

Regulatory Authority of Bermuda

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Your Ref

Attention Philip Micallef, Chief Executive

Appleby Ref 427521.0001/JSW/sk

By Email & By Hand

9 September 2014

Dear Sirs

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- (1) **Ex Parte Communication in Consultation Document Matter: SC-1695-2014 Comments on MEED Spectrum Policy Consultation**
- (2) **Ex Parte Communication in Notice and Information Request: ECA Section 78 Transitional Spectrum Investigation SC-1222/2013 (SEUSA)**

On 4 September, 2014, John Wasty of this firm met with you, Michael Wells, Chief Technical Officer of the Regulatory Authority (**RA**), and Kyle Masters, Legal Counsel to the RA, to discuss issues raised in the above referenced proceedings initiated by the RA and the Ministry of Education and Economic Development (**MEED**) concerning policies and procedures associated with the allocation and assignment of spectrum in Bermuda. We are writing pursuant to Section 73 of the Regulatory Authority Act of 2011, which requires, in relevant part, that:

"[i]n any case in which a person makes an ex parte communication to the [RA] during the course of a public consultation, . . .the person who made the ex parte communication shall submit to the Secretary (a) a written description of the issues discussed and the positions espoused . . ."

BDC has filed ex parte notices in the ordinary course of its advocacy and, further to Section 73, during our meeting you requested that this ex parte notice similarly be filed.

During the meeting, Mr Wasty reiterated information contained in the public filings of Bermuda Digital Communications (**BDC**) in these proceedings and submitted on October 29, 2013 (Spectrum Efficiency and Usage Self-Assessments (SEUSA) in Response to Notice and Information Request: ECA Section 78), November 11, 2014 (Global Spectrum Benchmarking Study Whitepaper prepared by Altman and Vilandrie & Company for Bermuda Digital Communications, Ltd., dated November 8, 2013), May 16, 2014 (Response to Consultation Document Matter: SC-1695-2014 Comments on MEED Spectrum

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Policy Consultation) and in ex parte notices filed with the RA regarding meetings or conversations on 7 July, 2014 and 18 July, 2014.

Specifically, current and future spectrum use of BDC, technology and infrastructure decisions and current and future services were discussed. Mr Wasty also reiterated BDC's public positions regarding spectrum holdings, aggregation, and band plans and usage. In addition, confidential matters regarding current and planned operations, which information was also included in confidential filings previously submitted to the RA in response to the SEUSA Inquiry, were discussed.

Mr Wasty further discussed the RA's authority and rationale regarding certain proposed actions in light of the law, regulations and public policy intended to promote competition and the deployment of new services to consumers in Bermuda, which goals are in concert with BDC's business plans. Mr Wasty further urged the RA to carefully consider BDC's direct and third-party submissions to date and BDC's demonstrated commitment to new technology deployment and the viability and efficiency of Bermuda's mobile infrastructure.

Please address any enquiries concerning this ex parte notice to our Mr Wasty.

Yours faithfully



Appleby (Bermuda) Limited