



**REGULATORY
AUTHORITY**
OF BERMUDA

**ECA Section 78 Transitional
Spectrum Investigation SC-122/2013
(SEUSA)**

Ex-Parte Communication Notice

Date: 12 December 2014

1. The Regulatory Authority (the Authority) pursuant to its duty to ensure ex-parte communications are published according to the provisions of the Regulatory Authority Act 2011 (RAA) section 73 hereby publishes the following ex-parte communications between Bermuda Digital Communications Limited (CellOne) and the Regulatory Authority and/ or the Minister of Education and Economic Development which have been made during the course of the above titled Public Consultation relating to the Authority's pending Final Decision relating to Spectrum Efficiency being carried out pursuant to the Electronic Communications Act 2011 (ECA) section 78 (SEUSA).

(a) 10 November 2014 Letter from Regulatory Authority responding to Bermuda Digital Communications 6 November 2014 letter;

(b) 10 November 2014 email exchange between U.S. Counsel General (Bermuda) Robert Settje and Authority Chairman Carl Musson;

(c) 25 October 2014 letter from CellOne re: Meeting between CellOne, the Premier of Bermuda, The Minister of Education and Economic Development and various Civil Servants on 22 October 2014.

Note: Since receipt of the 25 October 2014 letter from CellOne, the Authority has sought confirmation from both CellOne and the Ministry of Education and Economic Development that the filing dated 25 October 2014 accurately reflects the positions espoused by the parties to the meeting on 22 October 2014. The Authority was not a party to this meeting. Confirmation was received on 1 December 2014.

Date: November 10, 2014

Mr. John Wasty
Appleby (Bermuda) Limited
Canon's Court
22 Victoria Street
Hamilton HM11

Dear Sirs,

**RE: Ex parte Communication: ECA Section 78 Transitional Spectrum
Investigation SC-1222/2013**

Your letter of 6 November 2014 refers. The Authority has concluded that it is inappropriate to consider CellOne's request.

Yours faithfully,



Nakia S.K. Smith
Customer and Carrier Relations Officer – Regulatory Authority

Signed on behalf of Kyle Masters
Interim CE – Regulatory Authority

Sent: Monday, November 10 2014 5:25pm
From: Carl Musson
To: Settje, Robert W
Cc: Kyle Masters; Kent Stewart; Angela Berry

Dear Mr. Settle,

Your interest in this matter is noted.

Please be assured that the Regulatory Authority shares your desire to have an amicable outcome and will of course follow established procedures to reach that end.

Best regards

Carl Musson

Sent from my iPad

On Nov 10, 2014, at 4:11 PM, Settje, Robert W <SettjeRW@state.gov> wrote:

Dear Mr. Musson,

Earlier today, I sent the message below to Mr. D. Kent Stewart, only to learn this afternoon that you had assumed the role of RA Chair. Accordingly, I pass the message to you. I extend the same apologies, by the way.

Thank you for your kind attention.

Best regards,

Bob Settje
U.S. Consul General
Bermuda

This email is UNCLASSIFIED.

From: Settje, Robert W **Sent:** Monday, November 10, 2014 1:55 PM **To:** kstewart@rab.bm **Subject:** Regulatory Authority Issue: ATN/CellOne

Dear Mr. Stewart,

I don't recall whether we have ever met in person. If we have, I apologize for not remembering. I also apologize for contacting you via the somewhat impersonal method of email, but I tried to call this morning and again this afternoon, and both times your phone went to voicemail.

Last week, U.S.-based Blue Star Strategies LLC (BSS) contacted me on behalf of one of their clients, U.S.-based Atlantic Tele-Network (ATN), which is the parent company of CellOne. BSS explained that the Regulatory Authority (RA) was about to make a decision regarding Bermuda's commercial telecommunications spectrum that had the potential to harm CellOne. BSS asked me to contact the RA not to challenge the decision itself - which I would be loath to do in any case, given my lack of familiarity with the specific issues and the applicable law - but rather to convey ATN/CellOne's willingness to engage the RA directly to hopefully find a solution without resorting to litigation, which, as I understand it, is almost certain to result if the proposed decision is made final. Speaking not only as the representative of the United States in Bermuda but also as a former attorney who always preferred - and still prefers - mutually agreed-upon solutions to more costly and less predictable litigation, I would support ATN/CellOne's efforts to work directly with the RA to resolve this matter amicably, assuming, of course, the law and your rules allow it.

Thank you for your time and attention. If you would like to discuss

this further, please feel free to contact me via return email or at 278-7504 (office) or 335-2165 (cell).

Best regards,

Bob Settje
U.S. Consul General
Bermuda

This email is UNCLASSIFIED.

25 October 2014

Mr. Kyle Masters
Interim Chief Executive
Regulatory Authority of Bermuda
Cumberland House 3rd Floor
1 Victoria Street
Hamilton, HM 1

Re: Ex Parte Communication, Minister of Education and Economic Development Spectrum Policy Statement SC-1695-2014

Re: Ex Parte Communication, Draft Final Decision and Order: ECA Section 78 Transitional Spectrum Investigation SC-1222-2013

Dear Sir,

On 22 October 2014, the undersigned had a meeting at the Cabinet Office with the Hon. Michael H. Dunkley, Premier of Bermuda and Minister of National Security and the Hon. E. Grant Gibbons, Minister of Education and Economic Development regarding issues raised in the above referenced dockets. Also in attendance at the meeting were Ms. Cherie-Lynn Whitter, Acting Secretary to the Cabinet; and Ms. Maxanne Anderson, Acting Director of Telecommunications.

During our conversation, we discussed the Spectrum Policy Statement and the Draft Final Decision and Order, and CellOne's concerns with the policies, processes and outcomes related to these two matters. We also discussed CellOne's current and future spectrum use, technology and infrastructure decisions, and the consequences that proposed regulatory decisions would have on public interest and competition in the Bermuda wireless market.

Please address any inquiries to the undersigned.



Frank Amaral