to extend, the Commission will give advanced notice to both the Company and the public. The Commission may extend the PCP 2025 after careful consideration of the impact of the PCP 2025 on the market.

3. If the Commission decides not to extend the PCP 2025, the Commission may initiate an End of Term Review and a public consultation.

**Price Cap Structure and Price Controls**

4. The PCP 2025 will be based on two (2) service baskets, one for 'competitive' services and the other for 'non-competitive' services. Neither basket will be subject to an overall price cap. However, there will be a price cap on standard standalone fixed telephony services, inclusive of value-added services. The specific services subject to the price cap are outlined below.

**Basket 1 - 'Competitive' Services**

5. Basket 1 will include all Regulated Services for which the level of competition is deemed to be sufficient to prevent excessive pricing by the Company. These services will not be subject to an overall price cap; however, the advance notification requirements as set out in the PCP 2025 Compliance Rules and Procedures will be in place.

[1] Section 15 of the URA allows the Commission to fix prices for a maximum period of 5 years.

**Basket 2 - 'Non-Competitive' Services**

6. Basket 2 will include all remaining Regulated Services (i.e., all regulated domestic voice, fixed access, associated value-added services and domestic private leased circuits).

7. During the PCP 2025, prices across services in Basket 2 will not be subject to an overall price cap. Rather, only standard standalone fixed telephony and associated value-added services will be subject to a price cap, with the prices of other services in the basket uncapped, as described below.

8. However, since the Commission considers all services within Basket 2 to remain non-competitive, the Commission will continue to monitor the evolution of market conditions (including prices and demand) and may introduce price regulation on these services in future, if deemed necessary.

**Price Cap on Standard Standalone Fixed Telephony Services**

9. The Commission has determined that a price control should be applied only to standard standalone fixed telephony services including value-added services, taking account of the need to protect the consumers of these services and with the further objective of acting as a constraint on the price of the Company's other fixed telephony services. The services subject to the price constraint are listed as follows.

10. Residential standard standalone fixed telephony services include:

a) Fixed line access[2] (monthly recurring charges and any one-off set-up/installation charges)
b) Unlimited Local Calling
c) Call Waiting
d) Voicemail
e) Caller ID
f) Call Forwarding
g) Any and all other value-added services currently available, or may be made

[2] Including all fixed line access services offered to residential customers, including subgroups thereof (e.g. residence exchange line, residence stepping line, Direct Exchange Line, Smart Ring Line Only, staff/pensioner exchange line).

available in the future, under a residential home phone plan.

11. Business standard standalone fixed telephony services include:

a) Fixed line access[3] (monthly recurring charges and any one-off set-up/installation charges)
b) Unlimited Local Calling
c) Voicemail
d) Automated Assistance for Customers
e) Call Forwarding, Call Rejection, Call transfer, and Call Waiting
f) Calling Number Delivery
g) Calling Name Delivery
h) Three Way Calling, Group Call Pickup, Multi Line Hunt Group
i) Last Number Redial, Direct Inward Dialing, Automatic Recall
j) Caller ID Delivery Blocking
k) Easy Attendant, Music on Hold, Call Hold, Business Call Manager, CWB Communicator (softphone access)
l) Any and all other value-added services currently available, or may be made available in the future, under a business fixed voice plan.

**Price Cap Approach**

12. The Company will be subject to a Price Cap at RPI-RPI for Residential and Business standard standalone fixed telephony services including value-added services, i.e. the Capped Services in the PCP 2025, for the next price control period i.e. from February 1, 2025 until December 31, 2027, with the effect that there shall be no price increases over the control period for these services. The RPI-RPI approach has been successfully utilised in other jurisdictions, for example in the UK[4], Ireland[5] and Italy[6].

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[3] Including all fixed line access services offered to non-residential customers, including subgroups thereof (e.g. business exchange line, business exchange stepping line, Direct Exchange Line, PBX/Key Systems Line, Business Automatic Universal Line, 112 Emergency Lines, Smart Ring Line Only, 800 Service Lines, Charity Exchange Line, Directory Number Hunt Exchange Line, Direct Inward Dialling Channel via T1, Voice Channel Stepping via T1, Facsimile Lines).
[4] See: https://www.ofcom.org.uk/siteassets/resources/documents/consultations/uncategorised/9930-narrowband_mkt_rvw/associated-documents/fixednarrowbandrsm.pdf?v=331616
[5] See: Decision Notice 03/07, ComReg Document 07/76
[6] See: https://www.agcom.it/provvedimenti/delibera-33-06-cons

13. Under the RPI-RPI Price Cap, some of the price cap obligations on the Company that were applicable under the PCP 2021 have been removed, i.e.:

a) Annual compliance filings;
b) The requirement to provide the Commission on an annual basis with Separated financial statements (i.e., Profit & Loss statements and Balance Sheets, plus a reconciliation statement to its Audited Statutory Financial Statements) for the following business segments:
    a. Residential and non-residential fixed telephony and broadband services
    b. Domestic and international business connectivity services
    c. Mobile services
    d. All other business segments (e.g., TV services)

14. The assessment of the Company's regulatory and financial performance (included in Part VI - End of Term Price Cap Review of the 2021 Price Cap Plan Compliance Rules and Procedures) is no longer obligatory and may be included at the Commission's discretion.

15. The Commission wants to make sure there is continued visibility of market evolutions of regulated services to ensure monitoring by the Commission of the effectiveness and continued appropriateness of the chosen price control. The Company will therefore be subject to a number of requirements to provide:

    a. Audited Statutory Financial Statements for the Company's entire operations in Barbados on an annual basis.
    b. Information on the total subscribers/connections and traffic volumes for fixed telephony, fixed broadband, and business connectivity services, reported separately for residential and non-residential customer segments.

16. These obligations are set out in detail in the Price Cap Plan 2025 Compliance Rules and Procedures.

17. If, upon an application by the Company, the Commission is satisfied that there has been such a fundamental change in circumstances as to warrant a review of the PCP 2025, the Commission may conduct such a review under Section 15 of the Utilities Regulation Act CAP 282 of the Laws of Barbados ("URA").

## SECTION 2 BACKGROUND

### Introduction

18. As a form of regulation, the PCP was first introduced in Barbados in 2005 and has been reviewed periodically since then. The PCP 2021 expired on December 31, 2024.

19. The Commission notes that the PCP 2021, like the prior PCPs, has been successful in protecting the interests of consumers, particularly vulnerable customer groups, from undue price increases.

20. The objectives for the PCP 2025, like for the PCP 2021, are chiefly to protect customers for whom the Company is the only provider of fixed telephony services, both in areas of the country where Digicel (Barbados) Limited ("Digicel") does not have a network and nationally for those customers who demand only fixed telephony services, which services Digicel does not offer on a standalone basis.

21. In this context, an effective price cap is one which is deemed to protect customers of Regulated Services from being charged excessive prices, i.e., as a result of C&W's market power and therefore ability to set prices, based on streamlined regulatory compliance procedures, while still allowing it to earn a reasonable return across all of the services it offers in Barbados.

22. The Commission's Decision at the time (FTC/UR/DEC/2021-01) included provisions for a review of each the Price Cap Plan prior to its conclusion. This is to allow the Commission to reconfirm the ongoing need for and resulting scope of any price cap regulation going forward.

23. The last such review occurred in 2021 (i.e., at the time of the expiry of the Price Cap Plan 2016), giving rise to the PCP 2021. The PCP 2021 was set to cover the period from April 1, 2021 to December 31, 2024. The Commission commenced its review of the said mechanism in June 2024. The results of this review are set out in this introduction.

24. For non-competitive services, the Commission remains of the view that a form of price regulation continues to be needed to protect customers of Regulated Services from being charged excessive prices, particularly customers for whom the Company is the only provider of fixed telephony services, both in areas of the country where Digicel does not have a network and nationally for those customers who demand fixed telephony only services, which Digicel does not offer.

**Legislative Framework**

25. Under Section 4(3)(a) of the Fair Trading Commission Act, CAP.326B, the Commission is charged with the responsibility to, inter alia, "establish principles for arriving at the rates to be charged by service providers and renewable energy producers". The Commission is also charged with this responsibility under Section 3 (1) of the Utilities Regulation Act, CAP.282 of the Laws of Barbados.

26. Further, in Section 39(1) of the Telecommunications Act, CAP.282B (TA), it states that the Commission shall:

> "establish a mechanism for the setting of rates to be charged by a provider in accordance with the provisions of this Act, the Fair Trading Commission Act and the Utilities Regulation Act."

27. The TA also states in Section 39(2) that the rates should facilitate the policy of market liberalization and competitive pricing.

28. In changing any principles of rate setting, the Commission is obligated to consult with interested parties in accordance with Section 4(4) of the Fair Trading Commission Act, CAP. 326B of the Laws of Barbados ("FTCA"), which states that:

> "The Commission shall, in performing its functions under subsection (3) (a), (b), and (f) consult with the service providers, renewable energy producers, representatives of consumer interest groups and other parties that have an interest in the matter before it."

**Public Consultation Results**

29. The Commission utilised the public consultative process as the means of promoting

full participation in the development of the PCP 2025. The Commission also had an extensive discussion of the various issues with the Company prior to the public consultation.

30. The consultation period began on Monday, October 7, 2024 and ended on Monday, November 4, 2024. The Commission invited written responses in the form of views or comments on the matters discussed from all interested parties and stakeholders.

31. The Commission reiterates some of the main findings of its analysis presented in the Consultation Paper FTCUR/CONSRVPCP/2024-03:

   a. The Company's prices for Regulated Services have complied with the requirements set under the PCP 2021. In fact, the Company has to date not changed any prices for any of the standalone fixed line services which were subject to price controls, even though the Company had the opportunity under the PCP 2021 to increase prices on an annual basis.

   b. It appears that the PCP has become sufficiently immaterial in the context of the Company's overall revenues, that it is simpler for the Company not to make any price changes for regulated services (and thus avoid the need for regulatory reporting) rather than make the price increases that are permitted under the PCP.

   c. The Commission has assessed the Company's pricing behavior for services included within the non-competitive service basket (Basket 2). Since the beginning of the PCP 2021 on April 1, 2021, until the most recent Annual Compliance Filling ("ACF") by the Company in December 2023, there have been no price changes for any services in this basket, either capped or uncapped. The Commission notes that, while prices for services in Basket 2 have remained constant in nominal terms during the PCP 2021 over this period, prices have fallen in real terms in line with inflation.

   d. There have been both demand-side and supply-side changes in the market:

      - The fixed voice service has continued to decline as a proportion of the overall communications market, as the use of mobile and OTT services increases.

- The demand for fixed voice has continued to migrate towards bundled service offerings, for which C&W faces competitive constraints, leaving an ever-smaller group of customers reliant on stand-alone fixed voice services, which only C&W supplies.

32. These observations provide the foundation for the proposed changes to price controls of regulated Retail Services. Specifically, the Commission, as part of Consultation Paper FTCUR/CONSRVPCP/2024-03, has set out various options that significantly reduce the regulatory burden on C&W in return for a removal of the functionality to increase rates for Capped Services under the PCP (i.e. a change from an RPI-0% price cap to an RPI-RPI price cap) in order to further protect the interests of these customers. These options are summarised as follows:

**Table 1. Summary of options subject to Consultation**

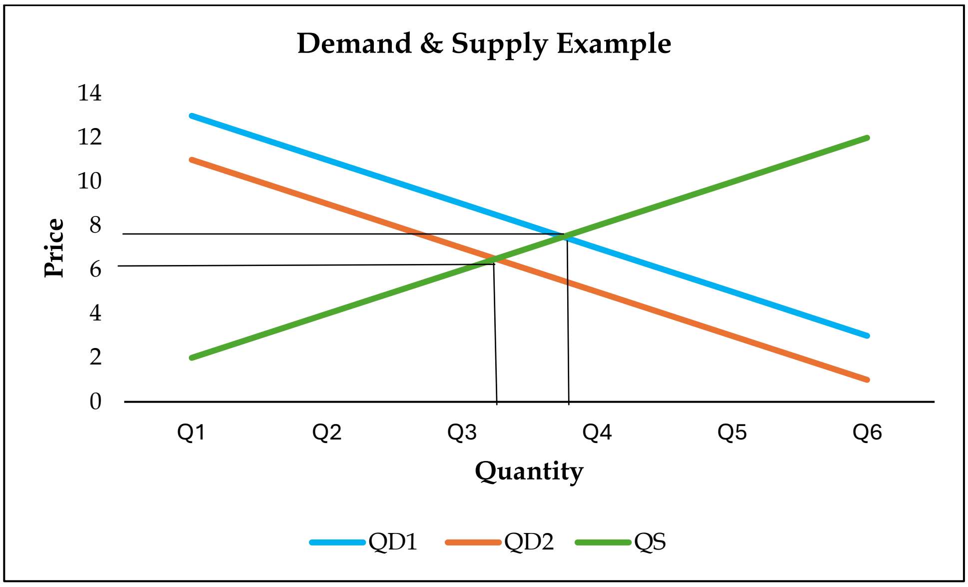
| Options | Effect on prices for stand-alone voice telephony services | Change in the regulatory reporting requirements of the Company | Applicable period/timeframe |
|---|---|---|---|
| 1 | Prices may increase by inflation or 3% whichever is lower | No change. | For all options presented, the PCP 2025 is to be set for a period of two (2) years and eleven (11) months, starting on February 1, 2025. The PCP 2025 could be extended, at the discretion of the Commission, by up to two (2) additional years. |
| 2 | No price increases allowed | Removal of requirement to file annual compliance reports and separated accounts. | |
| 3 | Price increases only allowed if there is a fundamental change in circumstances, as approved by the Commission | Removal of requirement to file annual compliance reports and separated accounts. | |

33. The Commission received a single response on its consultation, from the Company. In this response the Company made clear that it believes price caps are no longer needed to protect consumers because of the competitive nature of the market and

because fixed telephony services are in decline. While the Company made it clear that there is no intention to increase rates for Capped Services, the Company stated that it would not want to place itself in a difficult situation should market conditions change. A summary of the consultation submission received from the Company and the Commission's response is included in Attachment 2.

34. The Commission is satisfied that the current prices for the Capped Services are reasonable and therefore, fixing a rigid nominal cap at this level is an appropriate step. The observed behaviour of the Company over the PCP 2021, i.e., not increasing any prices within the grouping despite the allowed flexibility, has shown that it no longer deems increasing the prices of these Capped Services as commercially prudent. In fact, data submitted by C&W during this review process indicated that during the period 2020 – 2024, fixed voice revenues fell sharply, making up just 17% of the Company's overall revenues, down from 25% at the start of the period. This is a clear indication of an overall drop in demand. From an economic perspective, a fall in demand of this nature may be represented graphically as a shift of the demand curve to the left. The following graph is simply and illustration of this concept and not an actual reflection of the Company's data.

**Figure 1: An Illustration of a Downward Shift in Demand**




Where:
QD1 is Demand in time period 1
QD2 is Demand in time period 2 after the downturn
QS is Supply

When demands falls in the manner shown above, i.e. from the blue demand curve to the orange demand curve, it becomes imprudent for a service provider to raise prices as the market equilibrium settles at a lower price than its starting point. Also of relevance is the Company's own assertion, in its response to the consultation, that there was no commercial value to be derived from increasing the prices of any of the Capped Services. Having considered these factors, the Commission maintains that a cap set at the current level of prices is prudent and reasonable. The Company is not prohibited from lowering prices if it is deemed feasible to do so. The price cap effectively acts as a safeguard to protect a specific segment of the market, for whom C&W remains the only viable option. The Commission acknowledges that the above graph and its basis in economic theory does indeed rely on the assumption of *ceteris paribus*[7], which holds all factors external to the matter constant. While the concept of this ideal market equilibrium may not be achievable in a practical manner, it still reliably explains the behaviour of firms.

35. With respect to the actual formula to be used in the PCP 2025, there has been no significant or material change from the standard price cap formula used and consulted on consistently by the Commission. With the options presented in the consultation, both options 2 and 3 would have always necessitated adjustments to the formula. As illustrated below in the section which details the formula, the only change is that instead of setting X equal to zero, the Commission now sets X equal to RPI to allow for the static price cap at nominal levels, i.e., no price increases allowed. Essentially, this amounts to a price ceiling on specific services, similar in nature to rent controls.

36. Having taken utmost account of the consultation responses, the Commission then assessed each of the options on the basis of an objective framework based on four central criteria:

    a. Criterion 1: Facilitate the policy of market liberalization and competitive

[7] Ceteris Paribus: "A dominant assumption in mainstream economic thinking, it acts as a shorthand indication of the effect of one economic variable on another, provided all other variables remain the same (constant). In the scientific sense, if we claim that one variable influences another, ceteris paribus, we are essentially controlling for the effects of some other variables." Liberto, Daniel. 2023. "Ceteris Paribus." Investopedia. January 1, 2023. https://www.investopedia.com/terms/c/ceterisparibus.asp.

pricing. This criterion has been included because it is one of the key obligations of the Commission in relation to setting regulated rates under the Telecommunications Act.

b. Criterion 2: Protect customers from being charged excessive prices. This remains the key objective of the Commission in relation to any price control mechanism put in place.
c. Criterion 3: Allow the Company to earn a reasonable return. Again, this criterion has been included before by the Commission when designing Price Cap Plans and it is maintained in this framework. It is one of the cornerstones of effective utility regulation.
d. Criterion 4: Streamline regulatory procedures relating to rates. This criterion has been included to reflect the Commission's commitment to efficient and proportionate regulation.

37. Option 2 comes out of the Commission's assessment with the highest score against the evaluation criteria presented.

38. Option 2 is preferable to Option 1 in that the regulatory burden is reduced, for both the Commission and the Company, without any significant impact on consumer protections.

39. Option 2 is preferable to Option 3 because it achieves the same regulatory ends (when coupled with Section 15 of the URA). Option 3 as originally presented did not account for the provisions of Section 15 of the URA and therefore proposed a process that was unnecessary. A full assessment of the Commission's review of options against each criterion, inclusive of the scores, is set out in Attachment 3.

40. The Company has stated a preference for Option 3 on the grounds that it provides significant possibility for regulatory relief while still offering a facility for an application for price increases in specific circumstances. However, the Company also heavily criticised the procedure through which price increases may be obtained, and the associated requirements. With this in mind the Commission believes it prudent to rely on the provisions of the URA, which allow for a review

of any Decision due to a fundamental change in circumstances. Instead of seeking to create a new process i.e., what was originally envisaged with Option 3, the Commission shall abide by the processes as laid out in its enabling legislation.

41. Based on the above, the Commission has decided to implement Option 2 in the PCP 2025.

**The Price Cap Formula**

42. The price cap formula specifies that the API (Actual Price Index), which represents changes in prices charged by the Company for a given Capped Service in a particular period (t), must be less than or equal to the PCI (Price Cap Index). Formally:

$$API_t^i \leq PCI_t$$

43. The API for a given Capped Service in current period t, $API_t^i$, is calculated as follows:

$$API_t^i = API_{t-1}^i \, \alpha$$

and alpha ($\alpha$) is defined as follows:

$$\alpha = \frac{p_t^i}{p_{t-1}^i}$$

Where:

| | |
|---|---|
| $API_{t-1}^i$ | *is the Actual Price Index for Capped Service i during time period t-1;* |
| $p_t^i$ | *is the average price for Capped Service i during the current period t (i.e., the average of the prices as of the first day of each month during the current period); and* |
| $p_{t-1}^i$ | *is the average price for Capped Service i during time period t-1 (i.e., the average of the prices in each month during that period).* |

For the avoidance of doubt, the API calculation will be conducted for each Capped Service individually.

44. The PCI for a given Capped Service is calculated as follows:

$PCI_t = PCI_{t-1} (1 + I_t - X_t)$, where

I is the inflation factor (i.e. RPI); and

X is the productivity factor.

45. For the PCP 2025, the productivity factor X has been set to equal RPI, consequently, the following applies for all price cap plan periods:

$PCI_t = PCI_{t-1}$

## SECTION 3 PRICE CAP PLAN 2025

**Basket Structure**

46. Like the PCP 2021, the PCP 2025 adopts the following approach to the definition of service baskets:

  a. Any regulated services where prices are assumed to be constrained to a reasonable level by competition (i.e., competitive services) are placed in a separate basket (Basket 1) and uncapped.

  b. The remaining Regulated Services then form a separate Basket (Basket 2). Prices across services in Basket 2 are not made subject to an overall price cap. Rather, only standard standalone fixed telephony services and associated value-added services are made subject to a price cap, with the prices of other services uncapped. These services are referred to as Capped Services.

47. The table below details the basket structure for the PCP 2025.

**Table 2. Basket Structure for the PCP 2025**

| Basket | Services | Caps |
|---|---|---|
| **Basket 1: 'Competitive' services** | Fixed international outgoing calls, International calling cards, International calls from payphones, Domestic and International operator assistance. | Uncapped |
| **Basket 2: 'Non-competitive services** | Residential and Business standard standalone fixed telephony services including value-added services (Capped Services). | 'RPI-RPI' |
| | All remaining Regulated Services (e.g., private leased circuits, direct exchange lines). | Uncapped |

48. Residential standard standalone fixed telephony services include:

  a. Fixed line access[8] (monthly recurring charges and any one-off set-up/installation charges)

  b. Unlimited Local Calling

[8] Including all fixed line access services offered to residential customers, including subgroups thereof (e.g. residence exchange line, residence stepping line, Direct Exchange Line, Smart Ring Line Only, staff/pensioner exchange line).

c. Call Waiting
d. Voicemail
e. Caller ID
f. Call Forwarding
g. Any and all other value-added services currently available, or may be made available in the future, under a residential home phone plan.

49. Business standard standalone fixed telephony services include:

a. Fixed line access[9] (monthly recurring charges and any one-off set-up/installation charges)
b. Unlimited Local Calling
c. Voicemail
d. Automated Assistance for Customers
e. Call Forwarding, Call Rejection, Call transfer, and Call Waiting
f. Calling Number Delivery
g. Calling Name Delivery
h. Three Way Calling, Group Call Pickup, Multi Line Hunt Group
i. Last Number Redial, Direct Inward Dialing, Automatic Recall
j. Caller ID Delivery Blocking
k. Easy Attendant, Music on Hold, Call Hold, Business Call Manager, CWB Communicator (softphone access)
l. Any and all other value-added services currently available, or may be made available in the future, under a business fixed voice plan.

50. Since the Commission considers all uncapped services in Basket 2 to remain non-competitive, the Commission will continue to monitor the evolution of market conditions (including prices and demand) for these services and could re-introduce price regulation on these services, if and when deemed necessary.

[9] Including all fixed line access services offered to non-residential customers, including subgroups thereof (e.g. business exchange line, business exchange stepping line, Direct Exchange Line, PBX/Key Systems Line, Business Automatic Universal Line, 112 Emergency Lines, Smart Ring Line Only, 800 Service Lines, Charity Exchange Line, Directory Number Hunt Exchange Line, Direct Inward Dialling Channel via T1, Voice Channel Stepping via T1, Facsimile Lines).

**Applicable period/timeframe**

51. The PCP 2025 is set to apply to the Regulated Services of the Company from February 1, 2025 to December 31, 2027 i.e., a period of two (2) years and eleven (11) months.

52. The PCP 2025 may be extended, at the discretion of the Commission, for up to two (2) additional years[10]. Upon a decision to extend, the Commission will give advanced notice to both the Company and the public. The Commission may extend the PCP 2025 after careful consideration of the impact of the PCP 2025 on the market.

53. If the Commission decides not to extend the PCP 2025, the Commission may initiate an End of Term Review and a public consultation.

**Applicable Price Caps**

54. The Company will be subject to a Price Cap at RPI-RPI for Residential and Business standard standalone fixed telephony services including value-added services, i.e., the Capped Services in the PCP 2025, for the next price control period.

55. Under the RPI-RPI Price Cap, some of the price cap obligations on the Company that were applicable under the PCP 2021 have been removed, i.e.:
    a. Annual compliance filings;
    b. The requirement to provide the Commission on an annual basis with Separated financial statements (i.e., Profit & Loss statements and Balance Sheets, plus a reconciliation statement to its Audited Statutory Financial Statements) for the following business segments:
        i. Residential and non-residential fixed telephony and broadband services
        ii. Domestic and international business connectivity services
        iii. Mobile services
        iv. All other business segments (e.g., TV services)

[10] Section 15 of the URA allows the Commission to fix prices for a maximum period of 5 years.

56. The assessment of the Company's regulatory and financial performance (included in Part VI - End of Term Price Cap Review of the 2021 PCP Compliance Rules and Procedures) is no longer obligatory and may be included at the Commission's discretion. This is due to the fact that no price increases are allowed, removing the need to assess whether price increases over the period complied with the price control. Additionally, the size of the Capped Services is so small relative to C&W's overall financial performance that this may no longer be considered as an absolute necessity.

57. If, upon an application by the Company, the Commission is satisfied that there has been such a fundamental change in circumstances as to warrant a review of the PCP 2025, the Commission may conduct such a review under Section 15 of the URA.

58. The Commission reserves the right to impose alternative or additional regulatory reporting requirements in future, should it consider them necessary.

59. Regarding the removal of the annual compliance filings, these were necessary under the previous price cap because C&W was allowed to increase or decrease the prices of the Capped Services as long as the API did not exceed the PCI. Moreover, Paragraph 81 of the Commission's PCP 2021 Decision Document No: FTC/UR/DEC/2021-01, issued March 12, 2021, determined that "In the event that no price changes for any price-capped services are planned for the upcoming period of the PCP, the Company is exempted from filing an ACF. In such an event, the Company must submit a written statement to the Commission one (1) month before the start of the new period, authorised and signed by its CEO, explaining that no price changes are planned for that PCP period." Under the PCP 2025, no price increases are allowed and as such there is no longer a need to verify that the API has not exceeded the PCI. The Commission will be notified of all price changes as outlined in the section below.

**Notification**

60. For the services within Basket 1, it is expected that prices will continue to be driven primarily by competitive forces and the Company's pricing flexibility was deemed

to be sufficiently constrained by competition to allow for a lighter form of price control. These services are subject to advance notification of price changes as set out in the PCP 2025 Compliance Rules and Procedures.

61. For the uncapped services within Basket 2, it is also expected that prices are driven primarily by competitive forces and the Company's pricing flexibility was deemed to be sufficiently constrained by competition to allow for a lighter form of price control. These services are subject to advance notification of price changes as set out in the PCP 2025 Compliance Rules and Procedures.

62. The advanced notification process is summarized as follows:

   a. Rate Decreases: The Company is not required to seek prior approval from the Commission for any proposed decrease in prices for any Regulated Services. However, the Company is required to notify the Commission in writing of any proposed rate decreases for Regulated Services no later than three (3) business days before the rate decrease takes effect. The Company is also required to notify customers via their billing statements.

   b. Rate Increases: With the exception of Capped Services, the Company is not required to seek prior approval from the Commission for any proposed increase in prices for any Regulated Services, where this is allowed under the PCP 2025. However, the Company is required to notify the Commission of any proposed increase in rate for any Regulated Service no later than twenty-five (25) business days before such rate increase takes effect. For every rate increase, the Company is required to advise the public by way of an insert attached to the prior month's bill; advertisements in two (2) daily publications in at least two (2) editions; and on all of its social media platforms no later than twenty (20) business days before the date of the expected price increase.

**Regulatory Reporting**

63. Under the PCP 2025, the following information is required from the Company on an annual basis:

   a. Audited Statutory Financial Statements for the Company's entire operations in Barbados.

b. Information on the total subscribers/connections and traffic volumes for fixed telephony, fixed broadband, and business connectivity services – reported separately for residential and non-residential customer segments.

Dated this 31st day of January 2025

*Original signed by*

……………………………..
Donley Carrington
Deputy Chairman

*Original signed by*

……………………………
Antonio Elcock
Commissioner

*Original signed by*

…………………………….
Ankie Scott-Joseph
Commissioner

*Original signed by*

……………………………..
Shelly-Ann Seecharan
Commissioner

## APPENDIX 1 REGULATED RETAIL SERVICES

64. The Telecommunications (Regulated Services) Order 2006 sets out the full list of regulated retail services provided by C&W. These services, which shall be regulated under the PCP 2025, are summarised in the table below.

**Table 3. Regulated Retail Services**

| Category | Services |
|---|---|
| **Domestic voice services** | Residential and non-residential fixed line access and installation, value-added services, voicemail, internal voice network calling, domestic payphone calling, emergency calling. |
| **International voice services** | Fixed outgoing international calling, international toll-free calling, international call centers, international calling cards, international payphone calling. |
| **Dedicated lines services** | Domestic private leased circuits, international private leased circuits, direct exchange lines, dedicated lines used for Internet. |

## APPENDIX 2 SUMMARY OF CONSULTATION SUBMISSIONS RECEIVED

65. Despite best efforts to engage with a wider audience, the Commission received only one response to the public consultation process that ended on November 4, 2024, which was from the Company. The very fact that no other responses were received is supportive of the case advanced in the consultation paper that the PCP is no longer a matter of significant concern to the vast majority of consumers. The detailed responses received from the Company are presented below along with the Commission's analysis and response.

**Consultation Issue No. 1: Do you agree that this section accurately describes the main market developments relevant for the assessment of the continued need for and design of the retail price control regime? Please provide market data and a full description of your main arguments where possible.**

**Summarised responses received from the Company**

66. The Company is generally supportive of the analysis presented. The Company makes the point that general price levels have increased by over 15% over a three (3) year period but the Company was unable, over this period, to increase the price for any fixed line services. The Company attributes this to the current state of play from a commercial standpoint for this segment of the business.

67. The Company makes the point that fixed voice services are in constant decline in value and usage to consumers and that no new investments are being made to support the service. The Company is of the view that many alternative modes of communication and technology can provide voice quality at the same level of reliability and often at much lower prices to consumers.

68. The Company confirms in its submission that there is 'absolutely no commercial value in increasing the price of any fixed line service.' The Company further states that, 'given that a vast majority of consumers have access to attractive alternate modes of communication, it is improbable for the Company to be able to sustain an increase in the prices of fixed lines services in a way that would be profitable.'

69. The Company makes the point that the FTC analysis of the market 'clearly signals the FTC's acceptance and concession that fixed voice doesn't require any form of safeguards for consumers in the form of a price cap.'

70. The Company finally argues that the view that "vulnerable customers" must be protected from potentially excessive pricing is without merit. The Company prices fixed line services on a collective national basis, and not just to a small segment of its customer base in a specific geographical area. The Company is of the view that the fear of abuse in this segment of the customer base is unfounded.

**Response from the Commission**

71. The Company's response on issue No. 1 is generally supportive and provides a corroboration of the market analysis presented by the FTC.

72. It is important to note that the Company confirms that there is no commercial value to increase the prices for any fixed line services. This confirmation by the Company makes it clear that the facility to increase prices on an annual basis under the PCP 2021 is no longer relevant to the Company going forward. It was for this reason that Options 2 and 3 were included in the consultation paper.

73. It should be noted that the Company misrepresents the FTC's position that its analysis of the market 'clearly signals the FTC's acceptance and concession that fixed voice doesn't require any form of safeguards for consumers in the form of a price cap.' All three price control options presented in the consultation paper are forms of price cap regulation and these options have been specifically designed to protect the interests of consumers, while ensuring that the regulatory burden on the Company is proportionate, which in this case means reduced.

74. The FTC is also clear in the consultation paper that it is concerned about a very specific user group that relies on access to affordable standalone fixed telephone services, a service not provided competitively. All other regulated fixed services are either considered competitive (Basket 1) or are not Capped Services in Basket 2.

75. Finally, the Commission, in its consultation paper, has not expressed the view that the Company would specifically target a small segment of its customer base in a specific geographical area. Rather the concern is that the execution of a wider commercial strategy by the Company may disproportionately affect customers' reliant on standalone fixed telephony services. This concern remains, also after the analysis presented by the Company.

**Consultation Issue No. 2: What are your views on Option 1? Do you think there is value in continuing to cap prices for standalone fixed voice telephone services?**

**Summarised responses received from the Company**

76. The Company is of the view that Option 1 in its current form will continue to place an unfair burden on the business and there is no value to its continuation.

**Response from the Commission**

77. Option 1 should only be considered if there is a clear and objective reason to allow the Company to increase prices for standalone fixed telephony services on an annual basis under the PCP. The Company has confirmed in its submission that there is 'absolutely no commercial value in increasing the price of any fixed line service.' This provides support for the Commission's reasoning behind the design of Options 2 and 3. No contrary view having been presented during the public consultation; Option 1 should therefore no longer be considered.

**Consultation Issue No. 3: What are your views on Option 2? Is it appropriate that, in return for a commitment not to increase prices for Capped Services, the regulatory reporting requirements for the Company would be reduced?**

**Summarised responses received from the Company**

78. The Company, in its response, welcomes any relief of the regulatory burden that has imposed 'unnecessary costs' on the Company. The Company is of the view that a commitment to freeze prices is not the most economically efficient and does not believe that a commitment in writing to not increase prices should be considered. This is because the market already has sufficient constraints brought about by the changes and evolution in market structures.

**Response from the Commission**

79. The consultation paper makes it very clear that, at this stage, the Commission does not believe it is prudent to solely rely on market forces for the protection of customers taking a very narrowly defined set of fixed telephony services – i.e. the Capped Services. The submission of the Company does not change this position.

80. Option 2 also does not include an obligation to freeze prices (i.e., prices remaining at the same level); Option 2 imposes an RPI-RPI cap on Capped services, but the Company has flexibility to lower rates.

81. Concerning a written commitment by the Company not to increase prices for any Capped Services under Option 2, the following facts may usefully be considered:

a. The Company emphasises in its response that it does not foresee any need to adjust regulated prices upwards. Consequently, a further written statement to this effect may no longer be considered necessary.
b. The Company has the right to request a review of the Commission's decision on the price controls under Section 15 of the URA if there is a fundamental change of circumstances. This right cannot easily be reconciled with the requirement that the Company also make a written statement not to increase rates.
c. The Company has clearly indicated that it does not agree with having to provide a written commitment.

82. Taken together these factors lead to a revised proposal in which the Commission simply re-establishes a Price Cap at RPI-RPI with the effect that there shall be no price increases over the control period, i.e., prices are to be capped at present nominal levels. A written commitment by the Company is not needed in this scenario.

**Consultation Issue No. 4: What are your views on Option 3? Do you consider that there is a need for the Company to be allowed to increase prices for standalone fixed voice telephone services in exceptional circumstances?**

**Summarised Responses Received from the Company**

83. The Company presents the view that Option 3 is the best out of the three options presented. However, the Company objects to the process presented to obtain FTC approval for price increases for Capped Services as "onerous, cumbersome, time-consuming and almost impractical, and tantamount to the inability to increase prices."

84. The Company is, therefore, requesting that some of the terms in Option 3 be reconsidered. Specifically, Option 3 includes a proposal where the Commission

may, upon receipt of an application to increase rates of Capped Services:

a. Conduct a public consultation.
b. Approve or reject the application at its discretion, with an aim of doing so within 90 days of receiving an application.

85. It is the opinion of the Company that the proposed approval time of 90 days is too long. A much-abbreviated process of 30 days would be welcomed.

86. The Company also does not believe that conducting a public consultation for the price adjustment is a necessary and value-added step in this price adjustment application.

87. The Company again emphasises that, over the course of the next price cap period, it does not foresee any need to adjust regulated prices upwards. However, the Company at the same time would not want to place itself in a difficult situation should market conditions change (a sharp increase in input costs for example), and the company would not be in a position to at least recover the cost of providing the service, in particular marginal cost.

**Response from the Commission**

88. Option 3 provides a facility to increase rates for Capped Services if there is a fundamental change in circumstances. The nature of these circumstances cannot be known in advance, and it is therefore prudent to ensure the Commission has at its disposal all options to perform a comprehensive review of any application submitted by the Company for price increases. In the event of a fundamental change in circumstances, a review of the original decision may be required and a statutory requirement in that process is to solicit the input of stakeholders.

89. Concerning a written commitment by the Company not to increase prices for any Capped Services under Option 3, the following facts may usefully be considered:

a. The Company again emphasises in its response that it does not foresee any need to adjust regulated prices upwards. Consequently, a further written statement to this effect may no longer be considered necessary.

b. Under Option 3, the proposed facility to increase rates where there is a fundamental change in circumstances cannot easily be reconciled with the requirement that the Company also make a written statement not to increase rates.
c. The Company has clearly indicated that it does not agree with having to provide a written commitment.

90. As for Option 2, these factors lead to a revised proposal in which the Commission simply re-establishes a Price Cap at RPI-RPI with the effect that there shall be no price increases over the control period. A written commitment by the Company is not needed in this scenario.

91. Finally, it should be noted that, under Section 15 of the URA, the Company has the right to request a review of the Commission's decision on the price controls if there is a fundamental change of circumstances. This means that some of the protections offered by Option 3 are implicitly available also under Option 2. As the Company finds the process proposed under Option 3 to be "onerous, cumbersome, time-consuming and almost impractical" it may be better to rely on the more general provisions of the URA.

**General Comments received from the Company**

92. In its commentary, the Company makes a number of wider points, summarised here as follows:

a. Fixed voice is no longer a monopoly service provided by C&W. In fact, C&W has not been a monopoly provider of fixed voice for more than a decade.
b. There is substitutability between fixed voice and mobile voice. This implies that subscribers of fixed services may consider mobile services offered by both the Company and Digicel as alternatives for their fixed line services. There is significant competition in the market making regulatory intervention unnecessary.

c. The continued reliance on price caps puts the Company at a competitive disadvantage to Digicel and relative to OTTs that are not subject to local taxes, license fees, regulatory fees and all the obligations that come with being a licensee under the Telecommunications Act.

**Response from the Commission**

93. These three points listed above are addressed in turn below.

94. The Commission acknowledges the first point. However, the PCP serves a specific purpose for a narrowly defined group of Capped Services. The resulting burden on the Company is therefore not disproportionate.

95. On the second point, there are many reasons why mobile services may not be considered substitutes for fixed services. Fixed services do not have the mobility feature central to cellular services and mobile services tend to be sold in bundles of voice, data and messaging services, with voice not sold on a standalone basis. In addition, price levels and structures tend to be different between fixed and mobile service. Fixed voice also tends to offer clearer and more consistent call quality especially in more rural areas. Additionally, fixed services are superior for emergency services as they are location specific. Mobile services are therefore unlikely to be perfect substitutes for fixed services and particularly not for the Capped Services.

96. On the third point, as stated, it is the view of the Commission that the proposed regulatory burden under the PCP 2025 on the Company is proportionate and would not result in a competitive disadvantage relative to its competitors, locally licensed or otherwise.

## APPENDIX 3 ASSESSMENT OF OPTIONS AGAINST STATED CRITERIA

97. An assessment is now presented of how each option outlined during the consultation process performs against stated criteria. The criteria are not weighted.

**Criterion 1: Facilitate the Policy of Market Liberalization and Competitive Pricing**

98. The Commission has divided regulated retail services into two baskets, with Basket 1 containing competitive services and Basket 2 containing non-competitive services. Basket 2 is further sub-divided into capped (Residential and Business standard standalone fixed telephony services including value-added services) and uncapped services.

99. The approach recognises that for services in Basket 1, price levels are the result of competitive forces in the market. Because the Commission considered all uncapped services in Basket 2 to remain non-competitive, the Commission has continued to monitor the evolution of market conditions (including prices and demand) for these services and can re-introduce price regulation on these services if and when deemed necessary. This is the same for all three options proposed.

100. It should be noted that all three options include forms of price caps for capped services, the difference between the options lies in the ability of the Company to increase rates for capped services. The ability to increase rates can be described as follows:

   a. Option 1: annual price increases below or equal to the level of inflation, or 3% a year if inflation exceeds 3% during that year (RPI-0%).
   b. Option 2: no price increases allowed (RPI-RPI) under the PCP. The Company may make an application for a review and variation of the decision if there is a fundamental change in circumstances, as per the provisions of Section 15 of the URA.
   c. Option 3: price increases only allowed if there is a fundamental change in circumstances.

101. These options apply to only a small subset of regulated retail services and the overall difference between the options in terms of the impact of market liberalisation in particular is likely to be limited. It could be argued that price increases may invite Digicel to enter the market for standalone fixed telephony services and offer competitive pressure and an alternative to the services offered by the Company. However, the Company has not to date increased rates for

capped services during the PCP 2021 (Option 1) and, on the assumption that fundamental changes are rare, the impact on market liberalisation of these options is likely to be similar.

**Criterion 2: Protect Customers from being Charged Excessive Prices**

102. Charges are defined as excessive when they result in returns above the reasonable level i.e. when prices are not cost-oriented. Option 2 and Option 3 provide the clearest protection to customers from being charged excessive prices as the ability of the Company to increase prices has been removed (RPI-RPI). Option 1 provides similar but not as strong protection by linking price increases to inflation (RPI-0%) and includes a limit of 3% per annum to avoid 'sticker-shock'.

103. Option 3 is similar to Option 2 but allows the Company to apply for price increases under the PCP if there is a change in fundamental circumstances. However, it should be noted that even under Option 2 the Company can make such an application under Section 15 of the URA.

104. The Commission is in a position to ensure the Company provides data to prove that such an application would not result in excessive prices. In this sense, Options 2 and 3 offer better consumer protection than Option 1 because under Option 1 the Company does not need to demonstrate a relationship between prices and costs to justify the price increase.

105. Options 2 and 3 score the same on this criterion; for both options, the Commission will be in a position to ensure excessive prices do not result from any price change applications by the Company.

**Criterion 3: Allowing the Company to Earn a Reasonable Return**

106. Under Option 1, the Company may increase prices in line with inflation and this offers some scope for revenue increases to compensate for underlying cost increases of price capped services. The Commission has not been provided with cost information to assess whether such price increases are sufficient to allow the Company a reasonable return during the PCP 2025.

107. Option 2 would restrict the Company's ability to increase prices and thus reduce its ability to earn a reasonable return, particularly in the scenario where unit costs for capped services increase over time. However, the provisions of Section 15 of the URA would allow for a review if there is a fundamental change in circumstances.

108. Option 3 was intended to give the Company greater reassurance about earning a reasonable rate of return, because it could apply for price increases if there is a fundamental change in circumstances. This may include a situation where existing price levels result in substantially below-reasonable returns. However, the Company in its response to the consultation has questioned whether the process would be workable or effective. It is therefore doubtful that Option 3 would in practice provide any more protection than Option 2 on the ability of the Company to earn a reasonable rate of return.

**Criterion 4: Streamline Regulatory Procedures Relating to Rates**

109. Relative to Option 1, Options 2 and 3 offer a substantial reduction in regulatory compliance obligations through the removal of annual compliance filings, the obligation to file separated financial statements and by the Commission retaining the option, at its discretion, not to conduct the assessment of the Company's regulatory and financial performance as part of the End of Term Price Cap Review.

110. Option 2 scores higher than Option 3 because the Company considers the procedures that it would introduce in order to request and obtain a price increase are '…onerous, cumbersome, time-consuming and almost impractical'.

111. The results of the assessment are summarized below with scores on a three-point scale (1=low, 2=medium, 3=high). The higher the score the better the option meets the four identified assessment criteria.

**Table 4. Summary Assessment of Options against Evaluation Criteria**

| Criteria | Option 1 - Maintain existing Price Cap Approach | Option 2 - No Price Increases Allowed | Option 3 - Price increases allowed after fundamental change in circumstances |
|---|---|---|---|
| **1 - Facilitate market liberalization and competitive pricing** | 2 | 2 | 2 |
| **2 – Protection from excessive prices** | 2 | 3 | 3 |
| **3 - Allowing a reasonable return** | 2 | 3 | 3 |
| **4 - Streamline regulatory procedures** | 1 | 3 | 2 |
| **Total Score** | **7** | **11** | **10** |

112. Option 2 comes out of our assessment with the highest score against the evaluation criteria presented. Option 2 is preferable to Option 1 in that the regulatory burden is reduced, for both the Commission and the Company, without any significant impact on consumer protections.

113. Option 2 is preferable to Option 3 because it achieves the same regulatory ends when coupled with Section 15 of the URA while carrying a lower transactional cost. The Company has stated a preference for Option 3 on the grounds that it provides significant possibility for regulatory relief while still offering a facility for an application for price increases in specific circumstances. However, the Company has also heavily criticised the procedure through which price increases may be obtained, so on balance it would be better to rely on the more general provisions of the URA.