



BY HAND, TELEFAX AND E-MAIL

May 1, 2012

Mr. Raynard S. Rigby,
Gibson, Rigby & Co.,
Chambers,
Ki-Malex House,
Dowdeswell Street,
P. O. Box SS-6836,
Nassau, Bahamas.

Dear Sir,

- (1) Broadcasting Complaint by Mr. Frederick A. Mitchell Jr. vs. ZNS TV 13**
- (2) Broadcasting Complaint by Mr. Frederick A. Mitchell Jr. vs. Cable Bahamas Ltd.**

The Utilities Regulation and Competition Authority (URCA) acknowledges receiving and thanks you for a faxed copy of your letter dated 30 April 2012 with attachments in reply to our letter to your dated 27 April 2012 regarding the above-referenced complaint.

In response to your letter, URCA would advise as follows:

- (1) On 27 April 2012, URCA issued an Interim Order to The Broadcasting Corporation of The Bahamas (Broadcasting Corporation) pursuant to section 96(1) of the Communications Act and Clause 10.9(22) of the Content Code, directing the Broadcasting Corporation to cease and desist from broadcasting any political advertisement on behalf of the Free National Movement (FNM) which infers or suggests in such political advertisement that Mr. Mitchell was involved in an alleged visa scandal at the Ministry of Foreign Affairs, due to the possibility of serious or irreparable damage to Mr. Mitchell. The Interim Order is limited in time to 4th May 2012 being the period of time that URCA expects to require in order to complete its investigation into this matter. The Broadcasting Corporation was also directed to provide URCA with a recording of the advertisement which they also did on the same day.
- (2) On 30 April 2012, following receipt of your letter of the same date, URCA advised the Broadcasting Corporation that your client was not opposed to the broadcast of the subject advertisement provided the FNM resubmitted the advertisement without your client's picture in it. URCA also required the Broadcasting Corporation to confirm in writing that the FNM has resubmitted the subject political advertisement without Mr. Mitchell's photograph and provide an undertaking that the Broadcasting Corporation would not rebroadcast the subject political advertisement upon the receipt of which the Interim Order would be revoked. Upon receipt of the required written confirmation and undertaking from the Broadcasting Corporation, URCA will, in accordance with section 97 of the Communications Act, publish its (Final) Order in respect of this matter on its website.

UTILITIES REGULATION & COMPETITION AUTHORITY

UBS Annex Bldg., East Bay Street | P.O. Box N-4860 Nassau, Bahamas | T 242.393.0234 | F 242.393.0153

www.urcabahamas.bs

(3) URCA takes note of the complaint in your letter of 30 April 2012 that Cable Bahamas is also airing the subject political advertisement on Cable 12 TV. Similar to the Broadcasting Corporation, URCA notified Cable Bahamas of your client's complaint, issued an Interim Order until 4th May 2012 regarding the subject advertisement, advised Cable Bahamas that your client was not opposed to the broadcast of the subject advertisement provided the FNM resubmitted the advertisement without your client's picture in it and requested the same written confirmation and undertaking upon the receipt of which the Interim Order would be revoked. Cable Bahamas has advised URCA that they have made arrangements to remove the subject advertisement from their rotation, but due to the operational workings of their system the subject advertisement remained in their rotation until 6:00 AM today. Upon receipt of the required written confirmation and undertaking from Cable Bahamas, URCA will, in accordance with section 97 of the Communications Act, publish its (Final) Order in respect of that matter on its website.

(4) URCA notes your comments on the legal issues originally raised by you in your first letter. In carrying out its statutory duties, in the case of all television and radio services, URCA must ensure that the application of standards which provide adequate protection to members of the public and all other persons from unfair treatment in programmes and unwarrantable infringement of their rights in and in the making of programmes included in such services best guarantees an appropriate level of freedom of expression. URCA is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed. While it is understandable that your client wants and expects URCA to move swiftly to compel Licensees not to breach the provisions of the Code, URCA is similarly compelled to act fairly and not to circumvent or short-circuit its investigations processes simply for expediency, nor can it ignore the principles of procedural fairness and confidentiality during the investigation process.

Should you have any questions arising from this letter, please feel free to contact me. We look forward receiving your case authorities on the *sub judice* issue.

Yours sincerely,



KATHLEEN RIVIERE-SMITH
Chief Executive Officer