



Fair Trading Commission

CONSULTATION PAPER

REVIEW OF THE PRICE CAP PLAN 2016

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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
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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 II	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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This Consultation Paper is not a legal document and does not constitute legal, commercial or technical advice. The Commission is not bound by this document. The consultation is without prejudice to the legal position of the Commission or its rights and duties to regulate the telecommunications market generally.

INTERPRETATION SECTION

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

C&W – means Cable and Wireless (Barbados) Limited, the regulated service 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.

Columbus Telecommunications – means Columbus Telecommunications (Barbados) Ltd. and the Barbados subsidiary of Columbus International Inc.

Exogenous Factor (Z Factor) – means a component of the price cap formula incorporating a change, specific to the telecommunications industry, having a material impact on the regulated telecommunications provider, resulting from actions which are beyond the control of the provider.

Inflation Factor (I Factor) – means the percentage change in the average consumer price index (CPI) between two periods.

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

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.

REVIEW OF THE PRICE CAP PLAN 2016

PURPOSE OF CONSULTATION

1. The Fair Trading Commission (“the Commission”) is reviewing the performance of the Price Cap Plan 2016 (PCP 2016), the duration of which was initially from April 1st 2016 to March 31st 2019. This was first extended to December 31st 2019, following a change in C&W’s financial year, then extended again (until further notice from the Commission) to allow for completion of the PCP review process.¹
2. The Commission established a price cap framework to replace the rate of return (ROR) methodology as a system for the economic regulation of Cable & Wireless (Barbados) Ltd. (C&W)’s regulated services² in 2005. The Commission’s Decision at the time included provisions for a review of the Price Cap Plan prior to its conclusion. The last such review occurred in 2016 (i.e., at the time of the expiry of the Price Cap Plan 2012, which fed into the PCP 2016).
3. The Commission is now undertaking a review of the PCP 2016. This public consultation is an element of said review. The purpose of this consultation is to obtain public input which will help the Commission in ascertaining whether:
 - there remains a need to regulate, on an ex-ante basis, C&W’s regulated services; and if so, whether
 - to modify the design and level of the Price Cap Plan.
4. As discussed further in Sections 3, 4 and 5, the Commission proposes to retain the current structure and level of the price cap as determined in the PCP 2016 under the next Price Cap Plan (PCP 2021). This approach is based on a number of factors:
 - a. There are difficulties in assessing the appropriate service costs to update the price cap in an increasingly converged environment (for example, with services increasingly being sold in bundles) and

¹ Source: Commission update – Extension of Price Cap Plan 2016, 11 October 2019 https://www.ftc.gov.bb/index.php?option=com_content&task=view&id=371&Itemid=1

² Information on the Legislative Framework is provided in Appendix 1.

concerns over the reliability of Enhanced Allocation Model (“EAM”) cost data provided by C&W;

- b. There is no evidence that the current level of the price cap is leading to excessive profitability for the relevant services given that usage of retail fixed telephony services has been in decline and is expected to continue to exhibit limited profitability during the coming years; and
- c. While fixed telephony services are in decline, there may be a material number of customers who continue to rely on these services, indicating that a price cap still has a role to play in protecting these customers

5. The Commission also notes that the overall scope of the telecommunications regulatory framework in Barbados will be reviewed in the near term. In particular, this review will likely reassess the set of telecommunications services of which the Commission would have oversight. This may incite the Commission to conduct a review of the competitive dynamics in a wider range of telecommunications services. This in turn could identify the need for price regulation, which may include modifications to the PCP 2021 as summarised above and described in more detail in the sections which follow.

6. The Commission encourages the widest possible participation in this consultation process.

7. Summary of Proposals Herein: The Commission opines that there continues to be a need for price regulation due in large part to C&W’s dominance in the provision of voice-only services and the reliance of vulnerable groups on said services. This will be further discussed within the body of this paper. This Consultation essentially seeks to continue the fundamental tenets of the PCP 2016 for the purposes of efficiency and expediency and given that it has proven generally satisfactory operationally. As such there are a number of aspects of the PCP 2016 which are proposed to be carried over to the PCP 2021. These include, *inter alia*:

- i. The dual basket structure where one basket contains 'competitive' services while the other contains 'non-competitive' services. It is this second basket which will carry the traditional RPI-X price constraint.
- ii. The use of a sub-cap within the non-competitive basket to further constrain the prices of services that are most demanded by the vulnerable groups in society.
- iii. The period of the price control, which will continue to be three (3) years in between reviews, with the option to extend for a fourth year at the Commission's discretion.
- iv. The price cap formula, which sets the allowable (weighted) average annual price change across the price capped services.
- v. The carry-over provision, which allows C&W to carry-over any headroom from one year of the price control period to the next period.
- vi. The treatment of bundled services, where at least one price capped service is included, the individual rate elements of the bundled offering, as provided on a stand-alone basis, will count towards compliance.

Similarly, there are some elements from the PCP 2016 that the Commission proposes to change with the PCP 2021. These include, *inter alia*:

- i. Where there are no planned price changes for an upcoming period, the Commission proposes that C&W may submit a written statement to the Commission one month before the start of the new period, authorised and signed by its CEO, explaining that no price changes are planned for the following PCP period.
- ii. The Commission proposes that C&W will no longer be required to submit Enhanced Allocation Models (EAMs) to the Commission. Instead, the Commission will require the

annual submission of Audited Statutory Financial Statements and Audited Regulatory Financial Statements for C&W's entire operations in Barbados; Separate Financial statements (i.e. Profit & Loss statements and Balance Sheets, plus a reconciliation statement to its Audited Statutory Financial Statements) for the regulated business segments and Information on the total subscribers/connections and traffic volumes for fixed telephony, fixed broadband, payphone and business connectivity services - reported separately for residential and non-residential customer segments.

STRUCTURE OF CONSULTATION PAPER

This Paper is divided into seven sections.

8. *Section 1* provides an overview of the Price Cap Plan currently in place and recent trends in prices and demand under that Price Cap Plan.
9. *Section 2* examines the continued need for price cap regulation, based on a review of the recent market developments.
10. *Section 3* looks at the proposed scope and structure of the next Price Cap Plan (PCP 2021). This includes a discussion on the proposed basket structure, duration of Price Cap Plan, the price cap formula and key parameters within it (which determine the level of the price cap).
11. *Section 4* discusses further elements of the proposed PCP 2021, including the continued merits of a carryover provision and the treatment of specific services within a PCP 2021.
12. *Section 5* sets out the proposed level of the price cap, in particular the magnitude of the parameters which determine the extent to which C&W is able to change prices across the set of Regulated Services during the PCP 2021.
13. *Section 6* advises on the price cap administration that will facilitate the Commission's monitoring of the Price Cap Plan in order to ensure compliance by C&W.
14. *Section 7* provides details on the consultative process which will begin on 29 June, 2020.

SECTION 1 – EXISTING PRICE CAP PLAN

15. The general principle of the price cap regulation is to allow some flexibility in the structure of prices of C&W's Regulated Services, while limiting the overall level of prices. The overall level of prices is constrained such that the average change in prices charged by C&W for those services and measured by the Actual Price Index (API) does not exceed the Price Cap Index (PCI). The PCI is expressed as Inflation (I) minus Productivity (X).
16. The current PCP 2016 was set up in 2016 upon expiry of the third Price Cap Plan (PCP 2012), which commenced in 2012.³ It was initially set to cover the period from April 1 2016 to December 31 2018, but was later extended to December 31 2019,⁴ before then being further extended until the implementation of a new mechanism by the Commission.⁵
17. The PCP 2016 imposed a required average price change (in the form of an 'I-X' price cap) on C&W's Regulated Services. The price cap formula required C&W to set its retail prices over a time period (t) such that the price changes for a basket (k) measured by the API is less than or equal to the PCI.

$$API_t^k \leq PCI_t^k$$

Where the price cap index is calculated as

$$PCI_{t-1}^k (1 + I_t - X_t^k \pm Z_t^k) = PCI_t^k, \text{ and}$$

I is an allowance for inflation adjustment

X is the productivity adjustment factor that should incentivise C&W to pass its efficiency savings to its customers, and

Z is an additional allowance for unforeseen events, out of the control of C&W which affect the income of C&W negatively.

³ FTC/UR/DEC/2016-01, Price Cap Plan 2016; Final Decision, March 31 2016, accessible at: https://www.ftc.gov/bb/library/2016-03-31_commission_decision_price_cap_plan_2016.pdf

⁴ FTC Public Notice – Extension of Price Cap Plan 2016, dated May 14 2018, accessible at: https://www.ftc.gov/bb/index.php?option=com_content&task=view&id=346

⁵ FTC Public Notice – Extension of Price Cap Plan 2016, dated October 11 2019, accessible at: https://www.ftc.gov/bb/index.php?option=com_content&task=view&id=371

Basket Structure

18. The PCP 2016 grouped C&W's Regulated Services into two separate service baskets:
 - a. **Basket 1: 'Competitive' Service Basket**
Fixed international outgoing calls, international calling cards, international calls from payphones, domestic and international operator assistance, and international private leased circuits.
 - b. **Basket 2: 'Non-competitive' Service Basket**
All remaining regulated services including residential access, business access, fixed domestic calls, Value Added Services (such as voicemail services), and domestic private leased circuits.
19. There was also a 'sub-cap' placed within Basket 2, specifically applying to residential access services. This takes account of the importance of these services to residential customers.
20. The main aim of this basket structure was to constrain the prices of non-competitive services overall to the level where C&W could expect to earn a reasonable return, whilst separately capping the rate of price change for residential access services.
21. The contents of each basket and the corresponding price control are shown below.

Table 1. Price Caps and Basket Structure Under the PCP 2016

Structure		Price Control
Basket 1	Fixed international outgoing calls, international calling cards, international calls from payphones, domestic and international operator assistance, and international private leased circuits.	These services are not subject to a price control.
Basket 2	All remaining Regulated Services including residential exchange line rental and installation, business exchange line rental and installation,	In each period, an inflation factor of minimum 0% and maximum 3%, with carry-over provision.

	fixed domestic calls, ⁶ Value Added Services (such as voicemail services, call waiting, calling plans), domestic payphone, and domestic private leased circuits.	
Sub cap (within Basket 2)	Residential access services.	In each period, an inflation factor of minimum 0% and maximum 3%, with no carry-over provision.

Key trends in regulated prices and volumes during the current Price Cap Period

22. The Commission has assessed, where possible, the actual performance relative to the forecasted performance of the PCP 2016, considering both demand for Regulated Services and C&W's financial performance.
23. As part of this review the Commission considered the following:
- a. the degree to which the Price Cap Plan has been adhered to by C&W when setting prices; and
 - b. C&W's operational and financial performance during the PCP 2016.⁷
24. The key findings of this review can be summarised as follows:
- a. C&W's prices for Regulated Services have been in line with the requirements set under the current Price Cap Plan (i.e., C&W has been in compliance with allowable price changes under the PCP 2016).
 - b. Actual take-up and usage of retail fixed line services was below the demand forecasts contained in the PCP 2016, with the number of access lines and fixed call traffic declining faster than forecasted when setting the PCP in 2016.

Retail Price Changes under the PCP 2016

⁶ Irrespective of the call destination (i.e. this covers fixed-to-fixed and fixed-to-mobile calls).

⁷ The Commission has not fully examined the current profitability of individual Regulated Services and C&W's overall price capped business, and thus assessed whether the Price Cap Plan has been successful in bringing these prices in line with underlying costs. This is because the merger with Columbus Telecommunications, which occurred during the PCP 2016 period, has distorted the view of C&W's underlying profitability on price capped services over this period.

In particular, the EAMs submitted by C&W contained numerous inaccuracies and limitations, which makes it difficult to rely on these for the purposes of assessing C&W's performance on a service, or even basket, level.

25. Table 2 sets out the price changes of selected Regulated Services within the non-competitive service basket (Basket 2) across the duration of the current PCP, as reported in the Annual Compliance Filings (“ACFs”).

Table 2. Price Changes of selected Regulated Services during the PCP 2016

Service	Average retail price		Overall price change
	Period 1 (2016/17) ⁸	Period 4 (2019) ⁹	
Residential services			
Residential exchange line rental (excl. VAT)	\$37.44	\$39.69	+6.0%
Residential installation charge (excl. VAT)	\$98.00	\$98.00	0.0%
Business services			
Business exchange line rental (excl. VAT)	\$80.00	\$80.00	0.0%
DPLC – 64 kbps (excl. VAT)	\$300.00	\$300.00	0.0%
DPLC – 256 kbps (excl. VAT)	\$620.00	\$620.00	0.0%
DPLC – 1,544 kbps (excl. VAT)	\$1,700.00	\$1,700.00	0.0%
Business and residential services			
Voicemail ¹⁰	\$6.83	\$6.83	0.0%
Call waiting ¹¹	\$7.75	\$7.75	0.0%

26. The table shows that over the last three years:
- a. The retail residential line rental price has increased in nominal terms.¹²
 - b. Prices for other price capped services, including residential installation charges, voicemail, call waiting, and domestic private leased circuit (DPLC) services have remained constant in nominal terms.¹³
27. Prices for Basket 2 as a whole increased by 2.1% over the entire price cap period. This overall increase is below the allowable price increase specified in the Price Cap Plan. That is, C&W has not increased its prices to the full extent allowed in the Price Cap

⁸ Period 1 refers to April 1st 2016 – March 31st 2017

⁹ Period 4 refers to January 1st 2019 – December 31st 2019.

¹⁰ Average voicemail retail prices have been calculated as an average of the three voicemail products offered by C&W: “Voicemail Access Directory Number”, “Voicemail Express Message (Residence)”, and “Voicemail Express Message (Business)”.

¹¹ Average call waiting retail prices have been calculated as an average of the three call waiting products offered by C&W (both residential and business services): “Call Waiting”, “Distinctive Ring Call Waiting”, and “Cancel Call Waiting”.

¹² These prices have, however, fallen in real terms.

¹³ The prices for these services have therefore fallen in real terms.

Plan. This implies that the price control did not act as a binding constraint on prices across all non-competitive services.

28. In respect of C&W's residential access services, prices increased by a total of 6.0% during the price cap period, relative to an allowable overall increase of 7.5%, comprising annual increases of 1.3% in the second year of the cap and 3% in each of the third and fourth years of the cap.¹⁴ This implies that the sub-cap did not act as a binding constraint on C&W's pricing of residential access services.
29. These limited price increases may be driven by a number of potential reasons, including competitive pressures; marketing reasons (including, for example, concerns around negative publicity associated with price increases of services typically associated with vulnerable customers); price sensitivity of the customers who take these services; and/or the decreasing importance of the price capped services in C&W's overall revenues. Section 2 discusses competitive and market dynamics in more detail.

Demand Trends under the PCP 2016

30. **Table 3** below sets out the changes in volumes of selected Regulated Services over the years 2015/16 to 2018 of the current price cap regime.¹⁵

Table 3. Volume changes of Selected Regulated Services during PCP 2016 – Forecasts underlying PCP 2016 and Actuals¹⁶

Service	Forecast percentage change (2015/16 to 2018)	Actual percentage change (2015/16 to 2018)
Residential fixed access lines	(0.5%)*	(27.9%)
Business fixed access lines	(0.5%)	55.5%

¹⁴ These figures reflect the actual inflation rates in these years, subject to a 0% annual cap and a 3% annual ceiling.

¹⁵ The Commission notes that 2015/16 refers to the 12-month period ending March 31st 2016 and 2018 refers to the 12-month period ending December 31st 2018. This change in the period reflects a change in C&W's financial year.

¹⁶ The Commission notes that the range of services presented in this table constitute a subset of C&W's regulated services only. As stated above, the Commission is still validating certain data points with C&W.

Total domestic calls	(8.2%)	(40.7%)
Fixed on-net Local	(22.3%)	(43.5%)
International outgoing calls	(18.8%)	14.2%
Voicemail	(14.7%)	(63.0%)
Value Added Services	(7.7%)	(19.8%)
Payphone	(23.9%)	(45.9%)

*Please note that bracketed numbers are negative i.e. they indicate a decline.

31. The table reveals that over the last three years:
- a. The number of **residential fixed access lines** has decreased by 27.9%, a significantly larger decrease than anticipated by the forecasts underlying the PCP 2016.
 - b. The number of **business fixed access lines** has increased by 55.5%, relative to a slight decrease forecasted at the beginning of the PCP 2016.
 - c. Almost all **fixed call traffic volumes** have declined over time and more significantly than originally forecasted, with the exception of international outgoing fixed call traffic volumes, which unexpectedly increased despite forecasts having suggested a sharp decrease.
 - d. The recent demand for **other residential regulated fixed telephony services** has also fallen significantly more than forecasted. For example:
 - i. the actual volumes of calls to voicemails decreased by more than four times the anticipated decline of 14.7% under the Price Cap Plan;
 - ii. the decline in Value Added Services (“VAS”)¹⁷ volumes was around three times as large as forecast; and
 - iii. the actual volumes of calls made from payphones were significantly below the forecast levels, falling almost twice as much as forecast.

¹⁷ Value Added Services (“VAS”) refer to services such as voicemail and call waiting services, which can be purchased in addition to the standard services (such as regular voice calls) offered to customers.

32. These overall demand trends have been taken into consideration in the following section.

SECTION 2 – THE CONTINUED NEED FOR RETAIL PRICE CAP REGULATION

33. When examining the continued need for and design of the retail price control regime, it is important to take into account the current and expected future competitive dynamics for Regulated Services.
34. To this end, the Commission has reviewed the relevant market developments, taking into consideration submissions made by C&W on recent and expected future trends in competition in the fixed telecommunications services market. The Commission expects a number of developments in the telecommunications market in the coming years. These can be broadly divided into two areas:
- a. Technological and demand-related developments within the overall telecommunications sector which may lead to constraints on C&W's ability to set the prices of its Regulated Services independently from those of other telecommunications services (such as convergence of service offerings or increased substitutability of service offered by different technologies); and
 - b. Other developments such as changes in the competitive dynamics or the overall market structure within the Regulated Service markets.
35. In this section the Commission sets out its assessment of the key market developments and the implications for continued price regulation of C&W's fixed telecommunications services.

Technological and demand-related developments

36. The key technological and demand-related development during recent years has been the widened deployment of 4G mobile technology, as well as the evolution of mobile service offerings, particularly mobile data and associated functionalities which enable communication via application-based services, more generally.

Fixed to mobile substitution

37. After many years of growth in demand for domestic mobile call services, total domestic mobile call traffic has fallen slightly in recent years. Whilst reductions in the volumes of fixed calls suggests there may be some substitution to other forms of

communication, the observed trends neither support nor refute substitutability between domestic mobile and fixed call services.

38. The Commission has not seen evidence to date that mobile calls are substitutes for traditional fixed telephony services for a wide group of customers in Barbados and, in turn, that such calls will be a sufficient constraint on C&W's pricing behavior for fixed telephony services.¹⁸ As a result, the Commission remains of the view that fixed telephony services should still be considered separately from mobile telephony services at this stage and, in turn, that fixed telephony services are part of a separate product market.

Fixed to OTT substitution

39. Over-the-top (OTT) services (i.e., call and messaging services provided over the Internet, rather than a service provider's own dedicated network) can provide a low-cost option for some types of calls, with a number of popular applications having been developed and increased in functionality during recent years. Of particular interest is the availability of applications which facilitate voice and video calls over the Internet (VoIP),¹⁹ provided either over mobile data connections or fixed broadband connections.
40. Wider deployment of 4G network technology by Digicel and C&W, alongside take-up of mobile data services, smartphones and other smart devices (for example, tablets), has enabled more mobile users to achieve faster Internet access speeds on their mobile devices, in turn facilitating increased usage of OTT services, particularly application-based OTT services. Digicel's fibre network roll-out alongside C&W's almost nationwide fibre network will also mean that higher-speed fixed broadband will be available to more customers in Barbados. These developments, spanning mobile and fixed networks, are likely to have contributed to the demand for, and take-up of, OTT-based services over time.

¹⁸ For example, there is no evidence of significant increases in C&W's mobile connections and average voice traffic per connection, combined with decreases in C&W's fixed line connections and average voice traffic per fixed connection. As such, this does not support fixed-to-mobile substitution in Barbados.

¹⁹ Voice over Internet Protocol.

41. As such, it is important to consider whether end users in Barbados would consider OTT-based services to be substitutes for fixed telephony services and if so, whether this imposes a sufficient constraint on C&W's pricing behaviour for fixed telephony services going forward.
42. In its review of the PCP 2012, the Commission noted that VoIP calls were more likely to be a substitute for fixed international services rather than for domestic services (given international call charges are much more expensive) and, in turn, may have provided a competitive constraint on international fixed telephony calls during the PCP 2016. Whilst this may, in principle, still hold, the Commission notes that the volume of international outgoing calls from C&W's fixed line subscribers actually increased over recent years, suggesting that even for these services, where relative prices would suggest substitution is more likely, many consumers do not currently view VoIP as a viable substitute for fixed telephony services.²⁰ This is likely a cultural phenomenon within Barbadian society especially among the older segment of the population.
43. In light of this, and in the absence of any further evidence to suggest that consumers in Barbados see OTT-based services as a viable substitute for fixed telephony services, the Commission is currently of the view that OTT-based services may not represent a direct competitive constraint to fixed telecommunications services for all customers. Although some customers may have increased their usage of OTT services and reduced their usage of fixed voice services, OTT services are unlikely to be a viable substitute for many vulnerable customers and thus there remains a need to regulate fixed telephony services going forward.

Other developments

44. Other developments within the fixed telecommunications service market have mainly related to an increasing trend to bundled service offerings and Digicel's increasing presence in the Barbadian market.

²⁰ The Commission notes that, based on its information on average revenue for these services, this trend is unlikely to be a result of a fall in average prices during this period.

Increasing trends to bundled service offerings

45. There is a strong trend towards bundled fixed voice and broadband service offerings, with 70% of C&W's residential customers being on double or triple-play plans in 2019, up from 49% in 2016. The prices of these bundles are not regulated even where some components of the bundles are Regulated Services when provided on a standalone basis.
46. Given this, the Regulated Services therefore cover an increasingly small share of the retail fixed service market.

Digicel's role as a competitor in the fixed market

47. Digicel continues to compete with C&W in the provision of fixed telephony and broadband services. There have been no other entrants to the fixed telephony market. Below, the Commission reviews how this may impact the need for and structure of any retail price control of C&W's fixed telephony and other services going forward.
48. Since 2016, Digicel has deployed its own fibre network infrastructure in Barbados, and continues to offer fixed telephony and broadband services to residential and business customers within its coverage area.²¹
49. Digicel's network presence and service offerings have, to some degree, increased the level of competition in the market for (residential and business) fixed telecommunications services and as such they may represent a potential constraint on C&W's pricing of Regulated Services.
50. However, after three years in the market, Digicel's network covers around 60% of premises in the country, meaning C&W retains a monopoly position for more than one-third of the country. Digicel's market share of total connections remains below

²¹ The overlapping fibre network divested by C&W, as required in the conditions of its merger with Columbus Telecommunications, also provides an opportunity for an additional player to enter the market, which may also be expected to provide fixed telephony services (amongst others) over this network. However, these assets have not yet been sold and remain under the ownership of a separate holding company.

that of C&W and the Commission is of the view that this is unlikely to change significantly during the next few years. This is because Digicel's level of network coverage remains significantly below that of C&W and there is no reason to suggest its coverage footprint, or ability to take market share from C&W in the areas where both networks currently overlap, will increase materially in the near future.

51. The Commission further notes that Digicel does not offer standalone fixed voice services, but only bundled offerings with fixed broadband and/or pay TV services). It is likely to be unprofitable for Digicel to offer voice-only services over its fibre network and so, in the absence of a regulatory requirement to offer services on this basis, it is unlikely to begin competing with C&W in the provision of standalone services during the next price cap period. However, consumers of fixed voice-only services are likely to be predominantly vulnerable customer groups who have no demand for fibre broadband and therefore are unwilling to pay a premium for these services.
52. The Commission has taken into consideration a number of factors, in particular the need to ensure protection of a small group of vulnerable customers who continue to rely on fixed voice-only services. In addition, the Commission took note of the prevailing uncertainty of future market developments and the potential resulting impact on the competitive dynamics in the fixed telephony market. The Commission's principal rationale for the use of a price cap framework in particular is that it allows for a flexible pricing framework.

Payphone Services

53. Total call volumes from payphones have continued to decline and now appear to play a very limited role in the overall market. However, despite increasing coverage and use of mobile services in Barbados, the Commission considers that payphones continue to serve an important social role by providing access to fixed telephony services to selected consumer groups or in selected geographic locations.

Summary on the key developments and the continued need for price regulation

54. The Commission notes that C&W continues to enjoy a strong position in the provision of fixed telecommunications services in large parts of the country. The Commission does not consider that changes in technology or the substitutability of other services (such as traditional and OTT mobile services) have changed the fundamental need for retail price regulation of C&W's Regulated Services.
55. Furthermore, C&W is the only provider of fixed voice-only services, and is likely to remain so during the next few years. Since consumers of such services (including not only basic residential access but also associated services which must be purchased from the same provider, such as VAS) are predominantly vulnerable customers, the Commission remains of the view that this customer group should be protected by means of continued price regulation of C&W's Regulated Services.
56. Lastly, despite falling volumes, C&W's overall profitability across all regulated and unregulated services remains above its cost of capital.²² This suggests that C&W is unlikely to suffer as a result of continued price regulation on services which represent a continually declining share of its revenue base.
57. As such, the Commission sees a similar need for retail price cap regulation going forward.

Consultation Issue No. 1:

What are your views on the Commission's current perspective regarding the continued need for price cap regulation for the services covered by the PCP 2016?

²² In particular, C&W's EAM for 2018 reported a return on capital employed ("ROCE") in excess of 20% across all regulated and unregulated services. This, for example, compares to a weighted average cost of capital (WACC) assumption of 15% applied in the PCP 2016. The Commission has not re-examined the appropriate level of WACC since then, but has no reason to believe that the WACC would have increased over that period.

SECTION 3 – SCOPE AND STRUCTURE OF THE NEXT CONTROL

58. If a Price Cap is retained as the form of ex-ante price regulation then the suggested scope and structure would be as outlined below.

Scope of Price Control

59. The services to be regulated under the PCP 2021 should continue to be the retail services specified by the Telecommunications (Regulated Services) Order 2006, until such time as this is changed. These services are summarised in Appendix 2.

Proposed basket structure

60. The primary objective of this price cap regime is the protection of consumers whose only provider of fixed telephony services is C&W, both in areas of the country where Digicel does not have a network and nationally for those customers who demand fixed voice-only services. An effective price cap should be designed such that, while protecting consumers from being charged excessive prices for Regulated Services, C&W can expect to make a reasonable return across all of the (regulated and unregulated) services it offers. The design of the price cap will, as a secondary objective, aim to not unduly constrain C&W's pricing flexibility on individual services. In addition, where prices are largely constrained by competition, the price cap should give flexibility to facilitate a response to competition.
61. The price cap structure (i.e., the number of baskets and distribution of the services within these baskets) plays an important part in meeting these objectives.
62. Generally, the basket structure of the Price Cap Plan regime determines the pricing flexibility provided to C&W. Within an individual basket, changes in the price of one service can be offset by changes in the prices of other services as long as the overall cap is met. The narrower a basket is defined, the less pricing flexibility the operator will retain for individual services within that basket. For example, under a single basket structure covering all regulated services, C&W would retain full pricing

flexibility on individual services, as long as it meets the overall cap across the entire basket.

63. Defining separate baskets for 'competitive', and 'non-competitive' services, as currently undertaken, allows for the controlling of prices for those services where competition is not likely to be a constraint, whilst leaving the competitive services uncapped. Under this structure, the 'X Factor' would be set to allow C&W to make a reasonable return across all of its services.
64. Further, introducing sub-caps on particular services within a basket ensures that prices on these services are not disproportionately increased, and thus ensures that there is a fair distribution of benefits and price reductions across services in the basket. For example, the current price control includes a sub-cap on residential access services, so that these customers are protected from large price increases.
65. Considering the effectiveness of the PCP 2016 and limited market developments discussed in Sections 1 and 2, the Commission sees merit in applying the same basket structure to the next Price Cap Plan.
66. The current price cap structure, which the Commission proposes to retain for the PCP 2021, consists of separate baskets for 'competitive' and 'non-competitive' services, with a specific control on price increases for residential users. The sub-cap level can restrict residential price increases to a given rate, and has the benefit of C&W retaining full flexibility over pricing within each basket, subject to adhering to the residential sub-cap.
67. As discussed in the market developments section above, the Commission remains of the view that it is prudent to keep a cap on the non-competitive services while allowing the competitive basket to remain uncapped. It is also reasonable to keep the sub-cap on residential access services, given the importance of these services to (typically vulnerable) consumers. The current structure also ensures that price controls continue to focus on those Regulated Services where competition is not expected to be a sufficient constraint on price increases.

68. As was the case in the previous price cap:

- Any regulated services where prices are assumed to be constrained to a reasonable level by competition will again be placed in a separate basket and uncapped (as is the case for Basket 1 for PCP 2016).
- The remaining regulated services will then form a single, separate basket (Basket 2 in PCP 2016). The cap for this basket will be set such that C&W would be expected to earn a reasonable return across all of its services.
- Basket 2 will continue to have a sub-cap for residential access services. These services will remain in the overall 'capped' service basket, with a specific sub-cap applied to them. This provides protection for residential customers from large price increases.

69. The table below details the proposed basket structure for the PCP 2021.

Table 4. Proposed Basket Structure for the PCP 2021

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: 'Capped' services	All remaining Regulated Services	'RPI-X'

Consultation Issue No. 2:

What are your views on the Commission's proposed basket structure of a new Price Cap Plan?

Duration of the Next Price Cap Plan

70. The Commission remains of the view that a three-year price cap plan strikes an appropriate balance between the risks associated with price control periods that are too long or too short. The Commission is of the view that a three-year price cap period will ensure that any impact of these changes are reflected in the regulation on C&W's regulated services in a timely manner, whilst ensuring that data is available over a sufficient time period to allow the Commission to adequately evaluate the impact of the developments during the next price cap review.
71. In addition, the Commission again proposes to implement an option to extend the Price Cap for a fourth year. The proposed normal duration of the PCP is three (3) years, which would see the price control begin effectively on January 1, 2021 and expire on December 31st, 2023. Application of the extension would result in the Plan expiring on December 31st, 2024. The option to extend the PCP for another year is at the sole discretion of the Commission after consultation with C&W. To exercise such discretion and implement an optional fourth year of the PCP, the Commission shall issue a decision at least sixty (60) calendar days prior to the expiry of the PCP, by way of notice in writing.
72. The Commission notes that the overall scope of the Commission's telecommunications regulatory framework will likely be reviewed in the near term. In particular, this review will reassess the set of telecommunications services over which the Commission has regulatory jurisdiction by assessing the merits of extending the regulatory framework to cover all telecommunications services. This, in turn, would result in the Commission conducting a comprehensive review of the competitive dynamics in the provisioning of those telecommunications services and any resulting need for ex-ante regulation.
73. Depending on any changes to the scope of services overseen by the Commission, this upcoming review may then lead to a review of the PCP 2021 itself. As per its legal obligations as set out in Section 7, the Commission will consult on any proposed

changes to the scope of current regulations, including price regulation, which it may consider as a result of this review.

Consultation Issue No. 3:

What are your views on the Commission's proposed three-year duration for a new Price Cap Plan with the option of an extension for one year? If applicable, suggest the duration with appropriate reasons.

Price Cap Formula

74. The price cap formula sets the allowable (weighted) average annual price change across the price capped services.
75. In line with the proposed objectives and structure set out above, the Commission is minded to apply a similar price cap formula as contained in the PCP 2016. The proposed price cap formula allows C&W to change its average retail prices within each price capped basket (i.e., the Actual Price Index, API) by less than or up to the predetermined Price Cap Index (PCI).²³

$$API \leq PCI$$

The PCI for each year (t) is then calculated as

$$PCI_t = PCI_{t-1}(1 + I_t - X_t \pm Z_t)$$

Where:

I is the allowed inflation factor; and

X is the productivity factor.

Z is the exogenous factor

76. These parameters are described below.

²³ The annual (weighted) average price change per basket is derived based on the price changes of individual services within that basket, where service traffic volumes are used as weighting factors.

I Factor

77. The I Factor within the price cap formula aims to allow C&W to recover changes to its input prices during the price cap period as well as ensuring that prices for price capped services move in line with those for other services and consumer goods in Barbados.
78. There is no single ideal measure of inflation in the context of retail price regulation of fixed telecommunications services. However, it is common practice to measure the 'I Factor' based on the national Retail Price Index (RPI) or Consumer Price Index (CPI) as it has favourable properties. In particular, Retail Price Indices are a generally accepted measure of overall inflation, are readily available, transparently derived, and measured consistently over time. The PCP 2016 uses the latest annualised RPI, computed on a monthly basis by the Barbados Statistical Service.
79. It is the Commission's current view to continue computing the inflation factor in the price cap formula based on the annualised RPI.

X Factor

80. In line with the overall objective of the Price Cap Plan set out above, the X Factor would be determined to set a 'glide path' to align capped prices with the underlying costs of providing these services by the end of the next control period. This is equivalent to setting the expected revenues for all 'capped' services equal to the relevant costs including an appropriate return on the investment for delivering these services at the end of the price cap period.
81. The Commission does not see merit in deriving a new X Factor based on a modelling exercise, for a number of reasons. In particular, there is a general concern around the overall merits of estimating the cost of providing retail fixed telephony services given the converged service offering (i.e., the common use of fixed network infrastructure to deliver both fixed voice and broadband services). Further, as stated above, the Commission identified a range of issues with the costing data and other

supporting information submitted by C&W which the Commission understands is partly a result of C&W's merger with Columbus Telecommunications in 2016.²⁴

82. It should be noted that the X Factor for residential access services is determined separately. This will take into account the need to ensure a fair distribution of the benefits of price control and ensure consumers are shielded from inordinate increases in residential tariffs.

Z Factor

83. The Z Factor is a specified, cost pass-through variable, which was historically intended to address instances where the regulated company faces extreme variations in input prices outside of the inflation factor, which are not accounted for in the X Factor, and which are beyond the control of the company. The effect of a Z Factor is to increase or decrease the PCI thereby restricting or increasing the company's ability to vary its prices in response to the exogenous shock.
84. There were no filings for the Z Factor during any of the previous PCPs. However, despite the absence of any historical filings, and the low and diminishing share of revenue accounted for by price capped services, the Commission recognises the changing and unpredictable conditions in the world economy, especially in view of the effects of the COVID-19 pandemic. Therefore, the Commission proposes to maintain the provision for a Z Factor in the price cap formula for the PCP 2021. This would allow either the Commission or the regulated entity to proactively account for any relevant economic shocks in the price cap formula going forward.

Consultation Issue No. 4:

The Commission invites your comments on the proposed price cap formula and method of deriving the various parameters to be used in the proposed Price Cap Plan

²⁴ In recent meetings C&W has explained to the Commission that it experienced significant issues in integrating the Columbus assets into the EAM, resulting in inaccuracies in the recent EAM data (i.e., post-merger). Whilst C&W offered to continue working on the EAMs with the aim to improve them, there are concerns on whether this is generally feasible (as many of the underlying issues result from the input data).

SECTION 4 – FURTHER ELEMENTS OF THE PCP 2021

85. Further elements of the PCP 2021 are set out below.

Carry over provision

86. If C&W chooses to reduce prices more (or increases less) than the maximum amount allowable under the price cap in any year, then the PCI will exceed the API and 'headroom' is created.

87. On the price capped basket (i.e., Basket 2), the Commission proposes to again allow C&W to carry-over any headroom from one year of the price control period to the next period. This would allow C&W to implement smaller average price decreases (or larger price increases) in later years than those defined by the relevant difference between the inflation factor and productivity factor (I-X) in those years. This will provide C&W with greater pricing flexibility, as well as an incentive to reduce prices early on during the PCP 2021 (which will benefit end users).

88. However, the Commission proposes that the carry-over of headroom regarding the proposed sub-cap on residential access services will not be allowed between years. In other words, any increase in the average price of residential access services below that allowed under the sub-cap would not provide C&W the opportunity to increase prices on these services above the allowable level in later years. This will protect customers from unduly significant price rises on these services in any given year.

89. In addition, the Commission is of the view that no carry-over provision across price cap periods shall be allowed (i.e., if prices are reduced more than mandated in one price cap period, this will not allow C&W to reduce their prices by less in the next price cap period). Instead, the existence of any price reductions greater than that mandated by the price cap will be considered when setting the next price control regime, for example when assessing the need for a one-off adjustment at the start of the next price control period.

Consultation Issue No. 5:

What are your views on the Commission's proposals on the carry-over of headroom?

Treatment of Specific Services

90. The Commission proposes to treat new services, bundled offers and promotions in the same way as under the current Price Cap Plan (PCP 2016).

New Services

91. C&W may introduce new services (or combination of services currently not provided) during the PCP 2021. The Ministry of Innovation, Science and Smart Technology (MIST) or the Ministry designated to deal with such, would then determine if such services are to be classified as “regulated”.
92. Where a new service is classified as a regulated service, the Commission is of the view that this service should be placed in the ‘uncapped’ basket for the remainder of the next Price Cap Plan. In a subsequent period the services may be made subject to a price control.

Bundled Offers

93. It is common practice to offer individual telecommunications services as bundled products. For example, C&W currently offers fixed-line telephony, broadband, TV, and mobile services as standalone products, and in a variety of bundles. These may either include a combination of only Regulated Services or a combination of Regulated Services and unregulated services.
94. The Commission proposes that where bundled offers include at least one price capped service,²⁵ the individual rate elements of the bundled offering, as provided on a stand-alone basis, will count towards compliance. For example, when

²⁵ For example C&W's “Upward” and “Onward” bundles includes a fixed voice element (including price capped services such as unlimited fixed local calls), as well as fixed international calls, fixed broadband, and pay TV services, which are not subject to the price cap.

calculating the price changes for fixed telephone services as part of the previously mentioned bundle, C&W must use the individual price for the relevant fixed telephony services rather than the price as part of the bundle. This also applies to new bundled offerings introduced after the start of the next Price Cap Plan (with the exception of those only including price capped services).

95. In addition, for the volumes used to set the weights in the price control, the Commission proposes to take account of the volumes of all products, whether bundles or standalone products. This will ensure that the weighted price changes calculated will accurately reflect the revenue impact of the individual price changes. It will also minimise any incentives on C&W to potentially “game” the compliance rules of the price cap by, for example, moving demand onto bundled services which would not be captured (directly or indirectly) in the PCP 2021. As such, this approach would constitute an additional safeguard for consumers.

Discounts and Promotions

96. The Commission recognises the need for C&W to retain some degree of flexibility in respect to the use of discounts and promotional offers. The Commission however does not consider that discounts which apply only to a specific set of consumers should be included in the compliance checks as this could motivate C&W to introduce subjective patterns of price discrimination.
97. As such, the Commission will only allow discounts, temporary reductions and promotional offers to count towards compliance on the condition that such discounts or promotions for an individual service are offered to all customers.

Consultation Issue No. 6:

The Commission invites comments on its proposed treatment of new services, bundled offerings and discounts under a new Price Cap Plan.

SECTION 5 – PROPOSED LEVEL OF THE PRICE CAP

98. Further to Section 3, which sets out the proposed scope and structure of the price cap, in this section the Commission explains the approach to setting the price cap and the resulting level of the price cap under the PCP 2021.

Approach to setting the price cap

99. In assessing the need to amend the price cap parameters in force under the PCP 2016, the Commission must consider whether such an exercise is proportionate and likely to bring benefits to consumers of fixed-line telecommunications services in Barbados.

100. As discussed in previous sections, the Commission is of the view that the reliability of the EAMs and TFPs submitted by C&W is not sufficiently adequate to inform the parameters of a price cap going forward.

101. The Commission further notes that C&W's overall profitability remains strong, but varies by service. C&W continues to earn a ROCE below its WACC across the price-capped services, as well as the overall set of Regulated Services. However, C&W's returns on business-related price-capped services and unregulated services cross-subsidise its regulated business and result in returns above WACC overall.

102. The true cost of providing retail fixed voice-only services and, in particular, how these costs have changed over time, is difficult to assess given the common use of fixed network infrastructure across both fixed voice and broadband services. Given the increasingly converged environment, which allows C&W to recover costs across a wide range of telecommunications services, and the declining share of revenues accounted for by the price constrained services, the Commission is of the view that the true cost of providing the set of Regulated Services is unlikely to increase in real terms during the PCP 2021.

103. The Commission has further considered whether it is appropriate to revise the price cap as set under the PCP 2016 in order to reflect changes in the forward-looking cost

of capital (i.e., WACC), which has fallen since the previous price cap was set. That is, whether the cost to C&W of financing its regulated operations has changed significantly. However, it has determined that this is unlikely and that, in the current market conditions, it would be prudent not to make downward adjustments to this parameter at a time when the cost of financing is both increasing and uncertain.

104. Given the above, and the focus on protecting vulnerable customers from price increases on specific services, the Commission proposes to retain the parameters from the PCP 2016 for the purposes of setting the PCP 2021. That is, not only will the scope and structure remain unchanged, as set out in Section 3 and 4, but the parameters of the price cap will also remain as per the PCP 2016.
105. For the avoidance of doubt, the Commission proposes to allow prices to reflect changes in input costs. As such, inflation as measured by CPI and reflected in the I Factor shall be taken into account in setting the actual allowance price changes between periods.

Level of the price cap

106. In line with previous Price Cap Plans, the price control applied to each basket will vary in reflection of the degree of competitive constraint on the Company's pricing behavior.

Basket 1 - 'Competitive' regulated services

107. For the services within Basket 1, the Company's pricing flexibility is deemed to be sufficiently constrained by competition to allow for a lighter form of price control.
108. It is expected that these prices would be driven primarily by competitive forces.
109. As under the PCP 2016, the basket of 'competitive' services will not be subject to an overall price cap under the PCP 2021, such that the average price changes in this basket will be constrained by a price cap index. These services will be subject to advance notification of price changes as set out in the Price Cap Compliance Rules and Procedures.

Basket 2 - 'Non-competitive' regulated services

110. In the PCP 2021, all 'non-competitive' services will continue to be subject to an overall control on Basket 2, with a sub-cap being applied to residential access services.

Overall control on 'non-competitive' services

111. For the duration of the PCP 2021, the average change in prices in Basket 2 will be constrained by a standard "RPI-X" price control, which is set to ensure that the expected revenue for all 'non-competitive' services reflect the costs of delivering these services at the end of the PCP 2021.

112. The prices of the services in this basket must be set such that, on average, the price change is no greater than the rate of inflation. To provide further protection to consumers from any significant price increases in any given year, if inflation is greater than 3%, the maximum allowable price increase for these services will be capped at 3% each year. In cases when the inflation rate is less than or equal to zero, the allowable price increase in that year will be set to zero.

113. Similarly to the PCP 2016, the Commission again considers it reasonable to set the overall cap at the level of inflation (i.e. RPI-0) which implies an X Factor equal to zero.

114. A maximum increase of prices for the period of the price cap implies that the level of prices across Basket 2 at the end of the price control will be the same in real terms (i.e. adjusted for inflation) as the current prices, subject to inflation being between 0% and 3% in any individual period, in which case prices may be higher or lower in real terms at the end of the price control.

115. The Commission proposes to again allow the Company to 'carry over' any unused headroom in Basket 2 from one period to the next, within the PCP 2021. However, this would not apply to the sub-cap on residential access services.

116. Further, there would again be no carry-over provisions across price cap plans. The Commission remains of the view that limiting carry-overs to within a price cap plan provides C&W sufficient pricing flexibility whilst reducing the risk of it accumulating a large amount of headroom over time and thus, potential significant price increases in any given year of the next price cap plan.
117. Therefore, the price control for non-competitive services (i.e., those contained in Basket 2) under the PCP 2021 can be summarised as follows:
- a. A price cap of inflation (RPI) or 3%, where inflation exceeds 3%, is applicable in each year of the price control. In case of negative inflation in any given year, the allowable price increase will be set at zero for that year.
 - b. For the second and third years, actual price changes will be measured with respect to the base year (2019/20) (i.e., allowing for a carry-over of any headroom); and
 - c. C&W is permitted to increase the tariff rates prices once in each price control period.

Sub-cap on residential access services

118. In addition to these price controls applicable across all services in Basket 2, the Commission proposes to again apply additional pricing constraints specifically to residential access services, taking account of the importance of these services to consumers.
119. Setting the price control for fixed residential access services requires balancing the distortions that could occur in maintaining the prices of services significantly below costs against the objective of ensuring a basic telephony service that is affordable to the general public.
120. In order to ensure that the affordability of basic fixed telephony services is maintained, residential access prices will be subject to the same price cap as applied across the overall Basket 2 but will also be subject to a sub-cap. Applying this additional pricing constraint specific to residential access services ensures that prices

for these services cannot increase beyond inflation during the PCP 2021, irrespective of the price changes applied to the remaining price capped services.

121. For residential access services, there will be no carry over allowance provided in between periods (i.e., in case the Company decides against using its allowable price increase for this service in Period 2, this will have no impact on the allowable price increase in Period 3).
122. A maximum increase of prices for the period of the price cap implies that the level of prices at the end of the price control will be the same in real terms (i.e. adjusted for inflation) as the current prices, subject to inflation being between 0% and 3% in any individual period, in which case prices may be higher or lower in real terms at the end of the price control.
123. Therefore, the proposed additional price control for residential access services under the PCP 2021 can be summarised as follows:
 - a. Allowable price increases in line with inflation (i.e. RPI), subject to a maximum increase of 3% each year in each period of the price cap. Where the inflation rate is less than zero in any given year, the allowable price increase will be set to zero for that year;
 - b. No carry-over provision in between periods; and
 - c. The Company is permitted to increase the tariff rates once in each price control period.

Consultation Issue No. 7:

The Commission invites comments on its proposal to retain the same price cap parameters as under the current price control.

SECTION 6 – PRICE CAP ADMINISTRATION

124. The review of the Price Cap Plan may require revision of the administration of the compliance monitoring. The exact details of the compliance monitoring arrangements will be determined taking into account the final decisions on the implementation of the PCP 2021.

Compliance Filing

125. The Commission is of the view that it will continue to apply the same approach for monitoring and ensuring compliance with the Price Cap Plan as was implemented under the PCP 2016, as follows:

(i) **Annual compliance filing:** On December 1st of each period of the PCP 2021, that is, one month before the start of each new period, C&W shall file with the Commission the API for the relevant service basket. This filing shall be recorded as the Annual Compliance Filing (ACF). The ACF allows the Commission to measure the degree of compliance by C&W in each year. The Commission will re-set the PCI at the start of each year (i.e., annually on January 1st), and will use the annual filing to determine the extent to which C&W has accumulated head room for the relevant service basket.

The Commission proposes to introduce an exception to this requirement in the event that no price changes are planned for the upcoming period of the PCP, for any price capped service. In such an event, the Commission proposes that C&W may submit a written statement to the Commission one month before the start of the new period, authorised and signed by its CEO, explaining that no price changes are planned for the following PCP period.

(ii) **Rate Increase Compliance Filing:** Subject to price cap rules C&W may increase or decrease its rates for services in the relevant service basket based on the following procedure: - C&W is permitted to increase each

tariffed service within the relevant service basket once in each of the years covered by the Price Cap Plan. For any price increase, the Company must file a Rate Increase Compliance Filing (RICF) with the Commission.

Consultation Issue No. 8:

The Commission invites your comment on the suggested approach for monitoring and ensuring compliance with the proposed Price Cap Plan throughout the PCP 2021 period.

Notification

126. The Commission is of the view that it will continue to apply the same notification requirements as obtained in PCP 2016 under the PCP 2021.
127. As such, during the PCP 2021, C&W would be subject to the following notification process:
- a. **Rate Decreases:** C&W shall not be required to seek approval from the Commission for any proposed decrease in rates for any regulated service. C&W shall notify the Commission in writing of any proposed rate decreases for regulated services subject to the Price Cap Plan, no later than three business days before the rate decrease takes effect. The public shall be notified no later than the same business day the rate decrease takes effect.
 - b. **Rate Increases:** C&W shall not be required to seek approval from the Commission for any proposed increase in rates for any regulated service subject to the Price Cap Plan. The Company shall notify the Commission of any proposed increase in rate for any regulated service subject to the PCP 2021 no later than 25 business days before such rate increase takes effect. Before the Company issues its notification to the public it must

await the Commission's review and response on the Company's compliance with the stipulated Price Cap as it relates to the proposed rate increase. The Commission requires that for every rate increase, C&W shall advise the public by way of insert attached to the prior month's bill, advertisement in two daily publications in at least two editions and on all of its social media platforms no later than 20 business days before the date of the expected price increase.

Consultation Issue No. 9:

The Commission invites your comment on the notice period that ought to be provided to the Commission and consumers.

Regulatory Reporting

128. In line with the declining share of revenues represented by Regulated Services, and focus on protection of vulnerable customers rather than setting price caps based primarily on C&W's cost data, the Commission is minded to reduce the burden of the regulatory reporting requirements under the PCP 2016 to the next Price Cap Plan.
129. As such, the Commission proposes to waive the requirement for C&W to submit the Enhanced Allocation Models (EAMs) on an annual basis. As previously stated, trends toward bundling and the use of fibre as the same 'pipe' for both regulated and unregulated services have led to significantly unreliable EAM data. Moreover, the preparation of the EAM has always been a costly exercise. In view of the changing circumstances, the cost of compiling and delivering said data has become more onerous in relative terms. Consequently C&W will instead only be required to provide the Commission with financial information on a business segment level and total business level. In particular, the following information will be required on an annual basis:
- a. Audited Statutory Financial Statements and Audited Regulatory Financial Statements for C&W's entire operations in Barbados;

- b. Separate 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 (incl. payphones)
 - ii. Domestic and international business connectivity services
 - iii. All other business segments
 - c. Information on the total subscribers/connections and traffic volumes for fixed telephony, fixed broadband, payphone and business connectivity services - reported separately for residential and non-residential customer segments.
130. Further, the Commission requires that, on request, more granular information such as service-level costing, volume and profitability information supported by allocation methodologies, for example similar to the service split historically required in the EAM, be made available by C&W.
131. The regulatory statements shall be prepared by C&W in accordance with the accepted accounting principles and may be subject to a Regulatory Compliance Review and Audit by the Commission.
132. In general, regulatory compliance reviews are carried out to provide reasonable assurance that the entity is not in any significant default in complying with provisions such as but not limited to:
 - Licensing obligations
 - The regulatory framework to which it is subjected
 - Covenants and obligations
 - Allocation
 - Rate setting
133. On the issuance of a PCP 2021 Decision the Regulatory Compliance Review/Audit is carried out to provide reasonable assurance that:

- (i) the Company's rates for services regulated under a PCP 2021 are set in accordance with these Rules and the PCP 2021 Decision;
- (ii) the Regulatory Financial Statements reconcile to the Audited Statutory Financial Statements;
- (iii) the Regulatory Financial Statements were prepared in accordance with the Commission's guidelines where applicable; and
- (iv) C&W acts in accordance with a PCP 2021 Decision, the Price Cap Compliance Rules and Procedures and the Fair Trading Commission Act, Utilities Regulation Act, and Telecommunications Act.

Consultation Issue No. 10:

The Commission invites your comment on the proposed regulatory reporting requirements under the PCP 2020 .

SECTION 7 – CONSULTATION PROCESS

134. The Commission is specifically charged under the Fair Trading Commission Act, CAP. 326B to consult with interested persons when it is discharging certain functions.

Section 4 (4) of the Fair Trading Commission Act, CAP. 326B states:

“The Commission shall, in performing its functions under *subsection* (3) (a), (b), (d) and (f),²⁶ consult with the service providers, representatives of consumer interest groups and other parties that have an interest in the matter before it.”

135. This requirement generally involves the Commission issuing a consultative document, in which the Commission:

- a. brings to public attention important issues relating to utility regulation in order to promote public understanding and debate;
- b. puts forward options and/or proposals as to the approach to adopt in dealing with these issues, to seek to resolve them in the best interests of the consumer, the service provider and the society at large; and
- c. invites comments from interested parties, such as consumers, service providers, businesses, professionals and academics.

136. The views and analyses set out by the Commission in a consultative document are intended to invite comments which may cause the Commission to revise its position.

²⁶ Section 4(3) of the Act states:

The Commission shall, in the performance of its functions and in pursuance of the objectives set out in subsections (1) and (2):

- (a) establish the principles for arriving at the rates to be charged by service providers;
- (b) set the maximum rates to be charged by service providers;
- (c) determine the standards of service applicable to service providers;
- (d) carry out periodic review of the rates and principles for setting rates and standards of service of service providers.

137. If considered appropriate, respondents may wish to address other aspects of the document for which the Commission has not prepared specific questions. Failure to respond to all identified issues will in no way reduce the consideration given to the entire response.

Confidentiality

138. The Commission is of the view that this consultation is largely of a general nature. The Commission expects to receive views from a wide cross section of stakeholders.
139. Respondents should therefore ensure that they indicate clearly to the Commission any response or part thereof that they consider to contain confidential, commercially sensitive or proprietary information.

Responding to this Consultation Paper

140. The Commission invites and encourages written responses in the form of views or comments on the matters discussed in the Paper from all interested parties, regulated utilities, other licensed operators, government ministries, non-governmental organisations (NGOs), consumer representatives, residential consumers, businesses of all sizes and their representatives, the academic community and all other stakeholders.
141. The Consultation period will begin on Wednesday, September 16th, 2020 and ends on Monday, October 12th, 2020. All written submissions should be sent to the Commission by this deadline. The Commission is under no obligation to consider submissions received after 4:00 p.m. on Monday, October 12th, 2020.

142. Copies of this Consultation Paper can be collected between the hours of 9:00 a.m. to 4:00 p.m., Monday to Friday during the consultation period from the Commission's offices at the following address:

Fair Trading Commission
Good Hope
Green Hill
St. Michael
BB12003
BARBADOS

143. The Consultation Paper can also be downloaded from the Commission's website at www.ftc.gov.bb.

144. Persons may submit their response either in physical or electronic format.

145. Mailed or hand delivered responses should be addressed to the Chief Executive Officer at the above mailing address.

146. Responses can be faxed to the Commission using fax number (246) 424-0300.

147. Responses in electronic format may be prepared in either Word or PDF format, attached to an e-mail cover letter and forwarded to info@ftc.gov.bb.

Analysis of Responses

148. The Commission will seek to explain the basis for its judgments and where it deems appropriate give the reasons why it agrees with certain opinions and disagrees with others. In the interest of transparency and accountability, the reasons for any modifications as a result of the consultation will be set out and, where the Commission disagrees with responses or points that were commonly made, it will in most circumstances, explain why.

APPENDIX 1

Legislative Framework

149. 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”*. The Commission is also charged with this responsibility under Section 3 (1) of the Utilities Regulation Act, CAP.282.

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

“establish and administer mechanisms for the regulation of prices in accordance with this Act, the Fair Trading Commission Act and the Utilities Regulation Act.”

151. The Telecommunications Act also states in Section 39 (2) that the rates should facilitate the policy of market liberalisation and competitive pricing.

152. 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 which states that:

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

Services to be Regulated

153. Under Statutory Instrument (S.I.) No. 5 Telecommunications (Regulated Services) Order 2006, the following categories of telecommunications services were determined to be subject to regulation by the Commission:

- a. International telecommunications services;
- b. Domestic voice telecommunications services;

- c. Services in respect of interconnection charges;
 - d. Leased circuits; and
 - e. International simple resale.
154. The Unregulated Services Policy of the Ministry of Energy and Public Utilities dated November 11th, 2003 specifies that all other telecommunications services will be unregulated. These include but are not limited to:
- a. Mobile Retail Services;
 - b. Internet Retail Services; and
 - c. Customer Premises Equipment (CPE).

APPENDIX 2

Regulated retail services

155. 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 2021, are summarised in the table below.

Table 5. Regulated Retail Services

Category	Services
Domestic voice services	Residential and business exchange line rental and installation, fixed domestic calls, Value Added Services, and domestic payphone.
International voice services	Fixed international outgoing calls, international calling cards, and international calls from payphones.
Dedicated lines services	Domestic private leased circuits, international private leased circuits, direct exchange lines, and dedicated lines used for Internet.