



CAYMAN ISLANDS

2018/2019 Session of the

LEGISLATIVE ASSEMBLY

REPORT

of the

STANDING

PUBLIC ACCOUNTS COMMITTEE

on the Report of the

Information and Communications Technology Authority

2015/2016 Accounts

*Laid on the Table of Legislative Assembly on this 22 day of Nov. 2018
by the Leader of the Opposition, Chairman
of the Standing Public Accounts Committee*

TABLE OF CONTENTS

1.	REFERENCE.....	3
2.	DOCUMENT CONSIDERED	3
3.	CHAIRMAN AND MEMBERS OF THE COMMITTEE	3
4.	MEETINGS OF THE COMMITTEE	3
5.	ATTENDANCE OF MEMBERS	3
6.	PERSONS IN ATTENDANCE.....	4
7.	WITNESSES CALLED BEFORE THE COMMITTEE	4
8.	PRACTICE AND PROCEDURE OF THE COMMITTEE (S.O 77 (6))	5
9.	INTRODUCTION AND PAC COMMENTS.....	5
10.	GOVERNMENT MINUTE.....	5
	ACKNOWLEDGEMENT.....	6
	REPORT OF THE COMMITTEE TO THE HOUSE.....	6

**REPORT OF THE STANDING PUBLIC ACCOUNTS COMMITTEE
ON THE REPORT OF THE OFFICE OF THE AUDITOR GENERAL
ON ICTA 2015/2016 ACCOUNTS**

SUMMARY REPORT

1. REFERENCE

The Standing Public Accounts Committee of the Cayman Islands Legislative Assembly, established under Standing Order 77(1), met to consider the following Report prepared and submitted by the Auditor General:

Information and Communications Technology Authority (ICTA) 2015/2016 Accounts

2. DOCUMENT CONSIDERED

In accordance with the provision of Standing Order 77(3), the Committee considered the following Auditor General Report which was referred in the House of the Legislative Assembly:

- Report of the Office of the Auditor General on *Information and Communications Technology Authority (ICTA) 2015/2016 Accounts*

3. CHAIRMAN AND MEMBERS OF THE COMMITTEE

The following Members of the Legislative Assembly are the present Members of the Standing Public Accounts Committee:

Hon. D. Ezzard Miller, MLA - Chairman
Mr. Christopher S. Saunders, MLA - Member
Hon. Bernie A. Bush, MLA - Member
Ms. Barbara E. Conolly, MLA - Member
Mr. Austin Osmond Harris, Jr., MLA - Member

4. MEETINGS OF THE COMMITTEE

The Committee held two (2) meetings to consider the Report:

- (i) Wednesday, 9th May 2018 (*hearing*)
- (ii) Thursday, 10th May 2018 (*hearing*)

5. ATTENDANCE OF MEMBERS

The attendance of Members at the meetings is recorded in the Minutes of Proceedings which are attached to and form part of this Report.

6. PERSONS IN ATTENDANCE

In accordance with Standing Order 77(8), the following persons were in attendance at the meeting held with witnesses on **Wednesday, 9th May 2018:**

- Mrs. Sue Winspear - Auditor General, Office of the Auditor General
- Ms. Sasha Rochester - Audit Project Leader, Office of the Auditor General
- Mr. Michael Nixon - Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development (MFED)
- Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development (MFED)

The following persons were in attendance at the meeting held with witnesses on **Thursday, 10th May 2018:**

- Mrs. Sue Winspear - Auditor General, Office of the Auditor General
- Mr. Julius Aurelio - Audit Manager, Office of the Auditor General
- Mr. Gabriel Ncube - Audit Project Leader, Office of the Auditor General
- Mr. Michael Nixon - Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development (MFED)
- Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development (MFED)

7. WITNESSES CALLED BEFORE THE COMMITTEE

In accordance with the provisions of Standing Order 77(4), the Committee invited public officers and a former Minister of Government to give information and explanation to assist the Committee in the performance of its duties.

The following persons appeared before the Committee to give evidence on **Wednesday, 9th May 2018:**

- Mr. Alee Fa'amoe - Deputy CEO & Executive Director, ICT OfReg Cayman Islands
- Mr. Jeffrey Paul Morgan - Chief Executive Officer, Utility Regulation and Competition Office
- Mr. Randy Merren - Managing Director, Hurley's Media Ltd

The following person appeared before the Committee to give evidence on **Thursday, 10th May 2018:**

- Mr. Randy Merren - Managing Director, Hurley's Media Ltd

8. PRACTICE AND PROCEDURE OF THE COMMITTEE (S.O 77(6))

The Committee agreed that in accordance with the provisions of Standing Order 77(6), all meetings at which witnesses were invited to provide information should be held in an open forum. This decision was taken to promote openness and accountability in Government.

9. INTRODUCTION AND PAC COMMENTS

9.01 The Committee recommends that Government:

1. Ensures that government licencees pay ICTA (now URCO) in a timely way for their licences.
2. Consider whether consumer protection arrangements are necessary and / or what role the regulator (ICTA now URCO) can play in setting prices given Cayman Islands is 190th out of 196 countries on relative internet costs.
3. Ensures the regulator upholds the requirements for licencees to provide fibre optic coverage over the entire country.
4. Reconsider the enforcement aspects of the law(s) to enable the regulator to make quicker judgements and impose higher fines.
5. Ensure that free to air TV programmes are made available to people in the Cayman Islands at no cost (e.g. world cup matches)
6. Regulate that all cable providers must carry Cayman 27 at no additional cost to the consumer.

10. GOVERNMENT MINUTE

10.01 The Public Accounts Committee wishes to draw Government's attention to Standing Order 77 sub-order 7 which reads;

"The Government Minute shall be laid on the Table of the House within three months of the laying of the report of the Committee and of the report of the Auditor General to which it relates."

The PAC expects the Government to honour the requirements of this Standing Order.

ACKNOWLEDGEMENT

The Committee is most appreciative of the efforts of the Auditor General and her staff in presenting very fair, comprehensive and informative Report and for the support, assistance and constructive advice given throughout its deliberations.

The Committee also thanks the staff of the Legislative Assembly for the assistance provided.

REPORT OF THE COMMITTEE TO THE HOUSE

The Committee agrees that this Report be the Report of the Standing Public Accounts Committee to the House on the following Report of the Office of the Auditor General: *SIF 2015/16 Accounts & CIMA's 2015/16 Accounts*

Hon. D. Ezzard Miller, MLA – Chairman

Hon. Bernie A. Bush, MLA – Member

Mr. Christopher S. Saunders, MLA – Member

Ms. Barbara E. Conolly, MLA – Member

Mr. Austin O. Harris, Jr, MLA – Member



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES of Meeting with Witnesses

Wednesday, 9th May 2018 at 9:30 am

ICTA's 2015/16 FINANCIAL STATEMENTS

Minutes and verbatim transcript of the Meeting of the Standing Public Accounts Committee held in the Chamber of the Legislative Assembly Building, Grand Cayman on Wednesday, 9th May 2018 at 9:30 am.

Present:

Hon. D. Ezzard Miller, MLA - Chairman
Mr. Christopher S. Saunders, MLA - Member
Hon. Bernie A. Bush, MLA - Member
Ms. Barbara E. Conolly, MLA - Member
Mr. Austin O. Harris, Jr., MLA - Member

Ms. Manesa Webb, Committee Clerk

Attendees:

Mrs. Sue Winspear - Auditor General, Office of the Auditor General
Ms. Sasha Rochester - Audit Project Leader, Office of the Auditor General
Mr. Michael Nixon - Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development (MFED)
Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development (MFED)

Witnesses:

Mr. Alee Fa'amoe - Deputy CEO & Executive Director, ICT OffReg Cayman Islands

Mr. Jeffrey Paul Morgan - Chief Executive Officer, Utility Regulation and Competition Office

Mr. Randy Merren - Managing Director, Hurley's Media Ltd.

1. Meeting to Order

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the meeting to order at 9:50 am.

2. Welcome

The Chairman gave a brief welcome to the Members and thanked them for attending the Public Accounts Committee ("PAC") Hearing. He also welcomed and thanked the Auditor General along with Mr. Michael Nixon and Mr. Matthew Tibbetts from the Ministry of Finance and Economic Development.

The Chairman advised the Committee that they would be dealing with *ICTA's 2015/16 Financial Statements*. The floor was then opened by the Chairman for Members of the Public Accounts Committee to ask questions.

3. Review of ICTA's 2015/16 Financial Statements:

▪ ICTA's 2015/16 Financial Statements

The meeting commenced at 10:00 a.m. and the Chairman invited the first witness to the Chamber. Administration of oaths were confirmed with the Bible being held in their hand, and they were thereafter told to state their names for the record when they first spoke.

The following person appeared in their named capacity as a witness before the Committee for this Report:

▪ Mr. Alee Fa'amoe - Deputy CEO & Executive Director, ICT OffReg Cayman Islands

The Committee continued the meeting with the next witness at 11:45 am who was administered the oath, welcomed and thanked by the Chairman.

The following person appeared in their named capacity as a witness before the Committee for this Report:

- Mr. Jeffrey Paul Morgan - Chief Executive Officer, Utility Regulation and Competition Office Cayman Islands (OfReg)

The Committee continued the meeting with the next witness at 2:00 pm who was administered the oath, welcomed and thanked by the Chairman.

The following person appeared in their named capacity as a witness before the Committee for this Report:

- Mr. Randy Merren - Managing Director, Hurley's Media Ltd.

The Chairman, again, thanked the witnesses for attending the Meeting of the Standing Public Accounts Committee.

4. Any Other Business:

There was no other business.

5. Scheduling of Next Meeting

The next meeting with witnesses was confirmed for:

- Thursday, 10th May 2018 at 10:00 am.

6. Adjournment

There being no further business, the Chairman adjourned the meeting at 3:06 pm.



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES of Meeting with Witnesses

Thursday, 10th May 2018 at 10:00 am

GOVERNMENT'S USE OF CONSULTANTS AND TEMPORARY STAFF - FEBRUARY 2018 & REVIEW OF ICTA'S 2015/16 FINANCIAL STATEMENTS

Minutes and verbatim transcript of the Meeting of the Standing Public Accounts Committee held in the Chamber of the Legislative Assembly Building, Grand Cayman on Thursday, 10th May 2018 at 10:00 am.

Present:

Hon. D. Ezzard Miller, MLA - Chairman
Mr. Christopher S. Saunders, MLA - Member
Hon. Bernie A. Bush, MLA - Member
Ms. Barbara E. Conolly, MLA - Member
Mr. Austin O. Harris, Jr., MLA - Member

Ms. Manesa Webb, Committee Clerk

Attendees:

Mrs. Sue Winspear - Auditor General, Office of the Auditor General
Mr. Julius Aurelio - Audit Manager, Office of the Auditor General
Mr. Gabriel Ncube - Audit Project Leader, Office of the Auditor General
Mr. Michael Nixon - Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development (MFED)
Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development (MFED)

Witnesses:

Mr. Stran Bodden - Chief Officer, Ministry of District Administration, Tourism and Transport

Mr. Dax Basdeo - Chief Officer, Ministry of Financial Services and Home Affairs

Mrs. Gloria McField-Nixon - Chief Officer, Portfolio of the Civil Service

Mr. Randy Merren - Managing Director, Hurley's Media Ltd

1. Meeting to Order

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the meeting to order at 10:15 am.

2. Welcome

The Chairman gave a brief welcome to the Members and thanked them for attending the Public Accounts Committee ("PAC") Hearing. He also welcomed and thanked the Auditor General along with Mr. Michael Nixon and Mr. Matthew Tibbetts from the Ministry of Finance and Economic Development.

The Chairman advised the Committee that they would be dealing with *Government's use of consultants and temporary staff - February 2018 and ICTA's 2015/16 financial statements*. The floor was then opened by the Chairman for Members of the Public Accounts Committee to ask questions.

3. Review of Government's Use of Consultants and Temporary Staff - February 2018:

▪ Government's Use of Consultants and Temporary Staff - February 2018

The meeting commenced at 10:19 a.m. and the Chairman invited the first witness and resource person to the Chamber. Administration of oaths were confirmed with the Bible being held in their hand, and they were thereafter told to state their names for the record when they first spoke.

The following person appeared in their named capacity as a witness before the Committee for this Report:

- Mr. Stran Bodden - Chief Officer, Ministry of District Administration, Tourism & Transport

The following person appeared in their named capacity as a resource person before the Committee for this Report:

- Mrs. Neyka Webster - Chief Financial Officer, Ministry of District Administration, Tourism & Transport

The Committee continued the meeting with the next witness and resource person at 11:47 am who were administered the oath, welcomed and thanked by the Chairman.

The following person appeared in their named capacity as a witness before the Committee for this Report:

- Mr. Dax Basdeo - Chief Officer, Ministry of Financial Services and Home Affairs

The following person appeared in their named capacity as a resource person before the Committee for this Report:

- Ms. Wendy Manzanares - Chief Financial Officer, Ministry of Financial Services, Commerce and Environment

The Committee continued the meeting with the next witness at 2:21 pm who was administered the oath, welcomed and thanked by the Chairman.

The following person appeared in their named capacity as a witness before the Committee for this Report:

- Mrs. Gloria McField Nixon - Chief Officer, Portfolio of The Civil Service

4. Review of ICTA's 2015/16 Financial Statements:

The Committee continued the meeting with the next witness who was recalled to answer questions from the *ICTA's 2015/16 Financial Statements* at 3:08 pm. The witness was welcomed and thanked by the Chairman.

The following person appeared in their named capacity as a witness before the Committee for this Report:

- Mr. Randy Merren - Managing Director, Hurley's Media Ltd

The Chairman, again, thanked the witness for attending the Meeting of the Standing Public Accounts Committee.

5. Any Other Business:

There was no other business.

6. Scheduling of Next Meeting

The next administrative meeting was confirmed for:

- Wednesday, 23rd May 2018 at 10:00 am

7. Adjournment

There being no further business, the Chairman adjourned the meeting at 3:52 pm.

**OFFICIAL VERBATIM REPORT
STANDING PUBLIC ACCOUNTS COMMITTEE
WEDNESDAY
9 MAY 2018
9:30 AM**

Meeting with witnesses

**“INFORMATION, COMMUNICATION AND TECHNOLOGY AUTHORITY 2015/2016
FINANCIAL STATEMENTS”**

Verbatim transcript of the Standing Public Accounts Committee meeting held 9 May 2018, at 9:30 am, in the Chamber of the Legislative Assembly Building, George Town, Grand Cayman.

PAC Members Present:

Hon. D. Ezzard Miller, MLA, Chairman
Hon. Bernie A. Bush, MLA, Member
Mr. Christopher S. Saunders, MLA, Member
Ms. Barbara E. Conolly, MLA, Member

Apologies:

Mr. Austin O. Harris, Jr., MLA, Member

Ms. Manesa Webb, Committee Clerk

In Attendance:

Mr. Michael Nixon, Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development
Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development

Auditor General's Office:

Mrs. Sue Winspear, Auditor General
Ms. Sasha Rochester, Audit Project Leader

Witnesses:

Mr. Aleé Fa'amoe, Deputy CEO/Executive Director, ICT OfReg
Mr. Jeffrey Paul Morgan, Chief Executive Officer, Utility Regulation and Competition Office
Mr. Randy Merren, Managing Director, Hurley's Media Ltd.

[Hon. D. Ezzard Miller, Chairman presiding]

The Chairman: Let the record show that we have a quorum present and I would like to call the Meeting of the Public Accounts Committee to order. Today we are dealing with the ICTA and OfReg 2015/16 Financial Statements.

Our first witness is Mr. Aleé Fa'amoe, so I will ask the Clerk to bring him in.

[Short pause]

**ADMINISTRATION OF OATH
OR AFFIRMATION**

Mr. Aleé Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: I swear by the Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

**INFORMATION AND COMMUNICATION
TECHNOLOGY AUTHORITY—OfReg**

The Chairman: Thank you, sir.

Good morning, Mr. Aleé. Thank you for coming. As you would have been aware, we are dealing with the ICTA 2015/16 Financial Statements and we have some questions about it. When you answer the first question, please state your full name and your position just for the records for us, please. I guess what my first question is: Why are we so far behind in the accounts being tabled?

Mr. Aleé Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Aleé Fa'amoe, former Managing Director, ICTA; now Deputy CEO, OfReg. I cannot speak as to why they have not been tabled. We have provided them to the Ministries. It may have been because in the merger we shifted the responsible Minis-

try from what used to be PLAHI [Planning, Lands, Agriculture and Infrastructure] is now CPI [Commerce, Planning and Infrastructure] over to the Cabinet Office. I know there were some issues regarding funding and reporting during the merger that happened last year but I am not sure why the reports have not been tabled. They certainly are available and we certainly do have the Auditor's General sign off on those reports.

The Chairman: Could you give the Committee a commitment that you will investigate where they are, the Managing Director and the Chairman of the Board, and see if you can lean on the Minister? There is a Meeting of the Legislative Assembly planned for the 6th of June, so it would be nice to get them brought up-to-date.

My apologies, I should have invited the Auditor General to say a few opening remarks.

Mrs. Sue Winspear, Auditor General: Thank you, Mr. Chairman.

Good morning. Good morning PAC members. The 2014/15 Financials, as you quite rightly said, Mr. Chairman, are the last ones for the ICTA in the public domain and therefore laid in the Legislative Assembly.

It was an unqualified opinion but we did sign off on the 2015/16 Financial Statements in October, 2016, again, with an unqualified opinion and we have recently, at the end of April signed off on the residual ICTA accounts for 2016/17 up to the period of the 15th of January when URCO [Utility Regulation and Competition Office] came into existence again, with an unqualified opinion. And we also signed off on URCO from the 16th of January to the 31st of December with an unqualified opinion. So, there is every possibility that if they can be laid in June, they could all perhaps be laid together. The ISA 260 points (i.e. the points that go to those charged with governance) are pretty consistent over the period and with the new URCO, as you might expect, there are some sort of set-up things around policies and procedures that we are recommending, but otherwise, they are pretty consistent with the ISA 260 from 2014/15. Thank you.

The Chairman: The fact that they have an unqualified opinion, we would think that there would have been some urgency getting them tabled, given the environment from which we cometh. But we will leave it to you, Mr. Alee, to try and find out where they are because we regard it as the ICTA responsibility for the 2015/16 accounts and up until January when there was a transition to OfReg.

I have a couple of other questions on the accounts and then, I have some other questions which I believe I can ask from the accounting position on some of the activities or lack thereof of the actual ICTA in terms of its regulatory role.

Are you still in the same office that you were in before OfReg, or have the lease been sorted out?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: We are in the same physical location, 3rd floor of Alista Towers. Some years ago, the landlord resisted signing a new lease. ICTA had been there since its inception. The rate per square foot is extremely attractive. We have confirmed this recently, as when OfReg came together, we had to try to find new office space to accommodate twice as many staff as ICTA had. So, we have gone on the hunt and visited a dozen different properties and, we are still trying to put in effect the move, but have confirmed that the rate is very good. It is just that the landlord prefers not to sign a long-term lease and we have not been able to convince him otherwise.

The Chairman: To the Finance Department, I know that Facilities Management is a little bit outside of your brief, Mr. Nixon, but how much of the new Government Administration building is physically occupied? Is it still running at about 80 per cent occupancy, or, has it been improved?

Mr. Michael Nixon, Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, I am not sure of the exact percentage, but just from my experience it is probably in excess of 95 per cent occupancy, currently.

The Chairman: In other words, there is no room there for OfReg.

[Inaudible interjection]

The Chairman: I am not one of those who believe that your ability to regulate is dictated by where you sit, but it is the optics that I agree.

From the accounts, the Auditor General reported that only 8 of 17 licencees actually filed their audited financial statements with you on time. Has that improved?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Yes, it has. We have traditionally had some problems with some of the smaller licensees, especially non-profit FM radio stations filing audited financial statements on time. We, in fact, had a problem with Radio Cayman themselves at one point filing with us on time. The larger licencees, the telecoms, tend to be a lot more responsive as you might expect but the smaller ones historically we have had trouble with some of them. Lately, we have not had any issues. We have had very few problems with financial reporting from all our licensees.

The Chairman: You mentioned Radio Cayman. Do you actually regulate how many entities for Government—Radio Cayman, Government TV Channel? Do you have any regulatory stuff over this whole 911 ra-

dios and telephones and stuff, or, is that outside of your remit?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director ICT for OfReg: Anything that requires radio spectrum requires a licence typically, unless it is what we call class licences for things like Wi-Fi and Bluetooth and those sorts of things, where we follow the FCC's [Federal Communication Commission] lead on establishing those as class licenses, which do not need individual permits but if it is a hand-held radio, it is transmitting, if it is a site to site microwave link, no matter who has it, it requires a licence, if for no other reason than to make sure there is no interference.

So, government does have a number of licences with us, either for their radio systems, their microwave links to FM transmitting towers, the FM radio licences themselves for entities such as Radio Cayman, the TV licence that is currently managed by GIS, and also for whatever reason, before my time, I guess when the market was liberalised, Computer Services decided that they wanted a number of licences, and so, they actually have licences that make them look like a telco. So, they have an ISP internet provider licence, a number of other licences we are concerned about that, in that it poses potential conflicts of interests with our single shareholder, but we also have that now on the OfReg side with Water Authority being licensed, or will be licensed by the water side of the office.

The Chairman: I guess the follow up question is: Do the Government entities that you license, pay their fees to you on a regular time, or, is that just a book entry that you do not bother to collect?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: I am of the opinion that anyone who gets a licence should pay. Some of our Government licencees are of a different opinion, that their licence should be free. I am not aware of any proviso in any of our laws that provide carve-out for a Government licencee, so we remain at odds with some of our Government licencees about that. But the actual fees are very small, so it is not worth starting a war over.

The Chairman: Except that the law is a law is a law.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Correct.

The Chairman: You have an opinion on that, Mr. Financial [Secretary], as to why these people do not want to pay their fees? They are budgeted for . . . are they?

Mr. Michael Nixon, Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, I would expect that any public entity that is licensed, would honor its

commitment to pay the fees and that is the proper way to do it and that would be the Minister of Finance's position.

The Chairman: Okay.

So, 911 have a number of licences from you; were you involved and are you bound to provide certain technical advice to the whole 911 operation with their radios and communications or not?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: It is, that 911 in and of itself, do not have a licence, per se, from us. If 911, among other government departments, like Police and Fire have access to say, a shared trunk radio, two-way radio system, then, those systems will be licensed.

The Chairman: Has it not been announced in the press quite recently that 911 is basically taking over all of the government radios now with this, (what is it?), close to \$7 million expenditure in new radios and . . . that's the impression I got from the press . . . well, I guess probably the right title for it is not 911 but that whole regime of communication, were you asked to provide any advice to the purchasing of these new radios and communications equipment that we have?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: We were not asked to provide advice on that particular purchase; no, Mr. Chairman. I believe the entity that coordinates the management of those systems and applies to us for licences is HMCI [Hazard Management, Cayman Islands].

The Chairman: Hazard Management.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Yes.

The Chairman: Okay.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: With 911 being a separate department.

The Chairman: My mistake. You are correct.

Again, my memory seems to tell me that in previous conversations, either with the PAC or with Finance Committee, I recall some mention by you or some other member, that you were putting aside certain funds to upgrade that Hazard Management system. Were those funds put aside? If so, what happened to those funds, because we had to budget this year—correct me, if I am wrong, Mr. Assistant Financial Secretary, but it is close to \$7 million—in radios and computerised equipment?

Mr. Michael Nixon, Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, we would have

to confirm those numbers but there is a provision in the current budget for this emergency communication.

The Chairman: At least six plus. It might not go all the way to seven, but it is so close you can smell it. So, did you all start a fund or is my recollection incorrect?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: You are correct, Mr. Chairman. A number of years ago, it came to our attention that a number of our telecomm licensees were not connecting their network directly to 911 for emergency calls but instead, were relying on Cable & Wireless, the original incumbent, to transport that traffic. We felt that that was first of all unfair on C&W, the incumbent, that they would be the primary connection for safety of life. And secondly, for a safety of life issue we felt that the licensees had a duty of care to their customers and a civic responsibility to ensure that their 911 calls were delivered directly to the 911 call answering center, and not rely on some third party to deliver those calls on their behalf.

We made representations to the Governor at the time, to under the Law make a unilateral change to licence conditions for the telephone companies, under a provision in the Law which spoke to national security which, thankfully, she agreed to do. What that did was, it made it incumbent and put an obligation on the telcos to connect directly to 911 and deliver their 911 calls directly to 911 as a secondary or back up they could use another telco, any other telco, in case their primary link failed.

In the course of doing all of this, long story short, we discovered that the 911 centers equipment was obsolete and that there was no budget or provision to upgrade it. I prevailed on our Board and they agreed to set aside some funds to help upgrade what we felt was in the national interest. We have project managed an RFP (Request for Proposal), we have gone all the way to vendor selection stage but unfortunately those funds are no longer there.

The Chairman: Well, they did not just go up like Elijah in the chariot. What happened to the funds? Were they roped in by Central Government to provide balancing in the budget? And, what were those funds used for, or do not you not know?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Unfortunately, when we merged into OfReg, both, the ERA, the former electricity regulator, and the ICTA brought with them legally required reserves. At the time of the merger we had \$900-odd thousand with reserves. Our target was to maintain five or six months' worth of operating expenditure. It is required by Law, to have the reserve fund. We had allocated a portion of that reserve fund as is allowed on the Law to upgrade the 911 project.

When OfReg came into being on the 16th of January, 2017, the idea was that the Fuel Inspec-

torate, which was before-hand under the Ministry of PLAHl was transferred in and their operating budget was transferred in as well. That did not happen, and so, we wound up ending the fiscal year 2017 in a deficit, having used our reserves to fund this new OfReg entity from an operational standpoint.

The Chairman: So, when the fuel regulator came into OfReg, they were not allowed to bring their budget? Did you have to fund them or were there additional responsibilities that you had to help them fund in addition to what would have been their fuel regulation before that?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Both. Previously the team was called the Petroleum Inspectorate. Their focus was on—

The Chairman: Quality.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: —safety issues, really, around dangerous substances and so forth, and inspecting those. The concept was that that team would come across into this new statutory authority called OfReg but would expand their remit to regulating the fuel's market which is a whole separate thing; safety inspections versus regulating the market in a similar fashion to the way we regulate the ICT market and the ERA was regulating the electricity market.

In addition, water regulation was being brought into OfReg as well, which before then was ostensibly under the Water Authority, but, of course, there was a conflict there because Water Authority is both a producer and a regulator. So, there were additional functions that OfReg was expected to perform and there was no funding or budget or fees that went along with that, so OfReg ended up, its first year, in deficit.

The Chairman: But hopefully that has been corrected in the 2018/19 Budget, or has it not?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: No.

The Chairman: Because the effects of that would have been on your July 2016 to December 31st 2017, which are the accounts that are now being audited by the OAG [Office of the Auditor General]. I guess I need to ask the Finance Department what happened to the funds that the fuel people, that is, the Petroleum Inspectorate, would have had in their budget to cover from January 2017 to December 2017.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: I can say, Mr. Chairman, that we got our first payment for what represented the Petroleum Inspectorate's budget in January of 2018.

The Chairman: But that is the new budget now; that is the 2018. Because it is illegal for them to pay 2017 funds in 2018; is it not, Mr. Finance? That must be the money that is in the 2018/19 Budget.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: We were told this was a result of the funding that had been owed to us from 2017 and we happily cashed the check, Mr. Chairman, because we were in dire need at the time. We now understand that the third quarter funding for fuels will be paid shortly, which represents \$100,000 plus, so that we will be made whole with respect to what should have come across with the fuels in 2017, shortly.

The Chairman: Well, I think we need to tell the Auditor General to look specifically . . . something is wrong with that transaction.

Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development: Mr. Chairman, this is a situation where the expenditure was incurred in 2016/17 but the actual cash payment has not been made until the 2018 year and because we are on accrual accounting that is sufficient. While the appropriation expires, they actually earned the money already, so it is a situation of just drawing the funds down at this point.

The Chairman: And was it the full amount? Is your reserve now been made good for the money that you spent on the fuel aspect of OfReg?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: I am afraid not, Mr. Chairman. The funds that came across in January 2018 and the remainder that are coming across shortly are only that portion (from what I understand) of the fuel's budget that was originally allocated to them under PLAH for the fuel's inspectorate function, which is only a part of what OfReg now has under its new remit.

Funding for the water regulatory function, funding for the fuel's market regulatory function was not sorted during 2017. We are working with the Cabinet Office and the Cabinet to create funding mechanisms both, short term and long term going forward.

Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development: Mr. Chair, just to clarify, I believe the Cabinet paper went forward yesterday to try to rectify a portion of that.

The Chairman: But why are we having to go a Cabinet Paper route when OfReg was in place for a whole year, certainly during the preparation of the 2018/19 Budget? So, are you saying now that funds were not put in the 2018/19 Budget for that component of OfReg, so you are having to do a supplementary expenditure that is going to come to the Legislative Assembly, when? Is it December 2019?

Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development: Mr. Chair, it was section 115, I believe, that went forward and it was the situation that the Ministry of Finance was advised of the shortfall when the budget process was near completion. I think it was already at the LA for Finance Committee at the Finance Committee stage before we were made aware of the shortfall of funding. So, I am not sure where the breakdown happened before that point, if it was with the Ministry or it was something that ICTA was investigating. Given the cash flows and so on, I am not sure where the breakdown happened before that.

The Chairman: But you are confident that it is going to be sorted now to everybody's satisfaction and this will not turn up in the Audit of 2020 of the 2018/19 Budget?

Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development: Mr. Chair, at this point, my understanding is that there was a shortfall from 2016/17 which we are looking to address through the payment of some form of cash injection into OfReg. Additionally, we are looking to address the issue with the fuel regulation sector and that is also being addressed through an increase in outputs, and then, there remains one section that still needs to be reviewed in regards to the Water Authority's royalties and whether there will be paid over to OfReg or how that process will be handled. I think that part is still under review but the other two sections which give sufficient cash immediately will be addressed in the short term and it just remains the last section for the water regulation side of it.

The Chairman: I am a little concerned in that this OfReg legislation now is nearly two years old and here we are now trying to sort out where the funds are going to go. And where the funds go should have been represented in the legislation, because where are you going to get the statutory authority to do it if it is not in that legislation? And we certainly had enough amendments to that original legislation. So, part of the deficit and the comprehensive loss for the 2015/16 is going to be addressed in this cash payment now as well. Do you have the numbers on that here or . . .

Mr. Matthew Tibbetts, Accountant General, Finance and Economic Development: Mr. Chair, the dollar amounts that have been proposed in the Cabinet Paper, I believe, were a million dollar equity injection for the 2016/17 losses and, presumably, that would catch them up to December, 2017 and I assume then, that would cover any kind of losses in 2015/16. I am not sure.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Mr. Chair, the losses in 2015/16 were

minor, less than a \$100,000 for the ICTA as an entity. After that, in 2017, we merged to form OfReg.

The budget that we put forward at that time assumed that the funding mechanisms for fuel and water would be sorted and they were not. So, the financial situation at the end of the financial year 2017 for OfReg, was bad. As we begin 2018, without funding in place, the Chairman of our board and me redid the numbers to strip out the accruals that had been expected in the budget to see what our true cash position was and discovered that we had only 90 days left of cash.

We then alerted the Cabinet Office and the Premier and Ministry of Finance was involved. There was a Caucus meeting, a number of options were discussed and our team, the Cabinet Office and the Ministry of Finance have really come together to find some solutions to our short term and longer term problem.

The Chairman: This Caucus thing keeps coming up. Why is Caucus involved in administrative implementation decisions, versus policy? Maybe that is above your paygrade. Okay. But you understand that there is some . . . I guess the real question is: Are you confident that you are going to get this sorted sometime soon? If the Cabinet Paper went up, but then I am not sure that the Cabinet Paper represents what you all . . . do you recall what the figure was that you all were looking to? And, does \$1 million sound like it will cover it?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Mr. Chairman, the Cabinet Paper addressed interim funding to help us with operational costs as an office, not specific to any sector of \$1 million. This was derived from discussions that we had with Government from 2017, where the funding mechanisms for fuels and water were not in place and ICT as a sector had collected more royalties than had been budgeted for—\$1.4M above what had been forecast. Our recommendation to Government at the time was either, allow us to keep excess royalties or repatriate at least \$1 million in those unexpected royalties back to OfReg to help with operational costs and give us time to sort through policy and fees and regulatory mechanisms for water and fuel sectors. Unfortunately, that did not happen either. Despite repeated attempts by OfReg to try to push the deal forward, it did not happen so we effectively brought that deal directly to Cabinet through the Cabinet Paper and asked for us to either, keep royalties of that amount or repatriate to us royalties of that amount. That would cover initial interim funding for us from an operational perspective.

The Cabinet Paper also addressed an adjustment to an output payment for the fuels sector. I believe OUR8 is the actual output reference to take it from one \$150,000, if memory serves, to \$1.150 million. What that does is it, as an output payment, funds

the fuel sector of OfReg to the end of the year. The Cabinet Paper promises to address a number of options for the water sector in a future Cabinet Paper.

The Ministry of Finance suggested that we have further discussions with the affected parties, which we do by law anyway; we have to consult before we do anything but we are taking their advice on some other financial impacts that we may need to consider with regards to water sector regulatory fees. If I missed anything, I hope my Finance colleagues will fill-in the gaps.

Mr. Matthew Tibbetts, Accountant General, Ministry of Economic and Development: Mr. Chair, that sounds correct; the output number is URC8; it has been increased from \$150,000 up to \$1.150 million in addition to the equity injection for the previous years.

The Chairman: Does anybody have any other questions?

Ms. Barbara E. Conolly: Through you to the witness: What happened to the funds that were allocated for the 911 upgrade? Were these funds used elsewhere and if so, where?

Mr Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Through you, Mr. Chair: The funds that we had allocated for the 911 upgrade were part of our, at the time, ICTA reserve fund. When we merged, the entirety of that reserve fund was consumed in operating costs of the new entity because there was no funding for large chunks of that new entity.

The Chairman: Chris, do you have some questions on the accounts? Probably want to get into the regulatory aspect.

Mr. Christopher S. Saunders: Thank you, Mr. Chairman. Through you to the witness: They said an extra \$1.4 million was collected in royalties. What was the major driving force behind that extra \$1.4 million?

Mr Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: The royalties are based on six per cent of turn-over of our telco licensees, so anything in addition to what had been budgeted or forecasted would have been simply the performance from the revenue perspective of our telco licensees. The better they do, the better the royalties are.

Mr. Christopher S. Saunders: Thank you very much for that answer. I thought as much because I did a rough calculation. In order for you to make an additional \$1.4 million in royalties, the telcos would have to have increased roughly by \$23.3 million in that year in terms of revenues. With that said, Mr. Chairman, through you, sir, on page 8 of the financial statements it says, just under point 1 in notes to the financial statements, it reads: "The ICTA is responsible for the

regulation and license of telecommunication, broadcast and all forms of radio transmission that include ship, aircraft, mobile and amateur radio in the Cayman Islands." [UNVERIFIED QUOTE]

The thing that I am trying to get at, Mr. Chairman, through you, sir, is the regulation part of the ICTA in terms of the accounts that we are looking at. When I did my research and I looked at the cost of broadband internet, in North, Central America and the Caribbean, I could not help but notice that except for Haiti at \$224.20 average, per month, the Cayman Islands had the second highest through the entire Americas at \$172.40 per month in terms of cost. When I also looked at a report that was done by Forbes on the most and least expensive countries for broadband, it ranged from \$5.37 in Iran, to as high as \$961.22 in Burkina Faso.

Of the 196 countries that Forbes looked at, the Cayman Islands was ranked at number 190 with a cost of \$175.27 per month, which makes us one of the highest regions in the world, when it comes to cost. Now, I could not help, Mr. Chairman, in terms of looking at rates—say, even Jamaica which FLOW also operates in. Going on their website I noticed that what we are paying crazy money for, substantially, is basically being given away next door in our neighbor. Case, for example, 20 megs are costing \$28.66 equivalent CI per month, whereas we are paying well over \$100-plus per month just to get 15 meg and sometimes you cannot get it.

The question in all of that, Mr. Chairman, is, what exactly is the ICTA/OfReg doing at this point in looking at in terms of what it is they are tasked with where the public is concerned to tackle these costs? And it is nice that there is an extra \$1.4 million came in royalties, but that \$1.4 million came in as a result of \$23 million more in revenues and I cannot help but wonder that extra \$23 million which the taxpayers only got back \$1.4 million from. What exactly is the ICTA doing to deal with the high cost of internet in the Cayman Islands? That is my first question, Mr. Chairman.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Mr. Chairman, the short answer is "nothing". The reason: As an economic regulator, we regulate where the market fails. Prices for these services are not regulated; the market works as it needs to. It is based on supply and demand; it is based on what the market is willing to pay. In countries nearby, sometimes broadband, for example, is subsidised, sometimes it is heavily regulated in terms of what they can and cannot charge. We do not have that environment. When the market was liberalised, the new entrants were allowed to compete and compete in an open and untethered way, so the prices for most of our telecom services reflect the market, reflect supply and demand and reflect the fact that in a market where you have four different ISPs, market forces will tend to dictate prices.

The Chairman: Unless there is collusion. Correct me if I am wrong, but when we had liberalisation, telecom prices in particular dropped drastically in the first year and, is it not a fact that one of the two major telecoms went to court to get an injunction so prices could not be lowered anymore in terms of termination charge or something if I recall, coming out in Finance Committee? Has that injunction ever been resolved in the court or is it still there? Is that why we cannot get any competitive pricing anymore?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: I am not aware of that specific case. I know that part of the liberalisation negotiations having been a part of it from the other side, involved the cross-subsidy at the time, so in most Caribbean markets the business sector basically paid for the telecommunications network. It was not feasible or financially viable for the incumbent to deliver service to rural areas but they were able to do so at a lower price than cost, because the usage by the business sector and government basically paid for it. So, the cost of international calls, for example, used to be a \$1.20, \$1.40 a minute to the United States.

Local calls were a lot more affordable but it was this cross-subsidy principle that had been in place with the monopoly at the time, all across the Caribbean. In fact, in Barbados, local calls were free, so there are stories of ladies on the phone all day long, quite literally doing their wash and doing their cooking, coming back and just holding up the line all day, because there was no charge. That is the extreme example of this cross-subsidy at work. That cross-subsidy had to be removed in order for the market to be liberalised because the incumbent then needed to compete on local and international services. So, there was a dramatic change in the cost of services. Local service costs went up in terms of line rental, in terms of calling rates and the international calling rates went down dramatically, but also in part because there was competition from other services.

These days we have international calls being offered by companies that we do not even regulate, such as, WhatsApp and Viber. So, the market has gone through a number of disruptions throughout the years. But, to answer the Member's question in regards to prices for broadband, that is an area that we do not regulate because there is sufficient competition in the marketplace to drive prices downwards.

Mr. Christopher S. Saunders: Sorry, Mr. Chairman, I am just looking at the Utility Regulation and Competition Law, 2016, and reading section 6 of the Law it says, under the subheading- "**Principal Functions of the Office**". Section 6.1 states: "**The principal functions of the Office, in the market and sectors for which it has responsibility, are-** (a) to promote objectives set out in any policy; (b) to promote appropriate, effective and fair competition; c) to protect the short and long term interests of consum-

ers in relation to utility service and in so doing (i) supervise, monitor and regulate any sectoral provider in accordance with this Law, the regulations and any sectoral legislation and any general policies made by Cabinet in writing; and (ii) ensure that utility services are satisfactory and efficient and that charges imposed in respect of utility services are reasonable and reflect efficient costs of providing the services; and (iii) publish information, reports and other documents relating to utility services; and (d) to promote innovation and facilitate economic and national development.”

I want to go back to subsection (ii), Mr. Chairman, where it says, “ensure that utility services are satisfactory and efficient and that charges imposed in respect of utilities are reasonable and reflect efficient costs of providing the services.” That sounds as though we do have some resources as per the Law and that is the part that we have my little bee in the bonnet in that we have allowed these guys to run rampant and if there are teeth that we need to put into the Law to deal with them, we need to deal with them, but we cannot sit down and literally have the Cayman Islands, a member of both Digicel and FLOW, that are multi-national corporations.

Based on the numbers that I am looking at and the research I have done, and having worked for both companies in the past, I just want to declare also, that I've have worked for both, FLOW in a regional capacity, and for Digicel in a CFO capacity, so I have a little bit of an idea in terms of where I am coming from. But the reality of it is, we cannot sit down and continue now to have Cayman subsidise other markets because we either, a) lack the proper legislation to do so, or b) we lack the political will to do so but we cannot have the people of the Cayman Islands being ranked 190 out of 196 countries when it comes down to broadband.

The question then to the witness, through you, Mr. Chairman, is: What then, would you suggest or propose that we do in order to fix it to get these prices down, because this is one of the things that we have to fix?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Through you, Mr. Chair, the legislation that the Member referenced is the umbrella law for OfReg. There are still sector-specific laws under which we grant licences, under electricity, under water, under ICT. Within those laws then, there are concepts around significant market power; for example, in laymen terms, dominance. When, for example, the telecoms industry was liberalised, the incumbent was from day one dominant or exerted significant market power in certain areas, such as fixed-line voice services, because it was going to take some time for the new entrants to build their networks to be able to effectively compete.

When we created OfReg, the Fuel Market Regulation Law basically declared that the importers, the two fuel importers and one propane importer that we had at the time, were dominant in their respective areas, so in the case of telecoms and in the case of fuels, we did not have to go through a long economic analysis exercise to figure out who was dominant in what. That then gives the power to the regulator to look at prices, to look at the behavior of the provider in the market, so the provider cannot do things like bundle their services together in order to offer a package because it would be anti-competitive, because the new guys do not have that ability to bundle. They cannot compete with a provider who has services in places that they do not or has the ability to control prices in a market. So, as an economic regulator we are concerned about the economic power that a provider has and if it is demonstrated that they continue to have that power, then we will exert, under the section of the Law the member quoted and under sections of the specific sector laws to regulate that provider in terms of prices.

What we do not have right now is, we have competition but we do not have choice. This is a mantra that my staff will tell you, I say all the time. The market in the telecom sector has proven itself to be extremely dynamic and competitive in George Town and Seven Mile Beach, so we have four ISPs and they compete vigorously along the Seven Mile Beach corridor into a small part of West Bay and a lot of George Town for TV, internet and telephone services. If you live beyond Countryside, however, you have no choice when it comes to a TV provider. You have very little choices when it comes to an internet provider. So, what I would say to the Member is that our focus is not on price right now, but we, as a regulator, since OfReg was formed have done over a dozen consultations on things that relate to quality and choice. We have done a consultation on what we mean when we say broadband—what does that mean? Can two megabits be broadband, or should the definition of broadband be something like 50 or 100 megs? What it means to have quality of service—does it mean that you get some of what you paid for some of the time, or does it mean you get all of what you paid for at least 80 per cent of the time.

That kind of quality of service is where we are focusing our efforts and members will be aware that we have put our competitive ISP licensees on notice that they are all in breach of a license obligation that they entered into years ago when they signed up to cover all of Grand Cayman with their fibre optic network and the remedy for that breach is, possibly, an eastern district fibre network which will be funded by them in order to deliver what was promised and what they signed up to. That then delivers to more and more residents of the country, choice, of the ability to choose between those packages.

What we should see, to the member's point, is a much more competitive and robust market place,

where the prices will then reflect choices that folks are able to make. I do not have to lecture anyone here, that some of the wealthiest people in the country live on that particular corridor where we have competition. The market has not seen fit to service areas that are either, expensive to get to in terms of them being a sparsely populated area or far away from Central George Town, to extend the network and places where people do not earn as much and have as much disposable income as the folks who live along seven Mile Beach.

The regulatory pact compact that was entered into when the market was liberalised is not being upheld and that was that there would be a level playing field, that if you got a licence to do internet service in the Cayman Islands, you would have to serve all of the people of the Cayman Islands. Fifteen years after liberalisation, we are nowhere near that and so, as a regulator, we need to step in because the market is not working and we believe as folks who live and breathe this every day, that once we take steps to ensure that all of our citizens are served, the market place, the prices, will change to reflect that more robust competitive environment if—

The Chairman: My concern is that history says that yes, the market price changes, but it is always going up.

Mr. Christopher S. Saunders: Mr. Chairman, through you, sir: I understand where Mr. Fa'amoe is coming from in that regard, but where I fall down in this process is that there is an area of Newlands, Sunrise, that has broadband. Now, that is still in the vicinity of other areas so you can go to the back of Newlands and get fibre down there but the rest of Newlands cannot get it; that does not fly. But one of the things I want to raise, Mr. Chairman, and this was a letter from the 21st March 2016, that the ICTA wrote to FLOW concerning their application to increase residential line-rental rates and not to go through the entire length of the letter but just kind of take out, it says: "On the 11th of February 2016, the Authority received LIME's application to increase the monthly residential line rental rate by one dollar from the current \$17 per month, taking over effective 1st June, 2016. LIME's application included proposed tariff's pages for general tariff item 201 public . . .

"The Authority has reviewed the application and notes the following statements made by LIME in its Q&A line rental increase as reasons for increasing the price of the residential line rate: 1) calls made from a home phone to 911 means the operator can quickly determine location; and 2) our competition is not investing/re-investing at the levels we are and in all cases not providing a full service across mobile, land-line, internet and TV across the entire country."

It then goes to say: "The Authority viewed such a statement by LIME regarding the position of its competitors' investment levels as unsubstantiated and

therefore LIME was not in a position to speak on the level of investing or reinvesting by its customers."

It also says: "LIME's statement above is further disproven more generally by the Authority's analysis of the ICT's statistics, collected by the Authority on a quarterly basis; namely, in relation to the capital expenditures in ICT's networks and services. Further, LIME's reference to a full service is misleading, as it is not qualified as being a reference to a quad play offering, and is likely read by the average consumer to mean that LIME's competitors, ICT Services, are not individually full services. Based on the above, the Authority hereby approves the one dollar increase to LIME's monthly residential line rental rate subject to the following conditions being satisfied." [UNVERIFIED QUOTES]

Basically, they removed statements from the Q&A. I am looking at this because it was done by the economist at the ICTA and where it is a little bit lost is that, having looked at the application myself, which I brought a copy with me also, there was pretty nothing much in that application from what I saw that LIME submitted, and also, the response from the ICTA on any financial reason as to why the consumer should have paid more for a list of those services that were basically included, other than the fact than within the Q&A they added other statements. Now, when an economist is signing something and is saying to someone that they are going to allow them to increase it, but they need to take this out of the Q&A, I wonder what financial basis, what financial reason, did LIME give.

Now, I understand that yes, that would be a part of the extra 23-point, whatever million that the consumers paid. I am not saying all of it is associated just to the \$1 increase, but what I would be expecting from the regulator, when someone is asking to increase prices, that at least they make a better case other than what is included in the Q&A and this is what we need for the ICTA to do. Right now, if we need to get teeth, we need to get teeth but the flip side is: What was the economic justification for giving LIME this \$1 increase per month in the line rental? That is my question to the witness, Mr. Chairman.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Mr. Chairman, I have to reacquaint myself for that exact study but generally, because C&W, then trading as LIME, now trading as FLOW, had the only fixed-line network in the country, when the market was liberalised, they were declared dominant in that space upon liberalisation. Typically, a regulator will do an economic analysis on a regular basis of the markets that it regulates, in order to determine if a player is still dominant or if somebody else has become dominant or there might be a co-dominant position, where two players are effectively exhibiting significant market power. We have never done that economic study, so all we can do is take information that

we have to hand, and our own observations in order to inform our economic analysis.

At that time, that would have been the way we would have made a determination, in that, is it economically reasonable for this increase to be granted, given that the player is still dominant in fixed-line services. So, they would have been regulated in terms of prices for the things that they were still dominant in and fixed-line services remains one of the areas where C&W does exhibit some dominance.

I would say that in the lead up to the renewal of C&W's license, we are now going through an economic analysis of the markets where they were presumed to be dominant in the past, and that significant market power or SMP review is underway right now. You will see in short order some consultations around that with respect to what we call markets one, two, three and four, which are fixed-line voice services for local and international calling and a future consultation in the months coming, on other markets where we feel that C&W needs to be tested in terms of its dominance. All of that to say that at the end of the year we expect to be able to draw a conclusion as to whether or not C&W is still dominant in any of these markets and if they are, what changes that means that we should take into account on their new licence going forward.

The bottom line is, it's not a simple yes or no answer to whether or not they can have a price increase. It is an analysis of the impact it is going to have in the market, the impact it is going to have on competition, whether or not it is justified, et cetera. Back in 2016, when this particular analysis was done, the outcome was that it was reasonable for them to increase by that small amount for the line rental side of their business, but again, going forward we would have to have a holistic view, which we are going through now, to see whether they truly are dominant and to what extent they remain dominant in services such as the member is mentioning which sounds like fixed-line voice.

The Chairman: What is the significance of dominance? Am I understanding you correctly that if the ICTA determines that a particular provider is dominant, they will attempt to regulate their prices, but if they are not dominant, they do not have any authority or they choose not to try and regulate the prices?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: As an economic regulator, you want to make sure that the market is functioning and that no player is skewing the market because they have dominance. Dominance is defined by the economist as the ability to control prices.

The Chairman: Anything the economist defines, I am worried because we are automatically getting in on the one hand.

Are those kinds of terms determined in the legislation?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Some of it is determined in the licence conditions that the licensees have, but there are also standard economic principles at work here that every regulator abides by in terms of, there are standard formulas, standard testing procedures, there are standard ways of gathering data and doing the analysis in order to arrive at a conclusion in whatever market it might be, whether it is fuel, water, electricity, telecoms, any numbers of markets; it could be cooking oil. The tests that you go through to determine whether a player or a supplier is dominant, is based on their ability to control or exert a degree of control on the market and on prices.

Mr. Christopher S. Saunders: Sorry, Mr. Chairman, through you. Just looking back at LIME's application back then, it asks: "Why is LIME raising prices?" That was the question and then, one of the parts that jumps out is that they were referring to their investment and the example they used was: "One example of our significant investment is our 4G LTE mobile network which has been rolled out across all three of the Cayman Islands. And they rolled out a super-fast broadband to all residential areas in Grand Cayman, Cayman Brac and Little Cayman." [UNVERIFIED QUOTE]

Now, if they are just limiting their rollout of superfast broadband to the places where the people are wealthy, then the question is: Why are they allowed to charge everyone across the entire Cayman Islands for something that only a few are going to get? You see this, Mr. Chairman, through you sir, is really where I am having an issue, in the sense that the consumer ultimately, as per the law, needs some level of protection and it is either the law is inadequate in dealing with these issues or the regulator is inadequate in dealing with this issue but at the end of the day, both of us, whether lawmakers or regulators serve the public and we need to, amongst ourselves, come back or sit down and try to go back to the public and say, *Listen, this is what we want to do but we cannot sit down and have the Cayman Islands rank 190 out of 196 in terms of broadband cost.*

What I would ask the witness to do, as they are negotiating with LIME/FLOW, is to consider this and this again is also taking from their application in terms of their local call rates fix to fix all locations, nine cents for the first minute, two cents each minute thereafter and fixed to mobile, all locations, 27 cents per unit.

Now, when I go again, and I cannot help myself from looking at our neighbor next door, their basic line plan rental for what we are basically paying \$27 equivalent, they are paying \$9.30 for the basic plan equivalent in CI dollars. Then, there is a second plan for \$11.30 and then there is the real top of the line plan where you get 1,000 minutes to call any local

mobile and everything for \$13.30 CI per minute. And on top of that, their domestic calls cost less than the equivalent of one CI cent and to call mobile is literally less than two cents. We are paying 27 cents and they are paying less than two cents. I mean, these are the kinds of things that when we do go to sit back with LIME/FLOW or whichever name they will be going by at the time, that we need to take into consideration for the consumers. But the telecoms costs, if you look in the consumer protection reports, it is one of the items that is featured as one of the cost drivers for the CPI. And, on top of that, when you do understand, when you look at even CUC licence, they are also increases based on increases within the CPI so, we need to go through everything that we can do to make sure that we lower the cost to get what is best for the consumer, but the bottom line is, Mr. Chairman, through you, in the form of a question, is: What can we basically expect that OfReg will be doing to get some of these costs down during the next negotiation with their licence?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Mr. Chairman, the licence renewal process with all of the telcos is coming up; C&W is just first. And the discussion with them will be about moving to a framework that is fairer to all of them but has expectations of all of them. So, to basically answer the member's question in the shortest way possible, we do not plan on regulating prices. We plan on making sure the market is able to serve all of the consumers and give those consumers choice and let those consumers then decide who they would like to go with.

In the area where the Member lives, for example, nobody down that street has much of a choice when it comes to fibre. You may not even be able to get fibre from the one provider who is in that area. The prices that you pay are reflective of the fact that you have no choice as a consumer.

The Chairman: Stick a pin. I am troubled by you saying you are not making any attempt to regulate prices because it is clear from your evidence that there are areas that get better service than certain other areas but the areas of the poor service are being charged the same price as those that are getting the good service. Why is the ICTA not insisting that there is a differentiation in price based on what is available?

I understand and correct me if I am wrong, but there are people on the Queen's Highway for instance, that have fibre. They have to cross my house to get to the Queen's Highway, but I do not have fibre. I understand there are people along High Rock, to which we have run fibre, but there are people on that street who have no access to it, even though I have requested of FLOW to provide me with fibre. Mind, all the technicians keep telling me that they have fibre in their panel box (which I don't know what that is) less than an eight of a mile from my light pole to connect it

to, but I cannot have fibre. How are they allowed by the regulators to discriminate in this way?

Your evidence suggests that the rich people on West Bay road are getting it, not because they are demanding it, not because there is competition, but just because it is available and I am paying the same price as the people on Seven Mile Beach. And the other thing that confuses me is when they come to my house to hook me up (and this is not something I imagined) the technician will call somebody and say, *We are not really getting enough here, boost it up a little bit so we can get a better picture.* Literally, why am I not given the full boost to start with? And then, what they charge me for is 80 per cent of the full boost. I think you tend to give them a leeway of, if I am paying for ten and I am getting six or eight, that is okay. They should have to put in my area 15 and I pay for 10 for when I only get a percentage of the full amount.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Our approach is to regulate the services, not the prices, and let the market dictate prices. The way we—

The Chairman: But that nah working!

Mr. Christopher S. Saunders: Hold on. Sorry.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: It is not working because the fundamentals are that the licence obligations that were put upon all of them, they are now in breach of.

The Chairman: Well, why are they not held in breach of that? I am a little troubled when you say you are trying to look for a new framework that is fair to all but carries expectations, because we have had expectations all along, that all of Cayman was going to be served equally, but for years, nobody is cancelling anybody's licence because they have not met the conditions of it.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: The way we are addressing the licence obligations that they were in breach of, is to establish a universal service network for the eastern district that will be funded by the licensees who are in breach.

The Chairman: So, the Government is finding a way to subsidise their investment to provide investment for them that they should have done 20 years ago when they got their license?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: The Government, through OfReg, will build the network and they will pay for it because it is clear the market has failed to do what it was supposed to do under its licensed obligations. This is not a new thing; this is common among every developed nation

where we have rural areas that cannot be economically served. A universal service network paid for through some sort of universal service fund is usually used in order to serve those customers. In fact, the UK has just announced something similar where customers can apply for this universal service funding up to, I believe it is £3,400 in cost to service; it may be a rural farmer miles and miles away from the nearest road, for example.

So, the cost in connecting him to the network can be higher than someone who lives in a village or a city. But the principle is still the same. Yes, there are some costs involved in connecting someone who lives down a long, windy past in the countryside, but there needs to be a mechanism to make sure that person is not left with no choice and no access to services just because of where they live; that in and of itself is a form of discrimination which, regulators around the world address through mechanisms like a universal service network. So, the plan is to address the lack of connectivity and the lack of choice in eastern districts of Grand Cayman, through universal service network.

The other areas that you speak to, Mr. Chairman with regards to getting what you pay for, is related to another effort that is underway at the office, which is going to establish standards for quality of service. The broadband consultation that we have just completed is the first step in that direction. By defining what broadband is and how we will measure it, we will then be able to establish a set of quality of service standards.

What we envision happening is that if you as a licensee expects to sell something called broadband in any of its forms under that particular part of your licence, it must meet certain standards. It must, for example, deliver at least, let us say, for example, 80 per cent of what you have contracted, even during the busy period, not four o'clock in the morning, but during the busy periods and sometimes there are two busy periods in a given geography. That is the way we can get to the quality of service that we are looking for; the choice that was promised when we liberalised the market place and those are the two things that we feel it is our duty and our priority to regulate.

We believe that prices will be the outcome of ineffective competitive marketplace and it is premature for us to look at prices, until we figure out the underlying infrastructure that drives choice and availability and the quality issues that plague everyone in the country today.

Mr. Christopher S. Saunders: Mr. Chairman, through you. First of all, I am not prepared to tell the people of Bodden Town West that they are rural nor is Savannah, Newlands or anywhere else, especially when you consider that people in the Newlands area are receiving fibre.

The question for me to the witness, Mr. Chairman, through you: Why stop in the eastern districts? Because once again we are going to create a

model where we allow these guys to cherry pick and then the Government ends up subsidising. Why not just roll out the entire network across the entire Island? To hell with them! If we are going to do it, do it for everybody because if not, we will be guilty of the same thing that we are accusing the telecoms of where we are now focusing on one area and not the other. So, the question is if you are going to roll out the network, roll it out across the entire Island, not just the eastern district and that way, the cost will be much better and the people will have a better choice. Do not stop there because if not, then the taxpayers will be paying for something that these guys should be doing and they will be making \$23 million extra for a year that you did not even think they were going to make. Do not stop there; roll it out throughout the whole Island.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: In turn to the member, I am not sure if that was a question or a proposal.

Mr. Christopher S. Saunders: To put it in a question form: Why not roll out the entire Island, then?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: First of all we are not subsidising anything; they will be paying for all of this.

Secondly, we are not actually building a network. If you consider a network as the thing that provides the service to you, that is not what we are rolling out. What we are rolling out is a connection, the fibre connection from your house to their network. So, basically, the architecture that we are exploring will set up what is called a "meet me point". It might be in Bodden Town near the Primary School or it might be near the Police Station, but a "meet me point".

All of the competitors' networks will come to that meet me point. Beyond that meet me point will be what we are calling "Eastern District Fibre" or "EDFi", which will be a passive network that runs through the ducts and along the poles out toward homes. When granny in East End calls one of the providers and says, *I want your TV service*, that provider goes to the meet me point and makes the connection to EDFi. He then drives out to granny's house and puts a connection from the pole or the nearest cabinet to her house and installs his box in her house. All EDFi has done is bridge the gap between the house and their network which is now at the meet me point.

What that does is it makes it a lot more efficient to deliver services to the areas of Grand Cayman which are sparsely populated. By sparsely, basically what we are looking at is housing density that falls off dramatically after Bodden Town Police Station. We are working with the Department of Planning right now to determine exactly where that density falls off, so we can determine where the boundary line is for EDFi. We feel that EDFi should be as small as it needs to be and that they need to be build out up until

that boundary. We think it is somewhere in Bodden Town, so the meet me point would be there and our EDFi would be as passive, as simple, as inexpensive a connection between that meet me point and the resident's home as possible. They will still provide the service, they will still provide all of the bells and whistles that their particular network provides as opposed to their competitor's network, but customers will no longer have one choice and one choice only, and that provider is using some combination of copper and fairy dust to deliver sub-standard service to the customer.

Mr. Christopher S. Saunders: Quick question: Understanding the culture of both LIME/FLOW and Digicel, does anyone honestly believe that those guys are going to pay for it and not pass the cost on to the consumer?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Mr. Chairman, C&W is not one of the entities that have a license obligation to extend a fibre network across the Island; they already had a network in place. It was the competitive networks who got licences to compete with C&W who agreed to a licence obligation that they would service the entire country by rolling out their network and the regulator then received regular reports from the providers as to their fibre rollout plan and that plan has shown us that they have had extreme difficulty in rolling out their networks; in part because they did not invest, in part because they could not get access to buried ducts and, in part because they could not get effective and efficient access to poles in order to connect their networks and build out their network along the way—all of which we are dealing with but, separately.

Mr. Christopher S. Saunders: Just so I am clear, Mr. Chairman. Just to understand from the witness that LIME does have the network out there. So, the question is: Why is it not available to the public if the network is there?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg, Cayman Islands: Their network is built up and it is available. Anybody in the country can get phone service. Their network is not 100 per cent fibre, they have a HFC, which is a hybrid network that is partly fibre and partly copper.

Mr. Christopher S. Saunders: Okay. The reason I am asking a question, and not to get tied up in the small details but, per their own application they are saying that they needed to increase the cost because they are rolling out a superfast broadband across the Island and that was one of the justifications given for them chucking up the money line rental and other fees. So, the position is this: If we allow them to raise the fees based on what it is they have said here and they are not delivering what they said they would

have, then the natural thing to say would be, *Wait a minute, we approved this fee based on you doing X. You have not done X, so we are taking back half the fee.*

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Just because they say they are good looking, does not mean I agree.

Mr. Christopher S. Saunders: Exactly! The point I am trying to get at—

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Just because they have said that we are entitled to this because we are great, because we did LTE, because we are doing this, does not mean that that is what we would take into consideration. Anything that involves an increase to a regulated price, such as fixed-line rental, which is part of the areas that they are still considered to be dominant in, the economic analysis would not take into consideration some magical thing they did with mobile. That has nothing to do with our analysis. Just because they put it in the letter does not mean we are going to take it into consideration.

Mr. Christopher S. Saunders: The point I am making is: In both their submission which is available on your website and your response to them, which is available on your website, there was no reference to any economic decision that was made, other than to say, *Fix this part of your marketing and you can get your dollar increased.* There was no economic analysis available—none.

I can only base my questions and my assumptions on what they submitted and what you guys replied. Nothing economic, other than to say take that out of your Q&A, take that out of your Q&A and take that out of your Q&A. So, the question then is: What basis did the regulator use to say we are going to give you this increase? They did not give an economic reason and ICTA did not respond with an economic reason.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: I can provide the Committee with that economic analysis. You have a good point; it was not part of the published documentation, but it does exist.

Mr. Christopher S. Saunders: Okay.

The Chairman: I still want to know, how is it that your licensee can lay out fibre network to a particular customer and customers along the way are not given access to that fibre network? If they can still do that, then, your providing them with a framework is not going to help anything; they are still only going to go for the one that they believe is going to sign up for 20, 40 or 50 or 100 megs and live the little householder along the way, who only wants 10 megs un-serviced.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: I do not want to defend any one provider over another, but I would say if you bought a house in Miami that was directly under I-95, it does not mean that you can just drive out of your driveway and get right onto that interstate. You might have to go a little ways down the road to get onto a ramp before you can join the interstate. So, the fact that a fibre cable runs outside of your house, does not necessarily mean that it can easily be accessed.

The way that some of the networks are designed, is that that fibre feeds a cabinet. That cabinet then converts that fibre into DSL or into copper-based services and from there, the copper is used to transport services to the house which might mean going back along the same road that the fibre came back to your house, for example, that the fibre crossed. But it is just the architecture of the network. That particular architecture is not what is used by the competitive entrants who do not use copper in any part of their delivery mechanism, to my knowledge.

Those providers use a completely different architecture which delivers fibre to the customers' premises and the box that they actually install either, outside your home or in your house, what we sometimes call a modem, actually terminates that fibre into the back of the modem, whereas with the other networks, what you are getting is a copper line into your house for phone service or DSL and somewhere else down the road, that copper is converted to the fibre network which then delivers that service from your house down to their main core network in town or Bodden Town.

The Chairman: Suppose a group of people on a particular street or along the streets from their cabinet, where they have the fibre, applied collectively and were willing to pay to have fibre from that cabinet put in, and the provider refused to do it, does the regulator have any authority to say, *Listen, you have to do it and even if they pay for it in the first instance you have to reimburse them through credit or some other mechanism?*

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: In that particular case directly, Mr. Chairman, no. What we would need to do is to have those customers make a case that they were being unfairly treated or discriminated against because of a lack of service that could have been rectified cost-effectively by doing what you are suggesting.

The Chairman: And how do I demonstrate that? Google I think does one where I can test the speed of my internet download. Can I keep a week's record of what I was getting at various times of the day and then present that to the ICTA and say, *Listen, I am paying for ten, here are my records that over the last two weeks the maximum I have gotten is six and most of them I am getting three?* Would that be something

that the ICTA could act upon and force the provider to get at least the 80 per cent that you say is okay? Because you see, I would like you to say, if I am paying for ten, that is the 80 per cent of what they are providing. That is the minimum I am going to get, as opposed to I am paying for ten and you will accept that eight is okay.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: As a quasi-judicial entity, I would not want to pre-judge any prospective complaints that are either ongoing or might come before us. Number (1), I would say to you that we do not get enough complaints. We would welcome more folks such as yourselves telling us what is going on, telling us what is happening, what you are experiencing out there so that we can hold our licensees accountable.

Number (2), any evidence you are able to provide we would take into consideration. It might be questioned or challenged by the licensee, but we would still welcome it.

Number (3), to address exactly what you are referring to, that is, quality of service, we recognise, as do many other regulators around the world, that there is a need for an independent assessment of quality of service; not the customer, not an IT company, not the regulator, but an independent body to be able to evaluate and collect data on quality of service.

To that end, just yesterday we signed a Memorandum of Understanding with an entity that we have been courting and pursuing aggressively for the last year and a half out of England, called SamKnows, which maintains a network of testing facilities that will do exactly that; be able to give us an independent statistical analysis, not on an *ad hoc* basis, not at your house because you called for it, but on an ongoing basis through randomly selected participants around the country feeding SamKnows. And they can then provide us with a report as to how each and every one of the providers are doing with respect to the contracted speeds that the customer should be expecting. And it is through that kind of mechanism of which we anticipate to hold licensees accountable for the quality of service that they are delivering to the customer; not an *ad hoc* basis where, maybe a complaint comes in, maybe a dozen, but a proactive, consistent monitoring regime that holds our licensees accountable.

The Chairman: So, you are contracting an independent company to provide us with this testing. Care to unveil what that is going to cost, because I probably will wind-up paying for that too?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: This entity has not given us the cost but the way their model works is they basically are able to provide advice to their clients, which are governments and service providers based on the data that they are able to collect so they have a world-wide organisation. Obviously, we are concerned about pri-

vacy issues; we need clear identifiable information to be made available either, to the contractor or to anyone else that might buy their services, but what we do want them to be able to do is, for example, they need to know that you have contracted for 10 megs but you are only getting 5. They need to know that so they can flag it to us to say that this particular line is underperforming.

What they do not need to know is what your dog's name is and, you know, your post office box number and where you bank. So, we need to balance how much information we provide to the contractors and protect the privacy of the people who are participating in that ongoing survey. The details of that we need to work out but we are cognisant that privacy needs to be borne in mind as we move forward, but we need to balance that with the power that this entities can offer to small jurisdictions like ours.

It was a struggle to get them to sit at the table with us because they are dealing with the likes of Verizon and British Telecom and OfCom in the UK and so forth. We finally managed to get them to sit down and talk to us and they are actually looking at us as a potential way of giving back and expanding into underserved communities. Whatever it takes to get that kind of power in the hands of the regulator and in the hands of the consumer, we are going to try to effect.

The Chairman: Yes, two years ago, by way of a motion by the Member for East End and I; we managed to get some penalties put into the ICTA Law.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Thank you, sir.

The Chairman: Unfortunately, the Government did not put it in the way we wanted to put it in. They put it in up to \$500,000 and our concern with that was that when you start talking numbers like \$500,000, providers like FLOW and Digicel will just lawyer-up and they will never get anything decided. Is the fine administrative structure going to be introduced to help you regulate these providers? For instance, to say if your independent regulator determines that at my house, as an example, I am paying for 10 but I am only getting 5 over a period of time, are you going to attempt to change the legislation to allow you to administratively fine that company say, \$5,000 fine, which is much better to pay because a phone call to a lawyer is going to cost more than \$5,000, and have a daily ride on it of maybe another \$2,000 until it is corrected and your monitor will show that it has been corrected consistently? Or, are we going to rely on taking them to court up to \$500,000?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: The fines that the House approved were, if memory serves, up to \$500,000 per incident and a daily fine of up to \$25,000 a day until the breach is corrected. That gives us considerable latitude.

The Chairman: But it has never been used once in that two year period; has it?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Yes. We have just issued a Draft Determination on a licensee that we found in breach of their licence and the fine is in excess of \$1.2 million.

The Chairman: Again, I guess I have been around this too long, but sometime ago, either, in Finance Committee or a prior PAC, there was some concern that some of the local providers may, in fact, have been billing for other services provided here in other jurisdictions and accounting for it in other jurisdictions so that we could not apply the 6 per cent to that revenue. Has that been resolved? And, are all of their services that they now provide in Cayman being billed in Cayman to which the 6 percent is subject to?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: I am not aware of any specific instance where that kind of offshoring is happening. We would take a very dim view on that. In fact, we have reached out to a number of regulators in the Caribbean about setting up bilateral arrangements where we can share information because we all tend to regulate one or two of the same entities.

In recent discussion in Jamaica, for example, they are concerned because one of their entities has now merged with another and they are trading as two separate entities because one is listed on the Stock Exchange and the other one is not but the branding is combined and is the same, so they are very concerned about customer data, getting mishandled or mismanaged and how the tax implications—they call it tax, we call it royalties—might have an impact. So, we are in discussions with regulators around the region about how to share evidence of certain practices because these are all global entities and identify to each other when we see questionable practices or we conduct investigations on some of these entities which we all regulate, in order to help identify those kinds of issues that you raised, Mr. Chairman.

The Chairman: Do you have a question?

Hon. Bernie A. Bush: Yes, Mr. Chairman, through you. You already covered one on the penalties which I was here when you and the Member for East End had carried those on.

Have these companies given you any explanations? You have Northwest Point Road . . . because you all keep talking about the eastern districts and it seems as if you think the golden state of West Bay has everything. We are rural as well.

Going down the Turtle Farm Road, we have fiber optic to which 300 feet from that is Glidden Lane, which I think you know well, there are 16 homes just in that little street. We have Watercourse Road, which comes off of Northwest Point Road; no fibre optics.

So, it cannot be because of the excuse when I hear that there are sparsely populated areas. Those areas are well-populated and we do not have yet to have in the street. I am not going to say here who is mainly on that street.

Mr. Christopher S. Saunders: Politicians.

Hon. Bernie A. Bush: No, the street of the politicians does not have it.

So, have they given any explanation of that for West Bay? I can understand okay, if you want to argue that it is sparsely populated up on the eastern side, why not so in populated areas?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Mr. Chairman, through you: we have looked at the coverage maps for fibre rollout for our licensees and West Bay is poorly covered. Whatever the rationale might be for the eastern districts in terms of density, in terms of distance from the core, in terms of whatever the argument might be, does not exist in the areas in West Bay that remain to this day, uncovered or under-served by fibre. We will not accept any of those excuses and we will hold our licensees accountable to completing the rollouts of their networks, which will include West Bay.

We consider everything west of the boundary where ever that boundary might be in Bodden Town, everything west of that is competitive territory and we expect all of our licensees to fully cover all of that territory, including the un-served and under-served areas of West Bay.

Mr. Christopher S. Saunders: Mr. Chairman, sorry. I just want to make for the record that Bodden Town West is the second largest constituency, only beaten by Bodden Town East and Bodden Town is the second largest in terms of population and the largest in terms of land mass.

The Chairman: And the fastest growing.

Mr. Christopher S. Saunders: And the fastest growing.

Mr. Chairman, through you: I do recognise that the ICTA themselves have their own challenges. I worked with Digicel and Flow, well, Cable & Wireless before, and understand the culture of the people we are dealing with. They are creatures of habit and they are not very easy to deal with it. I can tell anybody that so, I do sympathise with the regulators in that regard in terms of the backlash they have ahead of them. It is not easy.

We have companies with very deep pockets and I think the current Chairman of OfReg, Mr. Pierson, will recall that even during liberalisation talks, the CEO at the time for Cable & Wireless, West Indies, bragged that they had enough time to bankrupt the Cayman Islands Government if they pushed

themselves too much. So, I do not want the public to believe that, you know, it is easy to do. It is difficult to understand those guys.

What we want to make sure here, and at least going forward, is that if we need to make changes to legislation, let us make it. If we need to put in more teeth, let us do it, but the thing about is and this is the question to Mr. Fa'amoe, is that price has got to be a component because ultimately, at the end of the day it is required by law and what really determines quality is what you are paying for it. So, we cannot just have a quality for something and we end up that only Haiti alone, which is again, poor . . . so, if you are to run it in different areas I can understand someone paying \$224 but we cannot have people next door paying \$18, \$19 per month for broadband and people on this side, right next door, for the same company, paying what it is.

We have the same issue with roaming. I mean, what some of the roaming bills that people have been charged, it is literally almost criminal when you do consider that most of the telecom companies have fixed contracts with US carriers. So, it is not as if to say they are being charged, because I can tell you they realised what was going through this side of the billing mechanism was too expensive, they just went to a flat rate. And for what these guys are charging people on flat rate-type stuff, it is criminal.

One of the things I want to touch on, Mr. Chairman, I just wanted to put that out there because I think it is important for us that the public do recognise the ICTA does have a challenging responsibility and the people they are dealing with are very difficult to deal with. But at the same time, we need to make sure that the public and those companies know that we intend to come for them, because I am going to tell you right now that I intend to go for them. For the money that they are making and for what people are paying, I am taking that on as a pet project.

Mr. Chairman, I also wanted to touch on the ICTA Consultation 2016-2. In essence, it was just the whole issue on the poles. The pole issue that some companies were having with CUC's DataLink, and one of the things that jumped out of that report to me, I am just going to read it briefly just so we can touch on it, is Question C2 where it says: "Provide you a view on whether each of the relevant components of the pricing formula for calculation of the annual attachment fee included but not limited to net cost of bear poles, space factor, etc."

One of the comments that jumped out was on FLOW's response to that same question, C2. Basically, the issue that they came back with was to say the net cost of bear pole is overstated and this is what the response was: "DataLink calculates the net cost of bear poles to be nine hundred dollars which we believe significantly overstates DataLink's true net cost. Based on information provided to CWC in quarterly invoices from CUC, the net cost of bear poles varies by height of the pole as follows:

- 35' wooden pole = \$199.45
- 40' wooden pole = \$371.20
- 45' wooden pole = \$1,007.91"

It goes on to say that: "The majority of CUC poles in the Cayman Islands, with the exemption of certain poles in the George Town area, are 35' in height. Assuming the nine hundred dollars net cost figure cited by DataLink is based on an average cost of all installed poles or poles utilized by the attachers, it is unclear how DataLink arrived at such a high figure, almost equal to the cost of the subset of CUC's tallest, most expensive poles. Based on our review of the most recent quarterly invoice received from CUC, the average height of installed poles is approximately 39', and the average cost of the installed poles is approximately \$533 dollars, therefore we believe DataLink's calculation overstates the true net cost of bare poles by sixty-nine per cent or \$367 dollars." [UNVERIFIED QUOTES]

Now, I raise that question because, one of the issues I know that some companies have been using is that they are basically being over-charged or DataLink/CUC isn't co-operating in terms of the fiber that they want to rule out. I also read the Authority's decision that came through and I just wanted to put it out there that on the consultation that the ICTA sent, Digicel's response was a two-page letter which basically said yeah, whatever, and then Infinity basically came back saying to that question they had no comment. And I also read the ICTA's decision but I was a little bit unclear in terms of what the final outcome was in reading that decision and I just wondered for clarification: What ultimately was the outcome of that whole issue with the pole debate between those guys and DataLink? Just in brief form, because I could not get that from what I found on the website.

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: The ability for telecoms to attach poles is the most cost-effective way for network roll-out in any country. Putting things underground is great; it has the resilience in time of hurricanes and so forth, but it is expensive, especially where underground facilities like ducts and manholes do not exist.

Caribbean Utilities Company was required to get a separate licence under a separate wholly-owned subsidiary, so that their electricity licence with the ERA [Electricity Regulatory Authority] was completely separate from their ICT licence from the ICTA at the time under this subsidiary called DataLink and DataLink would then manage the pole attachment space, which at the time only Cable & Wireless was in but other companies wanted to attach too.

The industry from day one had issues with DataLink, with procedures, with cost, with time delays, with the whole process of what is referred to as make ready, which is creating the space or securing the pole through guy wires or whatever is required to enable additional attachments to the pole. As a result,

we brought the whole industry together in a series of facilitated discussions about all the various issues and basically took one of six or seven issues and issued a determination on it which was on reservation fees. Basically, licensees were being told that they had to pay a reservation fee for a pole or a whole span of poles to secure that space and then when they came to make their attachments, then they discovered that the space was not actually there; that it had to be created either, by putting in a taller pole or separating the power from what was there to create the space.

The Authority took the decision that the reservation fees and the whole process around that were not fair and instructed them to remove it from their contracts and do away with it. Immediately the decision was challenged under the process known as judicial review because we are quasi-judicial; any appeal to our decisions goes to the High Court. And that is where we are today. We are in court. I would hazard to say we have probably spent approximately spent in excess of \$300,000 in legal fees and our decision is pending in June or July of this year and at that point we will have to reassess how we approach this part of our regulatory responsibility, because it simply too costly for our licensees to continue down this path with DataLink and customers are the ones who are hurting at the end of the day because they cannot get the service because the guys cannot connect or the connection is too expensive for them to justify.

The Chairman: Correct me if I am wrong but again, have not all of CUC's poles and other infrastructure paid for specifically by the consumers' post-Ivan through a monthly surcharge? If I recall, it was something like six or seven dollars per month infrastructure surcharge or something that all consumers had to pay for all of CUC's light poles that were put in and now we are turning around and charging \$1,000 for six inches of the pole to hang a wire?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: I do not know the details behind it but yes, a large number of poles were replaced after Hurricane Ivan at the public's expense.

Mr. Christopher S. Saunders: Sorry. Just to put that in context, because I do not want to leave that out here hanging, but that was something I looked into in preparing for this PAC and I think at the time it was the intention to generate \$35 million as part the hurricane recovery. I'm just speaking ball-park. When I look at CUC's Balance Sheet, their generation and transmission distribution asset was to the tune of maybe either, \$400 million plus or \$300 million plus back then; it has since gone up well. So, when I did look at the actual cost, in terms of what it is compared in terms of recovery, it probably represented maybe about more than 10 or 15 per cent of the total cost. So, in defense, as much as it is basically a good

soundbite, it was not the entire network that we paid for.

The Chairman: That is certainly the impression the consumers got. I do not think I am the only one that believes that seven dollars a month was paying for it.

Mr. Christopher S. Saunders: No, no. In fairness, Mr. Chairman, I had the same impression. I went back and saw the pretty little picture of the Member for East End, in terms of the research and everything else, and that is one of the things that remained inside the contract. As a matter of fact, I think I did print off the article at the time where it said that CUC's surcharge was necessary, going back to when the issue was raised. I know I printed it somewhere. Yes, CUC's surcharge was necessary and it was the December 4th 2007 edition of the Cayman Compass. I guess back then it was decent so I guess we can probably google the reporting. It is one of the things—

The Chairman: The larger question I have is when the regulators are finished now and CUC is getting all this additional income for the poles, are the consumers going to be refunded in some pro-rata basis or is that outside the scope? I guess I will ask that to the OfReg man that is coming after you because you have nothing to do with CUC. Okay, I wrote it down for him.

Are there any other questions?

Mr. Christopher S. Saunders: I just have one closing question to the witness. First of all I want to say thank you for coming down here. You do not have an easy job. I mean, I can tell anyone that, having been on the other side. I have been regulated by the ICTA. I know because I used to give them problems in my former life too and it was not easy dealing with people like us.

The question I have really is: What do you think the OfReg, in terms of your sector of telecommunications, where exactly would you like for it to be? Very forward looking, because ultimately, what do you think would be best for consumer, in terms of your role?

I am still a little bit, I guess concerned, in terms of the regulators going in now to provide something that these guys should have been doing and in essence I see it as a departure from something a regulator shouldn't be doing but naturally it needs to be done, so somebody has to do it. But the flip side is, ultimately, what legislation or what teeth do you need or do you think we need to give you to say, *You know what, this is ultimately what is going to be best for the consumers of this country?*

I am going to tell you right now, that ranking 190 out of 196 in terms of the cost of broadband is not something anyone in this House would be proud of, neither on the Opposition or the Government side. And there is nothing we would like more than go back

and say to the Caymanian People we have reduced this from 172 down to at least X cost, but it cannot continue like this and not with the poor service that we are getting. We are basically paying for something we are not getting, so the question is: What do you think ultimately you would like to see done in terms of law or whatever it is given to your organisation to make sure the consumer is protected and getting value for money?

Mr. Alee Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: One of the things that is driving costs in Cayman for broadband, in particular, is off-island connectivity.

Off-island connectivity is still provided by one provider through both cables and the concern that we have is that there is dominance there, indisputably. But that will come out as part of our economic analysis that we are doing right now, but when you have both of your links out of your country, the only way for you to get off island on voice or internet, controlled by one company, you have a problem.

What we have done, bearing in mind that those two links are now over 20 years old, are reaching the end of life and were never designed for internet traffic 25 years ago when they were built, is to actively seek out other investors who are willing to bring multiple submarine cables into the Cayman Islands to protect and diversify our internet connectivity to drive down prices and drive down costs to improve the resilience of the economy, because without this connectivity our economy simply shuts down. And to also, then drive economic growth because we believe that we can be more than just a provider of services to our local customers but we can offer services to near-by territories who are on the same boat as us, being served by very old infrastructure that is controlled by one, maybe two companies that serve all of Central America and all of the Caribbean.

So, in and of itself, what that would do is dramatically change the broadband landscape for the consumer and the resilience and performance, because right now, we believe that our latency which is basically how long it takes for a packet to get from your house to the real internet which actually begins for us in Miami, right now, is too long because the systems that we go through to get there were designed for voice traffic 25 years ago. So, by bringing new technologies and additional providers into that space, we believe, that we can dramatically impact, but in a positive way, many of the concerns that we have been talking about here this morning.

In order to do that we do not need legislation but we do need, and have advised Cabinet that we will be asking for a specific directive to help us become a one-stop shopping to encourage that foreign investment into Cayman. We have what I believe is a good overarching umbrella law in the URC Law, the Law that created OfReg to begin with, but honestly what is a huge time suck for us is the incompatibility

that we have under the URC Law as a regulator with the Public Authorities Law, which we warned the Government about when it was a bill. But those serious inconsistencies that directly contradict one another between our enabling legislation and the Public Authorities Law need to be addressed. So, we hope that we can work with Cabinet to bring that to the House as soon as possible, whether it is a change to the URC Law or a change to the Public Authorities Law, it does not really matter but those inconsistencies, when you are a quasi-judicial entity, you are a creature of the Law and anything that jeopardises that consistency, jeopardises your ability to fulfill your mission.

Mr. Christopher S. Saunders: Thank you very much. Just one quick question and the reason I raised the whole legislation issue is if every single time that the OfReg goes and makes a decision and it is going to end up in court, where we are talking about multi-billion dollar companies where \$3 million or \$4 million in legal fees is really nothing, but your ability to fight it would be a challenge. Clearly, there is something short in the Law because we do need to recognise that we do not want to create a situation where every single decision that OfReg makes becomes challenged by these deep-pockets. The question then is: What amendments or what do we need to change to make sure that up to a certain point what you guys say is final?

I mean, earlier we spoke about that \$1.2 million fee; I know for sure those guys are going to lawyer up like crazy. Do you know what I mean? And by the time you probably get it and what you are going to spend, the time and the net result, it may probably come net back to zero. Again, it would just defeat the purpose and the lawyers get rich and people basically get nothing. So that in itself is an issue.

Now, I am thinking the Maya-1, was a consortium of companies that actually owns that cable. I notice CJFS, which is Cayman Jamaica Fibre Service, is fully 100 per cent FLOW. But I know on the Maya-1 that in itself is a consortium. The thing that drives me crazy, and again, going back is it costs about one cent to term rate a call to say MCI or one on those guys in the States, going over the Maya 1 but yet, to call the neighbor next door on a Cable & Wireless network costs more that it does to place a call to Miami. And again, this is why the issue comes back to me with price. There is no way you are supposed to be sending traffic all the way up on the Maya-1 paying one cent for that in US, thereabouts, but yet FLOW is charging two cents CI, US\$2.50, US\$2.40 to call the neighbor next door on the same poles that have been around forever and a day, that have been paid for many times over.

This is really where the public is, in essence, getting the short end of the stick and those are the kinds of things that we need to fix because at the end of the day we are still a consumption-based country and everything that comes out of the pocket one way

or another, we still have some of the highest ARPUs [average revenue per user] in the Caribbean and again it is not something to brag about but is something that these guys live for and whether we accept it or not, we are subsidising other islands and that is one of the things I hope the ICTA will tackle, but the cost is one that has to come down.

Mr. Fa'amoe, I really want to thank you for coming here today and like I said, it is not easy in terms of what it is you are doing, I think you are being very candid. You have answered most of the questions as best as you can and we really appreciate it, and, if there is anything that we can do to help you protect the public just let us know, because that is ultimately what we are here for. Okay, thank you.

The Chairman: Mr. Fa'amoe, I wish to also thank you for your time and we appreciate your forthright answers. Thank you very much.

Mr. Alea Fa'amoe, Deputy CEO/Executive Director, ICT for OfReg: Thank you.

[Short pause]

ADMINISTRATION OF OATH OR AFFIRMATION

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: I swear by the Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

UTILITY REGULATION AND COMPETITION OFFICE (OfReg)

The Chairman: Good morning, Mr. Morgan. Thanks for coming to the Public Accounts Committee. I believe this may be your first visit so the rules are very simple, sir. When you answer the first question please state your full name and your title for the records.

As you may have been informed, today we are doing ICTA 2014/15 Financial Statements and its relationship to OfReg, and we fully realise that these financial statements will pre-date OfReg, but we still have some questions in term of the relationship between OfReg and some of the things it is doing at ICTA.

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: Good morning, Mr. Chairman. Thank you very much.

Mr. Christopher S. Saunders: Good morning, Mr. Morgan. I can assure you that the questions coming from this side will not be as the last ones. What we are hoping to get out of your session is recognising that OfReg itself is an entity that is fairly new and it

has brought together different sectors that were all previously regulated separately.

I just want to read the section of the Law, not to cover it, but just section 6 of the Law, "Principal Functions of the Office" where in particular section 6(1)(c)(ii) states: **"ensure that utility services are satisfactory and efficient and that charges imposed in respect of utility services are reasonable and reflect efficient cost of providing the services."** It is that part of the Law that we are trying to get just in terms of the feel from OfReg of what the public can expect in the sense of going forward in terms of regulations.

If you were listening to the questions that we asked Mr. Fa'amoe, it is being ranked 190 out of 196 in terms of the cost of broadband and then seeing what our competitors are paying elsewhere. Only Haiti has basically beaten us in the Americas being North, Central and South America. That is not something we want to brag about and so we recognise that there is an element of where Cayman is actually subsidising other parts of both FLOW and Digicel operations. What we are looking for is what we can expect from OfReg in terms of, especially, price.

Now, Mr. Fa'amoe mentioned that that is not something . . . and they are more focused on quality at this point, but what makes quality flow is affordability. So, the question is then, just to kind of set the stage, just very future-looking, very forward looking and this being your first time here, we are trying to find out the culture or the remit in which you guys at OfReg are looking in terms of managing costs; not just on the ICTA side, but also on the fuel and water sides. So that is what we are looking for. That is the question. Thanks.

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: First of all, the name is JP Morgan. You can call me JP if you like. I am the Chief Executive Officer of OfReg. As you know, OfReg is the amalgamation of the ICTA, the ERA and what was the Petroleum Inspectorate, and we took onto ourselves the regulatory responsibilities that the Water Authority had for the water sector, for the underwater utilities as well as this, I suppose almost undefined creature called fuel markets regulation, which we can touch on if you like, Mr. Chairman.

Generally speaking, that section 6 of the Law really sets out, I guess, the principal objectives against which OfReg should operate, and first is, of course, its duty to respond to policy direction and so on. Secondly, to promote competition and then, thirdly in that clause that you are particularly interested in, speaks to the question of protecting consumers and then the fourth one being to look at innovation.

If we come back to that third one, you will notice that nowhere in those sections it talks about regulation at all—right? It is only when you get into the . . . and even when you look at the sub-clauses under that section 2, you will see it talks about protecting con-

sumers through regulating and so on. And the overriding presumption is that OfReg will first of all try to drive competition, protect competition in the markets that it has responsibility for; the notion being that competition is the best driver of consumer protection that should bring down prices, should improve quality and all those sorts of issues, which economists speak about as being the ideal for consumer protection.

So, section 3 is really talking about when there is market failure that OfReg then needs to step in and take regulatory action. And, Mr. Fa'amoe was talking about significant market power and those sorts of things. It is then saying when there is market failure, yes, the regulator needs to step in and put measures in place to ensure that prices are, if not competitive, cost-effective; that consumers get good service from these monopolist providers and so on.

I say that ideally, from our perspective, what we would want to try to do under that remit is to put in place regulations, take actions which would, as best as we can, try to mimic competition. So, if we have to set up a pricing regime, for instance, in the water sector—and I use the water sector because this one is new—then, we would want to try to set up a pricing formula which responds to the performance of the company, which rewards the company for its performance, which tries to penalise it if it offers poor service, and not just customer service but also quality of service in terms of the technical aspects of the service and those types of issues which are competitive, which are provided in a competitive market that would have to be concerned about if it is to survive. So, to answer your question specifically, Mr. Chairman, it is that the forward looking priorities for us is that if we see that the competitive markets are not working then we have to step in and take these regulatory actions now.

Now, when we look at the landscape here, the ICTA market is for the purpose of this conversation, competitive. The fuel market is, again, for the purpose of this conversation, are competitive. The electricity market and the water markets are not and they are all supplied by monopoly service providers and therefore the regulatory actions that we take in those markets are a little bit more intrusive. I am not sure that I am answering your question but that is, Mr. Chair, how we would want to try to—

The Chairman: Can I ask you a very direct question?

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: Absolutely, yes, Mr. Chairman.

The Chairman: Would you agree that there has been a complete market forces failure in terms of competition driving down prices in these sectors in Cayman?

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: Not necessari-

ly. I believe that and I think it opened specifically about the ICTA markets or all of them?

[Inaudible interjection]

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: Okay. Not necessarily. I think there are some circumstances in the ICTA market which we need to address, and again, I was hearing Mr. Fa'amoe's testimony. The work that we are doing now in terms of doing the market analysis to determine which markets FLOW, in this instance, is dominant, I think is absolutely critical work. What it is really saying is that those markets that we see where they are dominant, then we actually should regulate those aspects of the market and set prices, I believe.

The Chairman: I understand Mr. Fa'amoe's evidence and this determination of dominance, but I can tell you as a Member of the Legislative Assembly who was here, particularly when we did the fuel legislation, the sole purpose for all of that fuel legislation and OfReg creation was sold to the public and to the non-government benches of Parliament that it was the only sure way of regulating the prices.

There was nothing talked about market forces and introducing competition and all this. Because I will recall quite vividly the Member for East End wanting to put an amendment in the OfReg legislation specifically for fuel to use what I think he called the RCAM Formula and the Minister at the time was very resistant and gave us the assurance that the purpose of all of this legislation was simply a round-about way of being able to control prices, particularly on fuel.

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: Okay. Mr. Chairman, the fuel specifically, I believe that we can achieve what we want to achieve in terms of controlling, managing, ensuring that fuel prices are as low as possible in the model that we now have. Here is the challenge, I think. Quite right, I was here when that conversation took place in the house. Here is the challenge, that the first thing we did under the Fuel Markets Regulation Law, as you know, was to deem the major suppliers—Sol, RUBIS, in the motor vehicle fuels and also Home Gas, I think it is on the LPG as having significant market power. And that's only a number of things for us.

It really means that we can put in place a set of rules to make sure that the playing field is level. We have not as yet gotten to that point; we have been hampered and again you touched on that on a previous session by some funding issues we have been having in terms of being able to get that work done, but is our only priority in that sector and it is to try to get these market rules in, by which we can then regulate.

The Chairman: I cannot emphasise how disappointed I am to hear that after all of that fanfare and pages and pages of legislation, you were not funded to achieve what the public was led to believe that you were going to do, and we are now what, two years down the road?

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: One, year and a bit.

Mr. Chairman, what happened, and I think you have heard this, was that the fuels inspectorate side of our business was funded through the appropriations that had been put in place last year for the fuels inspectorate. Well in truth and in fact, the funding arrangement for the market side, that regulatory side that was really not put in place. We recognised this as early as May last year and, as I think, you heard it yesterday, there were some Cabinet decisions taken, which I think will now fix that and we can only move forward now, on that basis. But yes, we ourselves are really a little disappointed that the funds did not happen as rapidly as they could have.

The Chairman: I also recall during the debate specifically on the creation of this whole OfReg thing, that competition was the answer. Well, we have had a new player and more competition added to the fuel, specifically for cars and trucks but the price differential is minimal. I recall during the discussions that we were looking that that competitor was going to come in at half price; to be able to retail for half of what the major suppliers were doing then. Some of the reasons given were they were not putting in all the infrastructure and they would not have that overhead but when you drive across their station, the sign is within the same dollar range.

So, how is that possible if you have any regulatory authority? What seems to happen uniquely in Cayman is that when we get competition, both on the fuel side and the ICTA side, there is minimal competition and then we get what I call a multi-headed monopoly, because I cannot accept that it is by chance that the two major telephone companies have sales on the same day, they sell the same phone for the same price. Their charges are basically the same and when you look on TV and in other environments where there is competition, everybody is trying to underprice everybody here. We seem to allow the providers here to settle at a comfortable profit level for both [companies] and the Government does not seem to be prepared to intervene to protect the consumers by somehow getting lower prices.

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: I am sorry, Mr. Chairman, is that a question?

The Chairman: The question is: With the addition of another provider, specifically on the truck and car fuel,

how is it without them having made the kind of investments in storage and other stuff that the other people [made], they are allowed to sell at the same price?

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: We are actually looking at the price structures as we speak, in that particular market.

You know, Mr. Chairman, there are a number of costs I expect (and I am seeing this now with the work not being complete) which are common to the three of them, be it Sol, RUBIS or this new player, that are primarily transportation and taxes and this sort of thing. And, in fact, also the transportation costs to bring fuels here. So then, what is correct is that the new player does have an advantage in that its local costs, its local investment and so on is less and yes, you would expect low prices. I actually thought that the prices were lower because I looked at those prices whenever I see them and they are usually 20, 30, 40 cents per gallon less, which is actually—

The Chairman: I do not think it has ever reached 50 cents difference.

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: You see, the analysis that we have done is when you look at the larger providers, the spread for local costs including and if we included profit as a cost for the moment, it is about a \$1.50 which covers the wholesale and so on. And it is only in that space which, no matter who the player is, that they will have room to operate. That is sort of what the analysis is showing us at the moment and we are really looking at it very carefully. The OfReg is new; we have to gather the data and we are going through that data collection process as we speak and we are expecting that by the end of the year we should be in a better position to you know, say, *Here are what the cost elements are as you go along and here is what the break hold is.*

Truth is, I think we have to recognise in the Cayman Islands, like anyone of us in the region that are not oil producers, is that we are really are price takers and so therefore we are dependent on the prices at the international level and the price delivered to a port, we have very little control over. The question is: What happens from the port to the retail pump?

I will say, Mr. Chairman, that in the whole exercise of trying to do this analysis is that all of the industry so far, have been very cooperative with us and they have been providing the data we need and we are not having any issues there. It is just having a complete set of data and enough data over sufficient time to be able to do proper analysis.

Mr. Christopher S. Saunders: Through you, Mr. Chairman. While we are still on fuel, earlier we heard testimony that because the telecom provider was not

doing X and the regulators were going to step in to do Y, the question is then, we have the same issue with fuel in terms of when we look at the global fuel prices, and like you said, there is an issue between when it arrives at the port to the pump. There is a lot of stuff in between.

What is there to basically stop the Cayman Islands people to just say, *You know what, we just need to bring in one ship load of fuel?* Take our money and bring in one ship load of fuel and then, basically just do what we need to do to get the market to correct itself.

I will tell you exactly the challenge that we are having and to kind of expand on what the Chairman is saying. Just coming back to telecoms to make my point, if you look at page 14 of the 2016 Financial Statements, in particular, Note 7 that speaks about the amount of royalties collected; the 6 per cent royalty. For 2016 the amount was a little over \$7.5 million. At six per cent, it means that your gross adjusted revenue has got to be \$125 million, \$125.5 million to be exact. Now, where the public is concerned, just for their understanding, what we are basically saying is revenues minus direct costs are what it is that the companies are paying on.

Now, if my memory serves me right, typically it is about 50 per cent margin, so in order for you to get to \$125.5 million of the number that you are paying royalties on, you are talking about revenues in excess of \$250 million per year; more than a quarter billion. And, like I said, I am only speaking on margins; it could be more it could be less. That is one of the things I found missing from the ICTA website, unlike CIMA, is where CIMA aggregates the numbers of the providers. I did not find that in the ICTA website and that would be something great to have, but working with a ball-park figure of roughly \$250 million plus in revenues, across the providers, it scares me to know that this kind of money is being generated, these kind of profits are being made.

When we start getting down to about 40 per cent EBITDA [Earnings Before Interest, Taxes, Depreciation and Amortization] or 35 to 40 per cent EBITDA and we kind of having an idea when we are working with this number what the net profit for some of these entities are. And then, we are talking about not having the requisite investment that we need; this is where the problem comes in now. And what the public needs, and this is where the question is coming in: What is the ICTA going to do, because I can tell you I have an idea from good sources, what RUBIS's profit is, what SOL's profit is? I can also tell you that both of those headquarters is in Barbados, down the road from each other. And the Auditor General and the other accountants in here can tell you the one thing you cannot audit against is collusion and at this point within the market, the public does not have enough confidence that many of these companies are not working together to maintain business as usual and we have seen it because they are coming together—

er to squeeze the new guys out. And this is where we need the Government or the buying power of the Cayman Islands people to step in if need be, and make the necessary adjustments to the market to make it what it is. If not, we are better off going back to having a monopoly and regulate the hell out of it.

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: Yes.

Through you, Mr. Chairman, and thank you for that comment, because it is a concern that I have and just coming out of experience, you are right. We cannot regulate against collusion but we can, in fact, create an environment where it is not easy to collude and get away with it. And this is where I feel that the introduction of companies like, for instance, this third player in the fuel space is good since, as I like to put it, it keeps the big guys honest because they can come in. And we are seeing some concerns being expressed in the fuel group amongst the two larger players about the impact that refuel is in fact having on the market right now. One of the comments coming back is on some things that they want us to do, so we are sensing that they are getting concerned.

In a lot of ways, we do not have that in the ICT sector because you know, in truth and in fact, certainly in the mobile telephone space it really is only FLOW and Digicel and I recall in our jurisdiction when we had a third player operating, that all of a sudden we started to see activity on prices and products and this sort of thing. I really do believe that despite the size of our market, despite the fact that people may say we are small but we are high value, that a third player in that space would be useful, and I think that from all points of view, we need to encourage or not discourage any possibilities of a new entrant coming in and again, to keep the big players honest and to offer alternatives for service. As I said, I have seen this happen in other markets and it works. It is working, in my view, in the fuels market.

Mr. Fa'amoe spoke about the international inter connectivity and the solutions to that bringing a third, fourth, fifth cable, and bringing more international connectivity into the Cayman Islands I think is critical at this point in time again, to drive down broadband prices. I think we do need to see more competition there, and as he would have said, we are working actively to try to enable this to happen. So, we are working on all fronts, the idea being to try to get the market as competitive as we can.

Mr. Christopher S. Saunders: Sorry. Just for clarity: there were two lines, the CJFS, Cayman, Jamaica Fibre Service and the Maya 1. Like I said, I am just going by memory from my previous life, that we paid, or the telecom companies paid a fixed cost to MCI and other companies because the Maya 1 is owned by a consortium of companies but one company manages it, which is FLOW locally. But I remember our invoices to MCI and it was a fixed cost, so the flip side

about it is, and the reason it jumped out, I remember that the cost on one cable that was owned by Cable & Wireless exclusively, but even though it was covered, it was at a different rate compared to what MCI was charging us at the time. So, there is a fixed cost element and the truth and fact is that I used a 50 per cent gross margin in my analysis to estimate \$250 million worth of revenues. The truth of the fact is the gross margin was around 70 to 80 per cent, in terms of what the actual cost was before all of the other admin expenses were taken out. That now turns the market into \$350 million to \$400 million market but I assume maybe not everybody is as efficient as where I was coming from.

The flip side is, it is a fixed cost to the telecom companies, in terms of what it is that they are paying because they are actually just paying for those line rentals and it is how much traffic now that they are putting on each side, so it is dependent on equipment on both sides and how the data is compressed and being sent. Because people will be shocked to realise it is actually some really thin lines made of glass that can take up to 100 terabits. I mean, like I said, I am just going back from my old days. So, from that stand point, I do not think it is an issue of just the one cable because if you look in the Eastern Caribbean I am thinking of the Eastern Caribbean fibre system over that side and what they are paying, and what we are paying is just greed! It is not the line rental from those guys, it is greed.

MCI [Microwave Communications Incorporated] was charging one cent US to make a call. We are charging two cents a call to call the man next door . . . well, US\$2.40 if you want to convert to less than one cent. If we look at the prices that they are charging in Kingston which is right next door in Jamaica, again, it is more reflective of the market, so what we are finding here is more the Cayman market being used to subsidise the other areas. We have seen it in Bahamas with RUBIS, where they are popping it off on us here, but in Bahamas, where they regulate the margins, they cannot do the same thing. Now, RUBIS went and overpaid for Texaco which is their fault, but they are using the Cayman market to subsidise it. The question in all this, after all I said all of that, is: When are the regulators going to put their foot down and say enough is enough, you guys cannot continue doing this?

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: One of the things, Mr. Chairman, through you, is that because we are quasi-judicial, we have to go through the processes to get to our decisions and we now, I want to say, since yesterday, but we now have the means to start the work and particularly in the fuels market, to first of all understand it and secondly to look at the market structures, the pricing structures and thirdly, to put a framework in place, which will do one of two things. I do not want to pre-empt what the outcomes might be

but, for instance, say, *Look, if you are going to move your prices by X then you have to come back to the regulator to justify it.* To make sure that we get a chance to determine whether it is reasonable, whether it is in fact so on and so on, we need to put those rules in place, so that we can make reasoned decisions in terms of how the market operates in the first place.

One of the things that, for instance, could happen, is that the two large ones could come together and squeeze the sickier one out, and we also need to be mindful of that and ensure that they do not actually sell below cost to put the sick one out of business. So the thing is this: it is a complex set of issues that we have to look at. We are now starting the work or we can now start the work in earnest and our experts were talking to the guys yesterday and our expectation is that by year end, we should be seeing a set of rules coming out which will attempt to bring some structure to the regulatory activities in that space.

Having said that, it is not that nothing has been going on because you will recall that a couple years ago the Dangerous Substances Law was amended to enable the fuels inspectorate to collect data from the sector and it has been doing that but it could only collect the data, it could not do anything with it. But it was a precursor to the expectation that OfReg would be created and become effective and so, we do have a thesis, as far as the data is concerned. It is about a year of data which we are trying to assemble to start this work.

So, my expectation to your point and to your question is that certainly round about the end of the year we would expect to see a framework of rules coming out, which would start to bring some structure to how we manage that fuel sector.

Let me just say that what the Law tells us is that it recognises that the driving point, the driver is competition and what the Law says is that if the office determines that there is market failure, that it shall (I believe the word is "shall"; that is the Fuel Market's Regulation Law) advise the Cabinet on the remedies that it would put in place. And the reason why we take an advisory role here to Cabinet is because, again, of this driving policy that we want to promote competition as best as we can, so if we are getting to get into a price setting mode, we would need specific direction to do that. So, there is that opportunity to fall back.

Mr. Christopher S. Saunders: I remember in a previous life, having sat on the Immigration Board, where the provision in the Law, that if the Board turned down a key employee—

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: In terms of, sir?

Mr. Christopher S. Saunders: We had a provision in the Immigration Law, previously, that allowed companies to have designated employees as being key. Ba-

sically, the company cannot survive without them, and those applications had to come for the Board to grant them as key and then those people would be allowed to stay past the rollover period at the time when we had it in effect. One of the things I liked about that Law, especially dealing with the law firms, is that when we turned down a key, there was no appeal and it came in quite handy because we were able to get articles out of it. When they came and they wanted somebody we were like, *Well, you come back in six months but in between time, you can give articles to these three Caymanians for us and we will look at your application when you come back in six months.* They basically played nice because they really had no choice, you know.

We are dealing with multi-billion companies with deep pockets. At the same time, the Government in essence . . . I am looking at this Law and for the teeth inside the Law that says when the ICTA has made a decision, it is pretty much next to final. In other words, take it! And the reason I say that is the minute you start getting into amounts in the hundreds of thousands, these guys are going to lawyer up. It is more work for you, more work for them and the public will get nothing and this will get dragged out in court for the longest while, and throughout this entire time, the consumer is basically taking it.

The challenge I am having, and I am saying it right now, especially on a consumption based society where literally every cent counts, and there is a culture that is being permitted now where every company and sundry feels that they can put their hands in the pockets of the consumers. We are seeing it with the health insurance industry; we are seeing it in the banks with the ten dollars to cash a check or two dollars to even make a deposit. It is a culture that we need to change. You know what I mean? This is one sector where I believe that we can do a lot of good but at the same time, as I said to Alee before, I recognise the players in the market are also creatures of habit and sometimes, you just need to take a stick and beat them—we cannot tiptoe.

The question in all of this is: What changes do we in this Body need to make to give you the stick, not to tiptoe, but just to take one of them and beat them across the back good and proper? Give them a flogging, so they can take their hand out of people's pockets because this is tantamount to legalised theft. What we are paying for what it is that we have here is borderline criminal and like I said, having worked in those industries and seeing the margins and seeing the profits that these guys are making, and you guys see it too (you know what I mean?), we need to break that culture. The question is now: What teeth or what tools you guys need for us to flog one of these companies good and properly. A \$1.2 million fine is nothing to these guys. Nothing! Some of them make this in a week in revenues.

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: Mr. Chairman, thank you, through you. The only thing I can say to you is I wish and I say that in the sense that we have to remember that we operate in a global society, in a global world and as a regulator, any regulator, we have to exercise all of those TLETS [Texas Law Enforcement Telecommunications System] of being a good regulator, you know fair, transparent and all those sorts of things. The Law does give us, I think, a fairly good basis on which to do our work. Yes, we will always be subject to judicial review, with any decision we take. I think it is incumbent on us to make sure that we do our work in such a way that the opportunities for JR is as minimised, but they will always have that, and, as you rightly said, the companies have deep pockets and they will just file for JR just to be mischievous. They could.

I say that to say that, whilst we have to make sure that we behave prudently, judiciously and so on, I believe that—and I say this because I played a fairly big part in putting these laws together—perhaps we could take another look at our enforcement powers and the speed at which we get to that point where we have to enforce. I believe that the fining powers, administrative fining authority that we have in this jurisdiction is perhaps conservative and that is another area that we could look at. But I think fundamentally, the regulatory framework is sufficient, except that like I said, we were perhaps a little bit too conservative in terms of how we looked at the regulator's ability to move quickly to enforce; they had to go through so many steps and so on, and perhaps that is an area that we could look at in some more detail along, as I said, with defining the ability and the extent of the administrative fines that we could administer.

Let me just say, Mr. Chairman, that the framework for appeal to get the judicial review by the companies has changed a little bit in this set of laws than applied previously, and we think it has improved it, where previously what would have happened is that, having taken the decision, the company could apply for a reconsideration of the matter and then the regulator is bound to reconsider and if the company was still dissatisfied they could go to the Courts.

What we have done in this framework is that we are bound to consult our issue, our preliminary decision, first, for the industry to comment and to so and so, that when we put out the final decision it has already had the benefit and input of those who might be briefed by the decision itself, and that was an attempt to try and cut down on the length of time for the decision making. And it would have mentioned that we just had a circumstance where, having done that, it has just gone straight to JR and it is perhaps something again that we might have to revisit, I do not know.

To come back to your question, Mr. Chairman, I think that perhaps those are the two areas that we would probably want to look at again; just really

the whole enforcement provisions, and also the consequence of finding provisions that would flow from enforcement.

Just to say that on the consumer side, where the regulator takes action in terms of a dispute between a customer and the service provider, on that side, the regulator's action is not contestable, it is final, but we do not have that same power on the industry side. I do not believe it to be good practice, quite frankly, to create an environment where there is no mechanism for appeal. Natural justice provisions would go against that.

Mr. Christopher S. Saunders: I am not saying that in terms of having no appeal, what I am saying is just difficult. What I want to put out there is that we went through a period of some of the lowest oil prices around the world and we were paying the most at the pump than any other place. We are now living in the information age, where it is incumbent that our kids and everybody has access to technology. Using the global standards and going by the article in Forbes Magazine, if I was to just use that information alone, us being ranked 190 out of 196, basically tells me that 97 per cent of the regulators are doing a better job than us, and I am sure you would sit back and say to me, *Mr. Saunders, no, there is no way around the world that 97 per cent of the regulators are doing a better job than us, while we are in the bottom three per cent.*

There is no reason under the sun, none, knowing what we know and you guys seeing what you are seeing, and you and I have the luxury of seeing some of the numbers that the public would not have seen, that what we are paying for, we are not getting value for money, and at some point, as the regulators, this is what we are looking for. What we are looking for is something to break the collusion and something to break this duopoly that we have created in that section.

The reality of it is, and I can tell you, the pressures that we are getting from the public in terms of the cost because people see it. You are watching TV and see the price advertised of what you can get for a family of four, five phones inside a house, what they are paying on unlimited minutes and all those kinds of stuff. We see it. It is not as if we do not; we do, and the question is people now want exactly the same thing. I mean, when you consider that North Korea is paying less than we are for broadband. I mean, it says something and they are not seeing what the Americans are seeing but we are seeing it. What we want from the regulator is the awareness that price is an issue because affordability of anything has got to be a part of quality, and that people are getting value for money. That is all we are looking for. We cannot have these guys making the money that they are making and laughing all the way to the bank.

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: Mr. Chairman, through you. Mr. Saunders, the only thing I can say is that I agree with you. Seriously, I do agree with you. I do believe, when I look at it myself, that the price point is an issue. For me the question is: Do we really . . . if you might allow me to speak a little bit philosophically. The question that I ask myself from where I sit: Is the competition working? The work we are doing now will tell us, to a large extent, whether the competition is working or not.

I think we are going to find that there are some markets in which the competition is not working and they may very well be the critical markets, again, I do not want to preempt it but this is what I suspect may come out and then after, the question is: What do we do about those markets that are not working? And quite frankly, we have to regulate those markets. That is the convention, you know. So, I agree with you, and I believe that we have the tools to take the regulatory action but we need to do it in such a way that it is based on solid analysis without paralyzing ourselves

Hon. Bernie A. Bush: Mr. Chairman, through you. Sir, last week we had health insurance boards, we had house insurance boards. These past three or four days, I have been asked something consistently, not necessarily by the little man on the street; just call it the middle come up. Do these regulatory boards work for us or do they work for those who are raping us?

I remember a hurricane mashing up Florida and George Bush or Jeb Bush, sorry, getting on the radio and television the next morning and telling the people that they would not be able to raise their insurance rates any more than five per cent. The Elected Member here for Bodden Town West quoted something last week where the regulators told the insurance companies, once again in Florida, that they would not be able to go any more than 9.9 per cent. And I sit here and listen and listen and the question have continuously been asked: What do you need? If the teeth are there, why are you not using them? If they are not there, why are you not advising us, the people who are sitting here to make the laws to give you the teeth, because you are not feeling it?

The people who are making \$2,000 a month, the people who are making \$300 a week, \$400, they are feeling the crunch. People that work hard are all of a sudden asking people to help them buy food, to help them pay for medication; proud people who have worked hard their whole lives. The question is very simple: If it is there, why are you not using it, the teeth, to put these and let us regulate the criminology, the highway robbery that has been going on in this country for too long in both sectors, telecommunications and petrol? If it is not there, how soon can you advise us to give you what you need?

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: Mr. Chairman,

it is such a good question sir, that I have to really think on it. The OfReg is just over a year old, but I am not using this as an excuse, just to paint the picture for you. We have inherited in all the sectors some legislation that has been amended, yes, but some practices, some instruments and some non-instruments where there are none, that we have had to be going through and we are trying to modernise, if you like. There are some that we cannot touch. I believe that we need the time to look at all of those instruments because every market is different, to just come to some fair determination as to what we have to do to either, correct, amend or so on.

As you would have heard in the previous session, we are looking for instance at changing the licensing frameworks for things which I think would make it easier. In the water sector, we have a great opportunity as we speak. Ongoing negotiations with, for instance, Cayman Water, are taking a little bit longer than we planned because we are looking at the pricing issues and I cannot say too much about it because we are in the middle of negotiations and so, those are areas where, because it is new, we can act in the way the new Law has intended us.

In the case of electricity, we are bound by a license which I would dearly love to get my hands on but, it is a license and therefore we have to go through the process. I feel that we are poised to change that industry with the advent of renewables and so on and I think we have a great opportunity here with new technologies. I am answering your question the roundabout way because I am trying to get to the point which is that in each of the industries there are moving parts and we are trying to deal with each one separately as we come along. So, I go back to my earlier comment where I think at this point, if it was asked of me what do you need to do to just give yourself a little bit more oomph, if you like, I think we would need to revisit, as I said, our enforcement procedures and to our fining powers on the one hand.

I think we are okay in terms of how we set the regulatory framework. We do perhaps have to revisit the regulatory arrangements in the electricity sector to again, give us a bit more room to deal with what is legacy issues; we really do not have that. So, it is a whole combination of things, I think, that we have to do but basically, the overarching framework is not bad, it is good, it is reasonable.

To answer your question: Who are we actually serving? We say it every day in the office, we are actually serving the consumers, and with each decision that we take, each time something comes before us, the first question we ask ourselves is, how is this going to impact on consumers? So, it is not that we are unaware but we do have some legacy issues that we have to overcome and this we have to do in a consistent, sensible, way so as not to disturb the way we are viewed because we are in the global marketplace.

Hon. Bernie A. Bush: Mr. Chairman, I was outside when this gentleman was sworn in and came in and so forth, but I would bet that you reminded him that of the fanfare and the hoopla that was made when this was coming here and to see. . .

The Chairman: But it has not changed, because the problem we have is being manifested in the Government's absolute, absolute, rejection of any kind of pricing formulas being introduced RCAM or otherwise, and we are relying on competition to regulate prices and we are spending our time trying to calculate whether there is market failure or not market failure and whether we are getting this or not getting that. Because in the case of electricity, with CUC, where we have a monopoly, irrespective of what we may think of some annoyances in the licence, the fact that we regulate the prices is a direct benefit to the consumer. What we are getting in all of the other subjects and we also have that in the Water Authority—I think the Water Authority also uses RCAM in pricing or there was an announcement made in this Legislative Assembly that they were going to try to get the private water company to agree to RCAM because they recognised the benefits in having a systematic way of price control.

I get the distinct impression, from all the evidence given today, that that is not the route that the regulatory authorities on the other sectors would like to go. The regulatory authorities are convinced that the government's policy of non-pricing formulas as part of the regulating mechanism is the right choice and that some way down the road in the future, competition will magically take care of it. I would hazard a guess, that the listening public, are not of the view that the Government's position of not wanting to introduce pricing formulas, is helping the consumers in either, the ICTA market or the fuel regulation market.

Mr. Christopher S. Saunders: Sorry, before you comment. Just to expand on what the Chairperson said, looking at CUC's numbers and I am about to say something that is not politically . . . I don't want to use the word like "sexy" or whatever, but from all the entities I have looked at, CUC seemed to be the best regulated one in all of them. And if I was to be fair to CUC, taking out the fuel factor, and looking at their margins, it is fairly within the industry standards.

You look at their returns on the base rate, I mean, in terms of what is calculated and everything else and the way it is done, that is fine, and if there is one thing that we have seen under CUC, because I looked at their numbers from 2011 to 2016/17 and you can see, in terms of the actual cost in generating fuel per kilowatt hour has dropped like over 50 per cent in a four year period. Granted, part of that came from fuel coming down too, but at least the way the model was set up, it incentivises CUC to go out and invest in plants that were much more fuel efficient and also to

some extent renewables, to better their margin, because at the end of the day, it is still a flow-through.

The big issue on the CUC bill, I remember at one point, looking at my CUC bill, 55 per cent of it was fuel factor; 35 per cent was actually CUC cost and 10 per cent was basically government fees that they stuck in, and to some extent, CUC was being blamed unfairly because the only job that they had was really producing a ransom note to take people where the fuel is concerned. So, the fuel still remains the biggest issue. Looking at even the 2011, just to give people an idea, electricity sales \$70 million, fuel factor \$148 million which is more than what it is.

Now, last year, just to kind of give people an idea, in 2017 electricity sales \$82 million and fuel factor \$89 million. So, now you have seen a drop between \$70 million of electricity sale versus \$148 million in fuel factor, compared now to \$82 million in electricity sales and \$89 million in fuel factor. We can see the ratio has changed, some of it being through lower fuel costs and some of it being through better efficiency in terms of that.

So, I said all of that to say this: living in the information age, and whether you accept it or not, especially on the telecom side, we are wholly inadequately in some of the services that we are receiving. I mean, we are seeing with some of the guys when they come here in terms of roaming, which is a whole different thing all together, in term of what it is they are offering in terms of next generation and everything else. The question then: Would it not be better for some of these guys, rather than to just be sitting down making a mint off of their equipment that has already been paid for—old equipment that has already paid for many times over—to start looking at some of these guys who are more established and start looking on a return on their base as opposed to leaving it as it is and we getting what we are getting?

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: If I understand you right, you are suggesting that some of the established companies like Cable & Wireless, for instance, that we should perhaps be looking at a rate of return kind of regulatory price, setting mechanism for them. I think not, and the reason I think not is because particularly in that industry which is technologically driven and they have to be constantly (and I hope they are) making investments to keep pace with the . . . and I have to rely on the ICTA experts to tell me this, but my point is this, in that industry, you cannot anymore talk traditionally about 25 year depreciation and so on because the technology changes so rapidly, the need for investments and such is that you have to depreciate much faster.

So, it is a different business model, if you like, a different pricing model which, I believe we have to leave the companies in a position to respond to technology changes and to invest as they go along. Now, the question is whether the flow-through to prices re-

flects all of these gains that they should be making through the investments in technology, is something which I agree with you. We have to be concerned about, and I agree with you that we will take on board, look at in-house to see, but I would disagree with you that we should attempt to interfere in those aspects of the market that are competitive. There are aspects, I admit, of the market that are not competitive, and that we have to regulate.

Mr. Christopher S. Saunders: To put my idea into context, let us use the Maya-1. It has been there forever and a day. Now, part of what is driving a new subsea cable to the Cayman Islands is simply that 1) I think by the rules it is limited for them to charge rental when you only have X amount of useful life left on a subsea cable. So, in other words, these guys would run it all the way into the ground, before something new is done but yet, at the same time, we must believe . . . because at the end of the day, this handset means nothing if for me to connect into the United States, I am still running it over a very old network which is the Maya 1 in this case, that they are talking about when it was laid and what it was laid for.

Based on that, and we are now at 15 years liberalised. March gone, makes 15 years liberalised, and you mean to tell me that in 15 years we could not have one other subsea cable to the Cayman Islands, where that is the one thing that we need to connect ourselves to the world but now, Digicel or Denis O'Brien is getting up and starting a new company to do it because Cable & Wireless one is getting old and no use. Another company is looking at one, so it basically took for them to run Maya 1 straight out of its old ways before something new. So, if, for 15 years they sat back and it is probably going to be another year or two, maybe 20 years before we probably get another subsea cable inside there, then, the reality of it is, are we to trust them with innovation when they cannot even connect us to the rest of the world in a more technological way?

At the end of the day, the main thing for us in all of this is that they are not investing, because we do not see anything new other than handsets. At the end of the day, the connection is still the same old connection to the rest of the world, you know what I mean? If that is what we are to rely on, then clearly, it is not working now.

If these guys sat down and, as you said, depreciate the assets much quicker, over a five-year period, and then we set in a certain return on their investment, as we do with CUC and elsewhere, it will force them, at least every five years to go out and do something new, because if not, the numbers are going to drop. We cannot expect people to be sitting down paying for the same thing over and over and over, when these guys have already made a mint out of it. Cable & Wireless land lines have already been paid for a long time and yet, they are still raising fees on it and they are still getting permission to increase the

fees to "pay for super-fast broadband being rolled out across the Island", but I cannot get it in the eastern district because it is considered rural. Or it cannot go different places. So, the whole thing behind it, and this is what I am going to say to you in terms of the question: the same thinking that got us here cannot be the same thinking that is going to move us away from here. And that is coming back to my point— we just need to flog one.

Just find one of them and flog them, flog them good. Send the message. But the culture is where everybody feels now. You see, we have allowed the telecoms to do it and now the banks started doing it. Who is next? The supermarkets are already doing it. Who is next? Everybody and their auntie are putting their hand inside the people's pocket. Soon, people will not be able to afford the pockets. So this is what we need. Just flog one. If one ties it up in court, so be it. We are going to slow down their business, so be it, but the reality of it is if it continues at this rate, we are better off going back to a monopoly power and regulate them like we are doing CUC; at least we will get something better.

The Chairman: Any other questions? If not, Mr. Morgan, thank you very much, sir. It was an interesting conversation. I don't believe the consumers are going to be any better off but that is just my view but thank you very much for your time, sir.

Mr. Jeffrey Morgan, Chief Executive Officer, Utility Regulation and Competition Office: Thank you very much, indeed, sir.

The Chairman: We will come back from lunch at 2:00 o'clock. I know we have a 1:30 pm scheduled but I have asked the Clerk to contact him and tell him to come at 2:00 pm. Thank you very much, sir.

Proceedings suspended at 12:45 pm

Proceedings resumed at 2:00 pm

The Chairman: Let the record show that we have a quorum and I would like to call the Meeting back to order. We continue our deliberations on the ICTA 2014/15 Financial Statements.

Our next witness is Mr. Randy Merren.

ADMINISTRATION OF OATH OR AFFIRMATION

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: I swear by the Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

HURLEY'S MEDIA LTD.

The Chairman: Mr. Merren, thanks for coming. As you have been informed, we are currently looking at the ICTA 2014/15 Financial Statements. We also have access to the 2015/16 but they are not yet in the public realm, because they have not been [tabled].

We have some questions for you. What we would like is to hear from the provider side because we have heard extensively from the regulator side and we would like to give you the opportunity to. We know you are one of the newer players in the ICTA market so, I do not want to put you right on the spot but what time are you going to get to North Side, how are you going get there?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Good afternoon, Mr. Chairman.

The Chairman: Just state your name and your position for the record, please.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Randy Merren, Managing Director of Hurley's Media Ltd. and Infinity Broadband, trading as C3.

That is a question I wish I could answer but to be quite honest, we have to attach the poles and I think they are able to do 160 poles a month. I figure that is 7,000 poles to finish the Island, so it is going to be a long time.

The Chairman: You did commit when you got your licence to build-out. Is there a timeframe in your licence for when you will complete the build-out?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Yes, sir, Mr. Chairman, there was a timeframe, I think, for three years that we were expected to build-out this Island. That is not our choice, not to build as fast as we can and, in fact, we had two crews here to build our fibre as fast as we can but we have actually limited down to one and even that is a struggle to keep those busy at this time, now.

Mr. Christopher S. Saunders: Thank you, Mr. Merren. I also want to echo the Chairman's comments of welcoming you here. One of the reasons, just for the listening public as to why we selected you is that you are one of the very few operators that are also in the TV, radio and also telecom space, so we figured at a minimum it will give us as broad a view as possible. So, we do not want anyone to think as though you are selected, but rather that was the thinking that went into you coming here today, being in so many different spaces.

One of the things we raised earlier was the ICT consultation 2016-2 that was issued, I think, in February, in Q1 2016, and I was looking at Cable & Wireless' response and just to refresh your memory and also for the listening public, it is Question C2: "Provide your view on whether each of the relevant

components of the pricing formula for calculation of the Annual Attachment Fee, including but not limited to Net Cost of Bare Pole, Space Factor and Annual Carrying Charge or 20-year Leverage Fixed Charge Rate."

One of the things that jumped out at me was Cable & Wireless or Flow's response in terms of the net cost of bare poles is overstated. Well, the question to number one's concern was net cost of bare poles is overstated and they wrote: "DataLink calculates the net cost of bare poles to be nine hundred dollars which we believe significantly overstates DataLink's true net cost.

Based on the information provided, the CWC quarterly invoices from CUC, the net cost of bare poles vary by the height of the pole as follows:

- 35' wooden pole = \$199.45
- 40' wooden pole = \$371.20
- 45' wooden pole = \$1,007.91

"The majority of CUC poles in the Cayman Islands, with the exemption of certain poles in the George Town area, are 35' in height. Assuming the \$900 net cost figure cited by DataLink is based on an average cost of all installed poles or poles utilized by the attachers, it is unclear how DataLink arrives at such a high figure, almost equal to the cost of the subset of CUC's tallest, most expensive pole.

"Based on our review of the most recent quarterly invoice received from CUC, the average height of installed poles is approximately 39', and the average cost of the installed poles is approximately \$533 dollars, therefore we believe that DataLink's calculation overstates the true net cost of bare poles by sixty-nine per cent or \$367 dollars." [UNVERIFIED QUOTES]

Of course, when looking at something like that over thousands of poles, it basically adds up. And we are trying to understand because the regulator is now of the belief that it is not economically feasible or so other carriers say, for them to go into the eastern districts as per their licence. And now they are looking to create a network and pretty much get the providers to pay for it.

Members of this Committee are of the view that that is just a cost that is going to be passed on to the consumers anyway, and we are going to be stuck with it. So, what we are trying to gather today, from your perspective as an end user or a person who is regulated by the authority or OfReg is, what is it that you believe needs to be done in terms of getting this level of service because, one of the things you may have missed from earlier testimony where it came out, is where it comes on to broadband, we are 190 of a 196 countries in terms of being the most expensive. So the question is then, what do you think we need to do or the OfReg needs to do to either:

- a) Get access out in the eastern districts and the other rural areas like West Bay (you

know what I mean, that is a little inside thing); and

- b) What do we need to do to ensure that that cost is not passed on to the consumer or rather consumers are getting value for money?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, I think I will take that in two phases.

The costs of make-ready on a pole are running about a \$1,000 a pole. We've got to redeem our cost on that. If you look at the average bundle service that we are now providing to consumers in Cayman, it is probably right around \$140 or \$150 average. So, you can see it is going to take a significant amount of time just to get our money back on the make-ready on each pole. So, one thing I think you guys or the regulator need to do is to get a grasp on the cost of make-ready, number one, and you know, once that is done, I think you will find us building as fast as we can if the poles are cleared.

Again, we have to go through a significant process to apply and then get permission; there has to be make-ready and all that stuff has to be done before we can then attach the poles. So, that is a process within itself. Bottom line is we have got to sit down and look at the cost of make-ready on these poles. We estimate that it is going to cost us three times as much in make-ready as it is going to cost us to hang our fibre to go east, or even go into West Bay. So, that is one issue.

As far as the cost of broadband on this Island, we have two cables that are landed in Cayman and both cables are controlled by FLOW, LIME, CWC or whatever it is now. So, until a) someone gets to the landing station and can open up and negotiate directly with the other members of the consortium, the cost of IP transit into the Cayman Islands is not going to come down or significantly.

The second factor is to get a cable into the Cayman Islands, one or two other cables into that, then, I think we will see the cost of that go down. I think to really look at the cost of broadband in Cayman you need to look at the cost of the transit or what they call a "wet capacity" coming into Cayman and then you got to look at the cost for the local loop, which is from Maya 1 to our head end, what we call our network access point or whatever you want to call it; or knock. We are all located in George Town, so that local loop sometimes is just as expensive; is the wet capacity coming from Florida.

Mr. Christopher S. Saunders: Good question: where does the Maya-1 cable come in at?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, it lands in High Rock.

Mr. Christopher S. Saunders: So, let me get this straight now. The Maya-1 cable that connects us to the world is in East End and everyone is running cables to connect in East End, but the people in East End cannot get the service?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Well, we first have to get to East End to actually get there. I think the farthest anybody has fibre is probably in the Newlands/Savannah area right now, besides FLOW.

Mr. Christopher S. Saunders: Yeah but hold on. Hold on. This is what I am trying to get to. The people in Bodden Town and other parts of the eastern districts are basically being told that they cannot get access to fibre because it is not worth going out there, but the fibre is already out there because that is the only way you could basically connect to the Maya-1. So, you are bypassing all of those homes and cherry picking along the way, and according to them, it is not feasible, so, they are going to leave the regulators now to do something to make sure that the people in the eastern districts actually get fibre. Something seems a little bit lost there.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Well, Mr. Chairman, once we get connected to the fibre, we have to bring that transit all the way back to town, to our knock, to our head end, and distribute it back out to you from there. So yes, it sounds crazy, but that is where our knocks are.

The Chairman: So, the ideal situation for us in the eastern districts is to find a provider who will start on that end and just deliver it up there and not worry about the rest of the Island, because he can get it right there at High Rock. We got the plan.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Good point.

Mr. Christopher S. Saunders: Through you, Mr. Chairman. You said the make ready for the pole is about \$1,000 and it is going to be three times as much to actually have the fibre on the pole?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, no. The make ready is going to be three times the cost of actually installing the fibre on the pole and building the distribution.

The Chairman: But make ready, I understand from earlier evidence given here that there was some time period before you can make ready, you have to reserve the space and you are paying monthly for that and then you have to pay \$1,000, but you are paying a monthly fee before it is ready. Can you explain to us what the difference is between the two?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Well there is a reservation fee which is part of the ICT consultation or dispute that we filed. Actually, it was C3 that filed that, and basically we were paying to reserve space on a pole that was not made available and until we have applied for it and make ready is actually done. So, it is kind of building your house and you are charged for it; charge you the rent on land and everything else before it is even ready.

The Chairman: When you talk about make ready, that is for CUC to make a space on the actual pole ready for you, whether that means moving their subsidiary lines or the main lines or whatever and there are some other regulations that govern where that space can be, right?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, that is a 36 inch space called a Communications Corridor on a pole. It starts at 18-6 and goes, I think, to 21-6. Make ready is basically, as you said, clearing either their infrastructure out of that space, whether it is below or above, but you have got to have a safety space between that power of 40 inches so, if they have weather heads at 15 feet, they got to move them to, you know, 25 feet and that is make ready. Put on extra guys or whatever may need—

The Chairman: A part of your expense or their expense or that is what the \$1,000 is supposed to cover?

Mr. Randy Merren, Managing Director - Hurley's Media Ltd.: That is our expense. They pass that on to attaching licensees, either, ourselves, C3 or Logic.

The Chairman: So, in a 36 inch space if we have two or three providers, all of them could hold in that? Each of them is paying \$1,000, or is it \$1,000 for the make ready space and then there is a separate fee to attach?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: There is a separate fee to attach. I think, for us, that is, about 23, 24 bucks a year for that fee to attach. The make ready is split between whoever applies to attach to that pole. If we are the only ones to attach, then, that is our burden. It can be higher than that, by the way, make ready on poles can be significantly more than that.

Mr. Christopher S. Saunders: It just occurred to me and this is one of the questions I missed earlier because I was looking at my 25th February bill from FLOW; I noticed on the bill I was being charged my land line rental, my Magic Touch call waiting and all that for the 1st through 30th April and then I noticed on my March bill, up to March 25th, I was paying for my

May rental so, it is almost as if I am paying for something in advance that I have not gotten.

The question is then, and maybe it is not to you but I guess just to put it in the universe—if a customer does not pay their phone bill, there should actually be a lag before they are cut off because technically, you have paid for your landline rental in advance, so there should be at least two months if you are paying two months in advance for the service and they are cutting you off if you do not pay the March bill but it includes an element of two months down the line. I think something is definitely missing. And now you are telling us that you are paying a reservation fee, when even in this day and age even hotels and rental car agencies are not charging a fee for reservation. You have to pay just to hold the space?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Yes, sir.

Mr. Christopher S. Saunders: The reason why I am asking these things, you know, is to get to the point. In any competition there is a term referred to as "Barrier to Entry", where, when a person has a dominant position, they have to do certain things to keep other people out. And one of the things that really bother me is when I see that we rank number 190 of 196 in terms of broadband costs, that we are the second highest in the western hemisphere, and then, when we look at what our neighbors are paying, it looks as if someone is asleep at the wheel.

Now, what I have said to the regulator is that we need to give somebody a public flogging. So, the question I am trying to determine is: Is it FLOW, Data-Link/CUC, is it LIME or is it the regulator? Somebody needs a flogging because clearly somebody is asleep and the consumers are paying for it. So, in your humble opinion and if you do not want to answer, I do [understand], but who do we need to be flogging to make sure that the people are getting value for money?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Well, I would start with the regulator. Simply put, I mean, their job is to regulate the space and you know somebody is creating issues. Deal with it. I just do not have a lot of faith that the regulator is actually being as hard as he can on some of these guys and they are continuing to get away with it. You know, there is a judicial review coming up right now that again, dealing with various disputes that were filed. One of them is the space reservation fee and I just do not think they respect the regulator enough.

Mr. Christopher S. Saunders: I remember when liberalisation first came in there was a kind of push to get telecomm companies sharing co-location on the same pole, because the last thing they wanted was network cell sites all over the Island. One of the things that the regulator said to the Committee is that they

are more focused on quality as opposed to price and I was a little caught off guard in terms of that response. From your stand-point, if the price is too much for you to get on a pole, then, in essence it is a barrier to entry. From your own research, barring going out and building a \$300 million distribution network, what do you realistically think that the price should be or you think is reasonable? Because ultimately, DataLink as a public traded company (CUC) also has responsibility to their shareholders too, and they have also made their initial investment.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Well, you said it, they have already made their investment on that pole. Is it, do they have to make more money on that pole again for rental of that pole or even us paying to move their infrastructure that is below the stated height that it should be. You know, the regular height for that should be 25 feet for power. Power should not be anywhere below 25 feet. So, if any infrastructure is below that on their own, they should pay to move that. We, as the attached, should only be paying to strengthen that pole to whatever they set as a wind load classification on that pole, so, if it needs more guys, we should be paying for that and then yes, we should be paying for rental but any infrastructure below 25 feet that clearly should be CUC's dime.

Mr. Christopher S. Saunders: In CUC's license agreement they have a set return on rate base for a utilities company, so, in essence, CUC is guaranteed X amount. So, in a nutshell and seeing that they actually report their results consolidated, if they are making more money from you guys, it means in essence that their rate for us should be less because they are making more money from the infrastructure than we have already set. The flip side is, should we not then be seeing a reduction in the rates because if it goes above a certain amount then it actually drops to keep them within a certain margin?

So, the question is: How do we know then, that we are not going to be paying twice because if they are charging you on that infrastructure and we have a certain amount that they should be making, then, is there not some element of possibly double-counting or something? Or is this where the regulator needs to step in?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, that question is for the regulator. I would assume that's part of their remit, to make sure they are not double-dipping.

The Chairman: Barbara, do you want to ask a question?

Ms. Barbara E. Conolly: Mr. Chairman, through you to the witness: Is attaching your fibre service to the

poles currently owned by CUC the only way C3 can roll out service island-wide?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, no. We have actually applied and we have got a significant amount of infrastructure underground in the FLOW's ducts; in fact we did most of West Bay Road in a FLOW duct to save on the make-ready costs going on the poles and we already applied to go all the way to go Maya-1 to get on the FLOW ducts as well. We started that project; in fact, right before I came in here we just made a request to FLOW to give us access to the Maya-1 landing station for interconnect. If they give that, we are now at Maya-1 and we can start looking for capacity from other members of the consortium and we can possibly serve East End and that area.

Again, we still have to pay for make-ready and we still have to get on the poles; that is a work in progress.

The Chairman: We were given evidence earlier that the regulator is proposing that they build out this framework that you all need to get from Bodden Town to the eastern districts. Have you been approached on that? And, are you aware and is there any consideration on costs or is that something that you could do as one of the providers for the regulator and then other people would be able to piggy back on you, so to speak? I do not know if that is the right terminology to use.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, we support whatever it is to get to East End and the providers in the eastern districts as soon as possible, whether it is a universal service cable, if it designed right and it provides the consumer in the eastern end just as good services as the rest of the Island, we are here to support it. Whether we build it, we have our own designers and our own crews to do that, to assist, we have met with them on it. We're happy to keep that going; anything we can do to get to the eastern districts.

The Chairman: Just for the listening public and also for my edification. So, if you went to North Side through FLOW ducts, because I think they have underground all over the Island, as far as I know, at some point in North Side you would have to create some kind of a station from which you would distribute along the poles to each house, so to speak, or can you come up from the pipes on each pole?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: No sir, we would not need to build another . . . we just basically build a distribution system there. We would have what you call a cabinet and a switch that we would feed into either, in that area or somewhere east and we would service that entire area.

The Chairman: You could avoid the long distances of which you do not have subscribers, by putting a cabinet in Old Man Bay, for instance, that would service that immediate community.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Yes, sir, but we would only be able to provide broadband and we would have to get connected to Maya-1. And we are looking at that.

Mr. Christopher S. Saunders: Quick question: how would you expect to get to the homes? Would it be direct to the homes or is going to be wireless?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: We do not have a licence for wireless; it would have to be fibre to each home.

Mr. Christopher S. Saunders: Now, that is going to be expensive. I mean, Cable & Wireless tried it with a \$30 million dollar investment and got nowhere. I can say that because it is a fact; they basically took fibre to the sidewalk and they could not make it to the homes. So, as deep as their pocket is, they could not make it to the home, how would you make it to the home?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, it cost us probably around \$180 to build our network or cross each household. It is another cost to actually connect, but the real driving factor is the make-ready. The fibre and the distribution is a cost, but it is not unbearable; it is the cost of make-ready. We figured out how to solve that; everybody can have fibre up there.

Mr. Christopher S. Saunders: Hold on there now, back up. If it costs \$180, and this goes to the point of it is a one-off, one-time cost of \$180. FLOW already has the network in place, so you mean to tell me that we are being charged \$150 a month for 15 megabytes that we cannot get; sometimes we are lucky if you get three or four depending what time of day it is. So, literally for the cost of roughly one month and half a week it would take for them to fix that cost, but in essence they are contented to charge us \$99 to \$150, for whatever the basic plan is for broadband and it costs \$180 to go to the homes and they are not willing to make that investment to at least give people value for money?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, I cannot speak on FLOW's business plan, but I can tell you that I do not think they have the infrastructure to deliver fibre to the home in the eastern districts. They do have fibre there, but it is not designed to be a GPON [Gigabyte Passive Optical Network] so, I think they are still using a copper delivery and that has limitations to give you that kind of

capacity, depends on how far you are from the DC [Direct Current].

Mr. Christopher S. Saunders: We have been made to understand, that one of the costs which is actually driving it up is the fact that, going back to the Maya-1, basically we need to get another subsea cable to the Cayman Islands. Now, we cannot help passing Walker's Road every morning and seeing a ton-load of satellite dishes on your side so, is it a situation where we can go back to satellite to get fibre speed or is it a situation where we definitely have to get the subsea because the cost on the subsea cable is actually quite up there?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: The cost of the subsea, once the providers get to Maya-1, I think you will see that come down because there is capacity at Maya-1; it is just not all owned by FLOW at that time, but they control the landing station. So, when we apply for capacity from FLOW or whomever, we have to still include the local loop which has to come from FLOW for that local loop which is bringing it from Maya-1 to our head end. If we get to that point, we can negotiate with 17 other providers that are there. The pricing capacity will drop.

Mr. Christopher S. Saunders: Good.

The next question is: What does the regulator need to do to have FLOW or DataLink/CUC do, to basically get us to this point? I think the public can agree that being ranked 190 out of 196 is not working. I think the public can agree that we are not getting the speeds that we are paying for because, clearly, fibre is the way to go and we are still running copper but we have all of these devices that are built for a much more modern networks, so, we are not even getting the maximum that we are supposed to be getting under these devices. You try to drive and have a WhatsApp call, it is going to drop somewhere along the line.

The question is: What do you suggest or recommend that the regulator do to get FLOW and/or DataLink/CUC to the table so we can start getting something better for the consumer, because we cannot leave it as is? And we cannot afford to have a situation where they are trying to encourage competition, but there are too many barriers to competition. And it bothers me when I see a company such as yours trying to make it, trying to offer first-world type infrastructure, first-world services and we are still trying to get things done with copper. So, what would your suggestion/recommendation be, in order for us to move faster and get better value for money?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, getting on the poles is probably the easiest thing to get resolved. The cost of make-ready, I keep repeating that but that has to be

an issue that has to be resolved and then the making the poles ready, expediting that in some manner.

You know, we pay in advance for the make-ready; they give us a bill or we pay them under an MOU. We have to pay them an amount that they hold in kind of an escrow and they apply to whatever make-ready costs on that pole. They throw it up at the end of the quarter and say, *Hey, you attached a thousand poles and it was more than \$1,000, so you owe us another \$200 a pole* or whatever that number will be. But, they are always on the good side of that, they have the money in advance, so, that is a good position to be in. Until that is resolved, I mean, we can build our infrastructure a lot faster on the poles, a lot speedier, than going underground.

Underground we are at the mercy of going into FLOW's ducts and are they available. Doing surveys for those, they are not cheap. We just got a quote for a survey, for less than a mile and it was over \$3,500. So, stuff like that, they have got to come to grips with these guys. The regulator needs to be involved with that, they need to know, you know, how to handle the application process. We submit to them and say, *Hey, you know, this is where we want a survey done* or whatever else and FLOW provides the feedback and the cost of the survey and how much it is going to cost to rent that space on that duct. This stuff is fully depreciated off their books, or should be now; that has been there for, I do not know how long, but far greater than 20 years, I would imagine. So, when you sit down there and look at the cost they are charging us for that, it is a significant cost to the rental of going in those things.

Mr. Christopher S. Saunders: One of the questions we asked the regulator, and going back to the point that you just raised in terms of items being fully depreciated, is that, what incentives are there for these guys to continue pushing for innovation? If they have these old assets sitting on their books, it is already depreciated, already paid for and they are just basically printing money as is. Because when we look at what the royalties were, based on the ICTA, it is easy to estimate that the total revenues in this business is anywhere from \$200 million to maybe \$400 million dollars, depends on the margin. So, with that said, and having those old stuff that has been there for several years now, that is pretty much paid for, how do we then encourage innovation? Because here it is that you are trying to push something new but these guys are charging you for old equipment that has already been paid for. I mean, part of even CUC's distribution network has been paid us by us after Hurricane Ivan; I probably say anywhere from ten to fifteen percent, based on what their financial statements said.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: I do not have an answer for that. It is just the regulators again have just got to grow some teeth

and buckle down and get it done. They are there to encourage competition and that should be first and foremost in anything they do. Get competition to the eastern districts, to West Bay, to everywhere and your issues with speed will go away because at the end of the day, when we launch, everybody had contracts and C3 pushed no contracts—try us, like us, keep us. Now all the competitors to market have moved to that basically, contracts have disappeared so, get us there, you know, the regulator just got to get. . .

Mr. Christopher S. Saunders: Out of curiosity (sorry), for the areas that you are offering full fibre, what is your monthly rate like?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Fifteen megs, I think it is \$69; 25 megs is \$89; 50 megs is \$129 and we just offered 500 megs for \$299.

Mr. Christopher S. Saunders: Seeing that I am paying about \$150 [month] or thereabouts and I have my bill here, I can tell you.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: You need to switch.

[Laughter and inaudible interjections]

Mr. Christopher S. Saunders: Sorry, hold on there, I want to see—

[Inaudible interjection]

Mr. Christopher S. Saunders: No, no, it is not a matter of solicitation.

Okay, I am paying \$129 a month for 15 megs, which I do not get, and you are charging \$69 for 15 megs fibre, which you are basically going to get. So, it is in my best interest and my constituents' best interest and the people in the other rural districts, including West Bay, to get this done, because at the end of the day, [we are] living in this information age.

I had a constituent tell me two nights ago that as soon as 7pm comes around, his [internet] just drops and this is why this is actually important to us to get value for money, because I cannot keep paying this and based on what you are telling me, it is going to take four and a half to five years at a rate of 160 poles a month before you basically get the whole Island covered. And I really feel bad for the people in the Brac, because I do not know what happening to them over there.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: We have done a survey to go to Cayman Brac and we have actually been trying to work with Cayman Brac Power & Light. That has been a trial.

Ms. Barbara E. Conolly: Mr. Chairman, through you to the licensee. For you to do make-ready costs, would the cost be less significant if you actually provided your own poles? Is that something you thought about, as opposed to sharing with FLOW?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, we have a licence to provide our own poles. We have applied in a few areas with the OfReg (Utility Regulation and Competition Office) and NRA (National Roads Authority) to go in those areas. We have gotten nowhere with it. I am not a proponent of having a two-pole infrastructure there; it is not going to look this on this Island. There is space on the poles, but if that is what it has to take, you know, it is an option.

Mr. Christopher S. Saunders: This brings me to the next question. I am glad our colleague from George Town South raised it. The importance of controlling distribution, because looking at CUC, for example, there is a difference between generating the power and distributing the power. Anyone can come in tomorrow and say we can generate power for cheaper, but if you cannot distribute it, then it really means nothing. So, the question in this is: From a futuristic island stand-point in terms of what is in the best interest long-term, for the people of the Cayman Islands, the offering was basically saying that they were looking to put something in place to go to the eastern districts and my question is: Why not roll out something across the entire island, for the simple fact that distribution is one of the things that we need to be concerned with because if not, we are going to be held to the mercy?

Even if someone comes in tomorrow and can generate power far cheaper, without the network to distribute it, we are stuck. So, from a future looking standpoint, is it better for us to start looking at investing in a distribution network? And especially, why not even go underground because we are in a hurricane belt. I mean, it bothers me every time I see these new developments or new sub-divisions come in where they are basically putting poles inside them as opposed to running underground utilities from now. They are just setting up something to be blown down on somebody's house later on. Is this where we have the national, adult conversation to say this is something that we need to look at for the future of our country in terms of distribution going forward?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, it is an option. I think CUC was granted the space on the side of the road by Cabinet, so, for the infrastructure we would have to be granted the space on the other side of the road and they would then have to attach to our poles or whoever builds this infrastructure, these community poles or whatever, to go to the other side of the road. That might be a good option to consider if the country

wants to look at having a two-pole infrastructure and have more than one provider for power on the national grid.

Mr. Christopher S. Saunders: It is not something you rarely want to go to, but at the end of the day, in this day and age, you cannot have any country being held hostage by any one company in terms of a distribution standpoint. I mean, here it is now, that \$129 versus \$69, what is the difference? Sixty dollars a month, seven hundred twenty dollars a year extra that I am actually paying for a service I am not getting. And other people on the road are paying literally half what I am paying and they are getting far better service. I mean, at some point now—

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Am I sure by the time I leave out of here they will change their prices to match.

Mr. Christopher S. Saunders: But it does not matter because they still cannot deliver the proper speed on an old copper infrastructure, when what we are designed for now is a more modern type of infrastructure like Google and all of those guys are laying out.

As the regulator said, when they laid the Maya-1 cable, they were not looking at what it is that we would be having today when they laid it 25 years ago or whenever. It was meant to carry voice and now we are looking for something different.

The Chairman: The other alternative that is being proposed from some quarters is that the Government should take over the CUC distribution network or buy it, and then they can do the regulation and charge the rates themselves.

Are there any other questions?

Mr. Christopher S. Saunders: Just one last question. Mr. Merren, one of the things I have always admired about you is you always think big and looked forward. Ideally, what would you like to see in the next five to ten years in terms of where the country should be of a telecom infrastructure in terms of that information infrastructure, because this is one of the things that kids and everyone need literally right now for school and everything else. This is not just about entertainment; it is about having access to the world and making the world smaller within a reasonable cost. What is your ultimate vision or what would you like or what do you think the vision should be in terms of moving us to the next level?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: I would like to see this Island—everybody connected by fibre with broadband and to me, broadband should be in five years, one gig to every house. That is where I think we should aim to go and it should be covered with a meshed Wi-Fi network or whatever the technology is then, that people stay basically con-

nected all the time for their phones, whether it is Wi-Fi. When they walk into their homes it automatically passes you off to your other Wi-Fi network but, broadband should be one gig, and is what we should strive for. We are looked at as the jewel of the Caribbean and we need to be leading, not following. So, Government should actually embrace this with some sort of broadband policy and it should do what it needs to do to assist the providers with making sure that that infrastructure is in place, whether contributing or doing a universal service or something that we pay over-time, but it needs to move forward.

I hear them talking about doing different things on this Island, but I think the broadband is we need to get connected. We need to be the jewel of the Caribbean. We need to lead, not be following so, get more fibre in here and get it done.

Ms. Barbara E. Conolly: Mr. Chairman, through you to the witness. Are you aware that some strata condos are actually cutting deals to sort of cut your service out—C3?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: According to the ICTA Law, there is no such thing as an exclusive deal with a strata. They can have a preferred vendor and they can do that but if there is somebody in there that wants our service or another provider's service, they are supposed to be getting access to that. We have run into that on a few occasions, where the strata management did not want us in there and we had to enlighten them on that Law and the regulations. But, if they are actually doing something like that, I do not think they are aware of the Law.

Hon. Bernie A. Bush: Mr. Chairman, through you: Does your licence require you to build out?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, yes, sir, the entire Island and Cayman Brac and Little Cayman.

Hon. Bernie A. Bush: Okay. Is that is your obligation?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Yes, sir.

Hon. Bernie A. Bush: Is it the same to the other carriers as well?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Yes, sir.

Hon. Bernie A. Bush: Thank you, Mr. Chairman.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Including DataLink.

The Chairman: Any other questions?

Hon. Bernie A. Bush: Are you building out?

Mr. Randy Merren, Managing Director, Hurley's Media: Yes, sir.

Hon. Bernie A. Bush: Okay.

The Chairman: If there are no other questions, thank you very much, Mr. Merren, for coming.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Thank you, gentlemen.

The Chairman: You get your get-out-of-jail free card.

[Short pause]

The Chairman: Anyway, we are finished for the day and so, we will adjourn now until 10 am tomorrow when we will get back onto the report of Government's Use of Consultants and Temporary Staff. And we have Mr. Stran Bodden at 10 o'clock, Mr. Dax Basdeo at 11:30 and Mrs. Gloria McField-Nixon at 1:30.

Thank you all very much. Have a good evening.

At 3.06 pm the Public Accounts Committee Meeting adjourned until 10:00 am, Thursday, 10th May, 2018.

**OFFICIAL VERBATIM REPORT
STANDING PUBLIC ACCOUNTS COMMITTEE
THURSDAY
10 MAY 2018
10:10 AM
*Meeting with Witnesses***

**“GOVERNMENT’S USE OF CONSULTANTS AND TEMPORARY STAFF—
FEBRUARY 2018”**

Verbatim transcript of the Standing Public Accounts Committee meeting held 10th May 2018, at 10:10 am, in the Chamber of the Legislative Assembly Building, George Town, Grand Cayman.

PAC Members Present:

Hon. D. Ezzard Miller, MLA - Chairman
Mr. Christopher S. Saunders, MLA - Member
Hon. Bernie A. Bush, MLA - Member
Ms. Barbara E. Conolly, MLA - Member
Mr. Austin O. Harris, Jr., MLA - Member

Ms. Manesa Webb - Committee Clerk

In attendance:

Mr. Michael Nixon, Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development
Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development

Office of the Auditor General:

Mrs. Sue Winspear - Auditor General, Office of the Auditor General
Mr. Julius Aurelio - Audit Manager, Office of the Auditor General
Mr. Gabriel Ncube - Audit Project Leader, Office of the Auditor General

Witnesses:

Mr. Stran Bodden - Chief Officer, Ministry of District Administration, Tourism & Transport
Ms. Neyka Webster - Chief Financial Officer, Department of Tourism
Mr. Dax Basdeo - Chief Officer, Ministry of Financial Services, Commerce & Environment
Mrs. Kathryn Dinspell-Powell, Deputy Chief Officer, Ministry of Financial Services
Mrs. Gloria Mcfield-Nixon - Chief Officer, Portfolio of the Civil Service
Mr. Randy Merren, Managing Director, Hurley's Media Ltd.

[Hon. D. Ezzard Miller, Chairman presiding]

The Chairman: Good morning, everyone. Let the record show that we have a quorum and before we move into that actual calling of the witnesses, I need to clear up and get the Committee's recommendation on one little administrative matter.

MOTION

**CHAIRMAN TO WRITE A LETTER
TO THE SPEAKER AND CLERK OF
THE LEGISLATIVE ASSEMBLY- FUTURE
REQUESTS FOR HANSARD FROM
MEMBERS OF PAC**

The Chairman: It seems that the rules of the Legislative Assembly, when Members of the Committee request copies of the Hansard in order to facilitate questioning of the witnesses, that there seems to be an inordinate process that we have to go through, that is, it has to be approved by the Speaker and then it also, apparently, has to be approved by the Chairman. I would like the Committee to consider and, if they agree with me, so recommend, that I write a letter to the Clerk and the Speaker and ask that in the future, whenever a Member of the Public Accounts Committee requests a copy of the Hansard, that it be given forthwith and not delayed seeking permission.

So, can I have a motion and then I will write the letter based on it?

An Hon. Member: I move the motion.

The Chairman: A seconder?

Mr. Christopher S. Saunders: I will second it.

The Chairman: All those in favour, please say Aye. Those against, No.

AYES.

[Inaudible interjection]

Agreed: Letter to be written to the Speaker and Clerk of the Legislative Assembly by the Chairman, requesting that a Member of the Public Accounts Committee be given a copy of the Hansard forthwith, when requested, and not be delayed when seeking permission.

The Chairman: This is what doesn't make a lot of sense to me—it is one of these antiquated rules that has existed way back, when the Public Accounts Committee and Parliament only met in secret, particularly when we have the Hansards of what is a public session. Restrictions on the Hansard should not apply, so, I will write the letter asking the Speaker to do that.

Mr. Christopher S. Saunders: Question, Mr. Chairman: Am I to understand that in the past no Member of the PAC has ever asked for this before?

The Chairman: No, they did, but they asked and had to wait. I have had to wait as Chairman to get it approved before I could get a copy of it.

Mr. Christopher S. Saunders: Has it been like this forever and a day?

The Chairman: Yeah, it is one of those, like I said, which I regard as antiquated rules that need to be—

[Inaudible interjection]

The Chairman: Yeah, when I needed the evidence against the Chief Officer from the Official Hansard, it took almost a week to ten days to get it, for the same purposes, because it had to be approved along the way. I just think that, particularly, if something is being held in camera, you can see that there would be some controls and some restrictions on who has access but even then, a Committee Member should not be denied access, you know, because this happens to be a rule that has been here from whenever.

So, on the Committee's advice, I will write to the Speaker and ask that, when it comes to the Public Accounts Committee, when Members, in particular, request copies of the Hansard in order to prepare for

the next witness, that it be given forthwith. Thank you all very much for that.

We can now bring in the witness please.

[Pause]

ADMINISTRATION OF OATHS OR AFFIRMATIONS

Mr. Stran Boddan, Chief Officer, Ministry of District Administration, Tourism and Transport: I swear by the Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

Ms. Neyka Webster, Chief Financial Officer, Department of District Administration, Tourism and Transport: I do solemnly, sincerely and truly declare and affirm that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

MINISTRY OF DISTRICT ADMINISTRATION, TOURISM AND TRANSPORT

The Chairman: Good morning, Mr. Stran. Thanks for coming. You know the rules, the first question you go to answer, either of you, just give your full name and your position so that it will appear in the records.

Mr. Stran Boddan, Chief Officer, Ministry of District Administration, Tourism and Transport: Yes, sir.

The Chairman: This morning we are dealing with the report by the Auditor General on the Government's use of Consultants and Temporary Staff. I think the Committee wants to ask you some questions on the consultant side of it.

Mr. Christopher S. Saunders: Thank you very much Mr. Chairman and through you to the witness or witnesses.

Firstly, I would like to thank the Chief Officer. From reading the report I understand that your Ministry was actually one of the better performing ones and while there are still areas for improvement, nonetheless, this is what we are here for. I think it is important that the public understands that there will always be a need for consultants whenever we do not have the requisite skills within the civil service. What we need is to just make sure that there is some level of comfort regarding the process to always make sure that:

1. It is open and transparent and,
2. It also represents value for money.

With that said, I think it is important for us to set the stage that people sometimes have a belief that when people come before the PAC, there is always something negative. In this case, it is more on the positive side and I believe that, maybe with some of

the questions that we will be asking today, it will at least give the Chief Officer and his team an opportunity to even enlighten some of his other colleagues in terms of, maybe, some of the practices that they are doing and how best we can improve it.

One of the things, in terms of the first question, is that we noticed from the Auditor General's Report that there were some contracts where a business case was not done. Now, within the manual, from what I understand, there was no requirement for a business case to be done but we understand in some cases, because most of it was on the marketing side and I think it will be self-explanatory; but at a minimum, I would just give the Chief Officer and his team an opportunity to explain or just to update the Committee and the public as to why they believe that in some cases a business case would not be justified for some of the contracts. Thank you.

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Good morning, Stran Bodden, Chief Officer in the Ministry of District Administration, Tourism and Transport.

I would like to thank the Member for the question and he is absolutely right.

When the Ministry looks at its work, the first priority is good governance so, in all our priorities, that is number one, and that is how you craft this kind of response from the Auditor General. If you have good governance as the number one priority, you will get these kinds of feedbacks and results.

To your question, sir, on the consultants: the Department of Tourism is a marketing and advertising machine that I am very proud to be a part of and lead. To have that kind of specialised skills in the department, as civil servants, it just would not be practical, it would not be possible, but we place those individuals at agencies around the world—US, UK and Canada—our core markets, in order to have the best bang for our buck (to use that terminology).

So, that has been proven, it has been tested and has worked for a number of years, and we continue to rely on that kind of model to get the brand Cayman out there and keep that at a standard where we can continue to attract the visitors that we do year round.

The Chairman: Through you, Mr. Chairman.

Mr. Christopher S. Saunders: You are the Chairman.

[Laughter]

The Chairman: I am setting an example.

You are all awake, that is good! Okay.

[Laughter]

The Chairman: Mr. Nixon, you did not notice that I made an error there?

[Inaudible interjection]

The Chairman: Okay.

While we agree that in terms of developing a staffing core, can you confirm that when you are dealing with these kinds of specialised contracts, there is some continuity and some commonality in the person in the Ministry or the Department of Tourism that deals with these contracts, so that at least there is that level of expertise that is developed within the organisation and, therefore, it will be more difficult for one of these specialised companies to pull a coup so to speak? In other words, make a recommendation that might not achieve the results.

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Thank you for the question, Mr. Chairman.

Yes, absolutely. These contracts, whether they are public relations, marketing, media purchasing, are monitored heavily by the marketing promotion section of the Department of Tourism. So, we have a Deputy Director there, we actually employed an operations administrator that just deals with the management of contracts because there are (sorry to say) so many of them. We needed that special staff position to monitor those.

The Chairman: And they are obviously involved in the procurement process?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Absolutely, sir.

The Chairman: Right.

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: I can also say that my Chief Financial Officer, Mrs. Neyka Webster, who is here with me, is also involved in that procurement process from the Ministry level as well.

Mr. Christopher S. Saunders: One of the things that I just want to put out there also, for the record, is that even though there were not business cases for some of the contracts, that the majority of them were all open, competitive process from that standpoint so, we just want to make sure that no one gets the wrong impression.

Out of curiosity, can you just walk us through in terms of when you guys have an idea of when you want to achieve a particular objective, what are the steps you would follow, or the decision making tree that you would use to arrive at going out to, I guess, engage a consultant, and then what the end product

would look like in terms of the awarding and everything else and then the follow through?

Just a kind of idea in terms of the process because, like I said, you guys are actually doing it right, so we want everyone to understand what it is you are doing, with hopes that others who are listening can follow what you guys are doing.

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: I thank the Member for the question.

To the Member's point: Once an initiative is identified, the proper scoping of that initiative or that project is done first, obviously, then the procurement documents, tender documents are drafted in keeping with the level that it would be. Obviously, we all know \$50,000 is the limit for public tender. If it has to be advertised, it is advertised for a suitable period of time. The bids that come in, depending on whether it is \$50,000 or over \$250,000 it will go to Central Tender's Committee; They are evaluated for value for money and quality, so it is not just the cheapest bid that always wins the process; it has to be, again, best value for money, so quality for the bid and then, depending on the scale again, it goes back to either the Departmental Tenders Committee or Central Tender's Committee.

During that time, what we also do is actually, say for instance, it is a public relation's contract, creative media buying contract, we interview each bidder in order to get that face to face contact because, obviously Tourism and branding is a very face to face issue that we are trying to establish, so we want to see the individuals that are actually going to market our brand Cayman. That has proven to be very useful and again, my Chief Financial Officer takes part in that.

The award is done after evaluation and all parties are notified. So, it is not a complicated process because, one thing I think that we have going for us, it is very much laid out in the Public Management and Finance Law (PMFL) and now, the Procurement Law as of May 1st. So, the policies underneath that now underpin it; we need to have those in place.

As you rightly said, sir, we did not have defined business cases for all initiatives, projects and events that we would do, we have now added that to our policy. We will be updating it further to encapsulate, obviously, the Procurement Law that is now in effect again, as of May 1st and so, all of that is ongoing. But it is about value for money, at the end of the day. It is about open, transparent and a competitive process, so those three things always have to be maintained.

Again, in my mind, anyway, it is a simple thing that you want to prove is fair, everybody had a level playing field to go through, and best value for money is what you look for and what you got out of the process.

Mr. Christopher S. Saunders: One of the things I was pleased to see in the Auditor's General Report is that (and you kind of missed it which was actually a feather in the cap) you guys actually do a post analysis once a contract is finished, to ensure that the objectives are met. That is actually an added plus. Just out of curiosity, even though you missed it, what does that process normally entail in terms of when you are doing that kind of analysis? What is it that you look for?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Thank you for the question, member.

That process is largely done at a departmental level, which is why you saw me consult the CFO, but it is engagement with the parties; a lot of communications, a lot of meetings to ensure that we, again, got value for money and the process was open and transparent. So, that is a post-analysis, as you said, to ensure once again communication and value for money with the person that we contracted with. And the entire process is documented as well for the submission.

Mr. Christopher S. Saunders: No problem; thank you very much.

Just out of curiosity in the same trend. In terms of the port, I know there were several ongoing consultancies that were being used. Can you provide us with an update in terms of where we are with that business case?

I am assuming there is a business case for that one, because of the size.

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Thank you, member.

Yes, sir, that is correct. In keeping with the Framework for Fiscal Responsibility in the Public Management and Finance Law, it calls for independent, financial, accounting and technical advice.

So, that is where the business case lies under the financial advice, in terms of getting a project assessed in terms of it being commercially viable so the technical part is obviously, for instance, things like the environmental impact assessment, et cetera, required. That was also done.

In terms of where we are now, we actually have a consultant, KPMG that has actually been contracted to guide us through and advise us on the actual procurement. So, we have done the outlined business case and we have completed the environmental impact assessment and Cabinet has given us the go ahead to go through procurement and we are being guided through that as well, again, by KPMG, an independent adviser in terms of procurement, as per the Public Management and Finance Law.

Mr. Christopher S. Saunders: Out of curiosity, the process, looking back at the Public Authorities Law and even the PMFL, is this being driven by the Port, the Ministry or both groups together?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Thank you for the question, member.

It is being driven by a Project Steering Committee that consists of the Ministry and the Port; yes, sir.

The Chairman: You mentioned that the EIA [Environmental Impact Assessment] has been completed; just lead me if I am going wrong.

My understanding is that the process being followed in the procurement to do the cruise piers is that you have invited people to design, finance, build and maintain. Does that mean that each person is doing their own design or does the Government have a design that each person has accepted?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Thank you for the question, Mr. Chairman.

We have put together a conceptual design that actually, additional to that, our standards and specifications that that design has to meet. So, for instance, the length and width of the pier have been stated by the Government, by the Project Steering Committee, that they cannot be varied. So, we have set the specifications and the standards based on engineering and the users, the cruise lines, and that would inform, obviously, cost. It is more, I guess, on the upland section of it, how they would lay that out to best manage the passengers coming to shore, but the actual piers themselves in terms of length, width, number of pilings, we have actually specified that in terms of our engineering advice and our users to cruise lines.

The Chairman: It is also my understanding from information in the public, that this later design moves the piers into deeper water to reduce the impact on dredging. Has the EIA taken that into consideration and is there going to be an updated EIA done on the final design that is accepted by the Government?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Mr. Chairman, the first design the EIA [did] was done, again, on best value for money, so the environmental impact was not the top priority in that, it was best value for money.

What we have done now is say, if we can lengthen the piers to the extent that we are able to into deeper water, because obviously we have a drop off that we cannot go beyond, that that would then happen and that would reduce the dredge. So, we can imagine a pocket that would have to come out, that

has now been taken further out because obviously the closer you come in the more shallow you are, and you would need to dredge more. That has now been pushed out in terms of what has to be dredged so, that has been lessened.

To your point on the final design, the EIA will then need to be updated based on the final design, so that would have to be done by the chosen preferred bidder.

The Chairman: They will do an EIA or the person who did the original EIA will update their EIA?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: The individuals identified will have to update the EIA.

Hon. Bernie A. Bush: You have covered most of it Mr. Chairman, but through you.

Is it safe to have the people who are going to build this, do the EIA? Should it not be us? Because they are only interested in building the project, we have to protect Seven Mile Beach. We have already seen when the Royal Watler Pier was built, what happened on Boggy Sand Road. All that evidence is right there for everyone to see, the erosion, everything.

Is it safe, in your professional opinion, to have those that are going to build it, because they are not going to be interested in what happens, they just want to make the money off of building the pier.

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: I thank the Member for the question.

The EIA will only be updated, it will not be changed. Any impact will demand it is to be lessened.

So again, by moving the piers out, you will only then redo the wave actions and so forth, that was in the original EIA. So, that will all be lessened because again, you are moving the dredging further offshore to a lesser degree.

The Chairman: There are some inherent risks in moving it offshore that you will have more impact on currents than the near shore; even though there may be less dredging, the wave action is going to be greater and the effect of coastal currents are going to be much more impactful on what dredging is done.

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Mr. Chairman, I think that that would have to come out of the study, sir. I could not necessarily speak to that.

The Chairman: Following on the Auditor General, and you said it earlier I think, just to confirm, that you are now in the process of updating your procurement policies to fall in line with the Procurement Law?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Yes, Mr. Chairman.

The update that was based on the Auditor General's report was relatively a simple thing to do, which we have done, but to bring it in line now with the Procurement Law, it is going to take a little time, so we have not completed that as yet but we are working on it.

To say that we have to update the policy is one thing, but we absolutely have to be in compliance with the Law, so bringing the policy in . . . the Law would trump the policy anyway, so we want to have again, best practice, good governance that our policy is in line with the Law but obviously now with the enactment of May 1st, the Law would trump any policy that we have.

The Chairman: I am curious because the Procurement Law was passed into Law on the 2nd December 2016 and here we are May and it was specifically—they include this clause in the Bill: "The Law may be cited as a Procurement Law". Section 2: "The Law shall come into force on such date as may be appointed by the Cabinet and different dates may be appointed for different provisions of this Law and relation to different matters."

We parliamentarians are made to believe that the reason for section 2 is to allow the Government Agencies to fall in line with the expectations of the Law **before** it comes into effect, not for the Law to come into effect and the various agencies in government have not complied or are in a position to comply with the Law on the implementation. It seems that, as we see in other references in the media, that people are complaining that they have not received training under the Procurement Law as part of their reasons for not obeying the Law.

Can you explain to me, what was the delay? And why are you now working on making sure that your policies agree with this Law after it has come into effect?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Thank you for the question, Mr. Chairman.

Mr. Chairman, maybe I did not explain it enough but the policy, bringing that in line is good governance; it is best practice with the law, but we would not necessarily look to our policy if that is not yet in line with the Law. Yes, I will put my hand up and say we did not get it done before the enactment date, we had a few audits going on and it took a little time but we will get it done. But the point to be taken away is that we will comply with the Procurement Law and any of its provisions that are now in full force.

The Chairman: Okay.

Hon. Bernie A. Bush: Mr. Chair, through you.

I am sure the public is interested in knowing. We have heard you used the words "*good governance*" quite a few times, since you have been speaking. How much involved is the Ministry with the Port? All that is in the headlines and what has been going on—how involved is the Ministry?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Thank you for the question, member, but could you be a little bit more specific? Sorry.

Hon. Bernie A. Bush: Is the Ministry involved with anything to do with the Port? We have seen what has been happening in the newspaper, a 61 page report, and we hear good governance over and over. Was the Ministry involved in this? How did they know about it? Just, whatever!

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: I thank the Member for the question.

The matter that is now in the media in relation to the Port Authority was first brought up to me by the Office of the Auditor General.

I then, along with the Auditor General, spoke with the Board of the Port Authority; they were alerted and we started meeting on it. The Office of the Auditor General had not yet completed all of their investigation which, by the way, how it came about was through their 2016/2017 audit (I see the Auditor General nodding) and she brought that information to me as Chief Officer and a board member and it progressed from there, sir.

Mr. Christopher S. Saunders: Through you, Mr. Chairman. Firstly, I think, just for the record, I understand that the Board took some level of action where management was concerned. I think that was what the media reported and that is commendable in terms of the board actually doing something.

I wish we had more government boards that would actually do something with some of the managers; I can think of the HSA board to begin with. I think some of them should be fired or in this case removed.

One of the things that jumped out . . . and this is my question to the witness: We have a tendency in Cayman, and I am just trying to phrase it the right way, I don't want it to come out the wrong way. We always have a tendency to be looking for the boogie-man, looking for the duppy.

People will say stuff sometimes and they are always looking and we hear all kinds of crazy theories sometimes, and one of the things old people would tell you is that even a broken clock is right twice a day.

One of the things that someone messaged me the other day, and it kind of gave me food for thought because I understand that this is something that has

been around for quite some time and they are like, *You know, Chris, why is this just coming out now?*

According to some, it is a situation where they want to remove the Port Director because they want to shift someone from Planning to [be] the Port Director because some projects for people (they said Dart's projects) are not being moved fast enough.

What I just wanted to make sure of and, I realise a lot of movements of a lot of different parts, but this is one of the things that are out there in the public domain; that there are a lot of movements going on to get people moving in different places. I just want assurances, or at least the public I think, would like some assurances especially when you factor in the Public Authorities Law, the PMFL Law and the role of the Chief Officer and everyone else with it, that there is no boogiemane out there in this situation trying to... the look on your face pretty much says, *What the hell is he talking about?* That is good and that is what I really wanted, to see the look on your face to say that nothing like that is coming.

No, because when someone says to me, *You know Chris, they want to get rid of the Port Director, they want to move the guy from Planning to Port and then they want to bring some lady back from Dart to Planning because Dart's projects are not moving*, it kind of jumps out to think, *Wait a minute, that is a lot of moving parts to get one thing done*. So, the look on your face pretty much confirms that you are probably just hearing this for the first time too. So, no question then, Mr. Chairman. The look on the Chief Officer's face pretty much just said, *Okay, that is news to me also*.

[Inaudible interjection]

The Chairman: I will add this old adage to it: "Where there is that much smoke, there has to be some fire."

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Mr. Chairman, to take away all ambiguity, I will answer the question. And to the Member's point, what he expressed this morning, I have just heard first hand from him. I have never heard anything like that prior.

Mr. Christopher S. Saunders: It is, as I said, the look on your face. Sometimes you hear it from one person and then you hear it from another person and then, you start hearing it. I mean, even Bernie admitted that he heard it, and I am like that is a lot of trouble to move one person to bring in another just to get stuff moving; so I just wanted to make sure. And like I said, the look on your face pretty much ended my curiosity after a while. I was not going to pass up an opportunity to ask you.

The Chairman: The things that the Office of the Auditor General is concerned about, but I noticed that you

said you are doing it, is that the Portfolio of Legal Affairs has sight and signed off on all of these consultant contracts and you said that you are doing it now. You also went on to say that your contracts are also reviewed by external lawyers who are subject matter experts hired by the Ministry and Department.

Are those lawyers vetted by the Legal Department or is that just an action taken by the Ministry and the Department on its own?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Mr. Chairman, thank you for the question.

That is taken by the Ministry and Departments on its own. Those law firms are actually offshore in the US, UK, Canada, depending on where we need the legal advice and we go through open, transparent, competitive tender process for those as well.

Mr. Christopher S. Saunders: I just want to go back on record again Mr. Chairman, and thank the Chief Officer for the work that they are doing, especially on the Tourism side.

I think the numbers speak for themselves, there is a solid team, the performance is there and, I just want to at least say on behalf of the people of Bodden Town West that I represent, thanks for the work that you are doing.

One of the things that I do hope that you guys consider, in terms of your business cases, is to look at what Antigua is doing. I like the fact that they have eight ports around the island and everyone has an opportunity to get a piece of the Tourism pie, as opposed to everything being concentrated in George Town.

So, that is one of the things that we really would like to see, because if you look at it right now, from what I understand in terms of the numbers that we will need at the port to break even, we are going to need more attractions for more people and with the limited time that people still have in port, it is best if we can offer more around the Island as opposed to within a concentrated area.

With Royal Palms, where a lot of tourists go, with a hotel being built there, that is a good part. That is a lost activity that cruise tourism will have, so the question is now: Where will those... well, not a question for the PAC but to consider—what will happen to those people? Because there is a good chunk that actually go to visit Royal Palms property that will not be available in the next few years. Where then will they go?

The last thing, where some people are concerned, is that it would be pushing more people to the public beach and again, that is limited space for most locals so, if we can find a way in which to spread more activities around the Island and get more people to the eastern districts, it would be something to consider. But outside of that, the numbers speak for them-

selves. I know that we got a good uplift from the unfortunate events in the Eastern Caribbean while they were still recovering, so that is pretty good. It shows that there is confidence in Cayman as a destination for many people, but ultimately just keep up the good work. I just want to pass it on to your team.

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: I thank the Member for the comment. I have the privilege of leading an incredible team at the Department of Tourism. The hardest job I think I have is trying to keep up with them because they are always working and coming up with new and innovative ideas which is what keeps Grand Cayman on the cutting edge and brings 418,000 stay-over arrivals in 2017 and are paced to do incredible numbers again in 2018. So, thank you for the comment, I will definitely pass that on to them.

Hon. Bernie A. Bush: Mr. Chairman, through you: Since the Alexandria [Hotel] in the Brac closed its doors; do we have any more rooms in the Brac?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: I thank the member for the question.

What is happening now in Cayman Brac is that Airbnb is opening up an entirely new niche market in Cayman Brac, so villas, condos have seen an uptake in Cayman Brac and we are looking forward to increasing that.

We encourage any developers, investors, local persons that are looking to build rooms in Cayman Brac, it is desperately needed, so we are always in consultation with those.

Anybody that wants to come and obviously having the District Administration in Cayman Brac as well, we entertain anyone that wants to come and invest, especially hotel rooms in Cayman Brac.

Hon. Bernie A. Bush: Okay. Mr. Chairman, through you: In other words, you did not answer me but there are no more rooms. So, all they are doing in the Brac is just trading condos into Airbnb or whatever you call them, but there are no more new rooms in the Brac?

It is the same buildings being retrofitted to being something else, but there are no more rooms. There have been no new establishments built in the last two years or so.

[Are there] any new hotels, any new condos?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: I thank the member for the comment and question again.

Not that I am aware of, sir. We are aware that there is interest; that people are looking at purchasing

property and developing rooms, but no new bricks in the ground, no, sir.

Hon. Bernie A. Bush: Okay.

Mr. Chairman, through you: How close does the Department of Tourism and Cayman Airways work together?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Thank you for the question, member.

Cayman Airways and the Department of Tourism work very closely together. The Director actually has an ex-officio seat on Cayman Airways Board just like me, as Chief Officer.

Hon. Bernie A. Bush: The flights have been cut drastically. Are you aware of this for Cayman Airways?

For example, one flight goes up in the morning, one comes down in the evening most days. There are no midday flights anymore. Are you aware of this as the Chief Officer for this Ministry?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: As far as I am aware, sir, that is not every day.

Hon. Bernie A. Bush: No, no, no, almost every day. Of course, you are not going to do it on Friday, Saturday and Sunday, but Monday through Thursday, there is no midday flight anymore. There is a flight in the morning and it comes back in the evening. What is being done about this?

As for the flight loads, just recently, two flights to the Brac, there were 13 people going [to the Brac] and 9 people coming [from the Brac]. Two days after, there were 16 people going to the Brac and 10 people coming from the Brac. Now, I know it can be spun. I have heard people sit here and try to spin all kinds of things on those types of loads.

What is being done about growing the routes for Cayman Airways? Yes, it is good to do all of this stuff, but when are we not going to have to be do things for our airline to benefit and can stop subsidising the airline? What is being done about the marketing of our airline and the prices and so forth?

It is obvious that the Board is making decisions which are hurting us because the airline is hurting and I do not know how people cannot see it. But if you talk to the staff that are not scared, if you pay attention, stand and look at who is coming off of those planes (go and stand and look), something is wrong.

Does Cayman Airways Marketing need help from the Department of Tourism marketing which I agree is pretty good? I have worked with them. But does the marketing of Cayman Airways need help? Can you prop them up to [get] help [from] the Department of Tourism? Is that possible?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Thank you for the question.

As I said, the Department of Tourism and Cayman Airways do work very closely together.

As Members are aware, we now have the SAAB340B, two aircrafts going into Cayman Brac, so we have put the airlift in there. In terms of a capacity perspective, we have actually hired a Director of North American Sales for Cayman Airways. That individual was actually the aviation specialist, a young Caymanian with the Department of Tourism that resides in the US. So, that individual now works for Cayman Airways and works very well obviously with her former Department, the Department of Tourism.

So, I would think sir, that yes, they do work very well together with the aim of supporting our national airline.

Hon. Bernie A. Bush: Mr. Chairman through you, how long have the SAABs been here now?

(Inaudible interjection)

Hon. Bernie A. Bush: Mr. Chairman, through you, just to let you know: We still have four or five contracted captains on the SAAB [aircrafts]. Those SAABs are costing us, between the two of them, the staff and all kinds of stuff, over half a million dollars per month.

The time will come when it will have to be justified, the time will come because that was my very first question of, if there are more hotel rooms in the Brac, because there is not, but yet we have increased all this money flying planes into the Brac. All this money being spent monthly and people are talking about Cayman Airways is losing money and the main place it is losing is the Brac.

But these decisions are not yours; these are made by the Board and the CEO has to carry out what the board tells him to carry out, I am pretty sure; he and the Deputy CEO.

But in your opinion, are we getting our monies worth?

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Thank you for the question.

The cry that we heard from the Minister responsible for Cayman Brac and Little Cayman and Tourism, was that it was lacking airlift into Cayman Brac, so we adjusted and put in the 34-seater SAAB to meet that demand. Now, when we speak to investors and developers that are thinking of putting rooms, especially in Cayman Brac, we can say, *Listen, now we have the SAAB servicing the Island.*

Hon. Bernie A. Bush: Mr. Chairman, thank you.

Mr. Christopher S. Saunders: Mr. Chairman, I know we were looking at something different but I just want to put something out there also.

Like with anything, there has got to be an agreed approach. I know that the Ministry, based on the visits that they made to the districts, are pretty much, at this point, working to update the National Tourism Plan in terms of where the country is going, in what direction, and I would encourage members of the public to at least give some input into the development of the plan and look out for whenever they are coming back into their district to add their two cents.

I think it is also important to recognise, and I am just going to put it out there. It is always going to be a challenge for Cayman Airways to some extent. I know this has been one of the political footballs from first time it started but, at the end of the day, I think the question that the public needs to answer first of all is: What is Cayman Airways purpose?

I think it was about last month, that the Minister was quoted in one local newspaper saying that "Cayman Airways objective is not to make a profit but rather, to provide a service." One of the things that I would like, personally, is to see the Brac developed to the point where it is not constantly being "subsidised" by people in Grand Cayman. I think people in Grand Cayman at some point need to also understand, if you look at the business people that have contributed well to Grand Cayman, they are actually from the Brac.

So, I do not want it to be left as if the Brac is being treated as though it is a separate country. It is just another district that just happens not to be attached to Grand Cayman to some extent and it is no different from East End, North Side or anywhere else, for that standpoint. We are still all Caymanians to some extent; it is just that the Brac has a different geographical challenge to it.

We, naturally, like with anything, would expect transportation to be provided. If the Brac was attached to Grand Cayman, we would have buses running to it. It is not attached so, we would have to go there by boat or air, but either way, it is still a service that has to be done. It will never be profitable enough from an airline standpoint, if you look at it in terms of where it is at, but nonetheless, I think what is important is that 1) the Ministry finalises the National Tourism Plan and; 2) once that plan is completed we will have an idea in terms of what we would expect from Cayman Airways fully; also, what we would expect from the Port, and pretty much what we would expect from just about every stakeholders from hoteliers, condos, owners and everything else. So I think, at the end of the day, we always have to look at tourism from a big-picture view as opposed to a small view.

Our financial services are already under attack and if you look at the growth in tourism over the last five to seven years, in the next five to seven years it is actually on par to surpass the financial services if it continues on the path that it is in terms of contribu-

tions to GDP. So, it is one of the areas where we have to recognise that it is still a future opportunity for growth. It is still right now the largest employer of most Caymanian businesses when we look at the public transport system and the amount of people it actually employs.

I think, in all of that, to say to the Chief Officer that 1) I know the Ministry is driving the National Tourism Plan which needs to be updated as quickly as possible; and, 2) more importantly, the public gets involved in terms of what the vision is or where we are going for tourism, because Cayman Airways will be a subset of whatever that plan is, but it will not be the driver of that plan. I think it is the lack of having that cohesive plan why there are so many different questions. I think once we put the big picture and the big vision together, then, I think people can see where everything else fits. But, as it stands right now without that plan, we will continue to have the challenges with Cayman Airways or people will have the challenge with the cruise port and I think that is really what is driving this; the lack of clear vision or clear plan. Once we get that done, it should hopefully, alleviate a lot of the challenging questions that the public has.

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: I thank the Member for the comments.

The member is exactly right. The plan is now being updated with the feedback we got from each district. We went to, as you have said, sir, every district in all three Islands and got that feedback. It is now being updated and then it will go out again for the public to view.

Now, that is envisioned to be by electronics means, but we would envision that we would have hard copies, of course, and publicise quite well to show the revised plan with the public feedback.

The Chairman: Any other questions? If not, I thank you very much, Mr. Bodden for coming and I guess we will see you in a couple of months when we are doing your audited accounts.

Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport: Thank you Mr. Chairman.

I would also like to thank the Office of the Auditor General for working so well with us. It is a breath of fresh air to know the performance audits that are coming up and not be told half-way through that you are being audited in this subject area, and we have already written half the report and it is bad, and we are going to table it in the next couple of months. I really applaud the approach taken by the Auditor General and her good office and I look forward to that continuing, sir.

The Chairman: We will take a break and Mr. Basdeo is due at 11:30.

Proceedings suspended at 11:00 am

Proceedings resumed at 11:40 am

The Chairman: Hello, I would like to call the Public Accounts Committee back to order and will ask them to bring in Dr. Dax Basdeo, who is the next witness.

ADMINISTRATION OF OATHS OR AFFIRMATIONS

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: I do solemnly, sincerely and truly declare and affirm that the evidence I shall give this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

Mrs. Kathryn Dinspel-Powell, Deputy Chief Officer, Ministry of Financial Services and Home Affairs: I do solemnly, sincerely and truly declare and affirm that the evidence I shall give this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

MINISTRY OF FINANCIAL SERVICES AND HOME AFFAIRS

The Chairman: Good morning, Dr. Basdeo. The Committee would like to express its appreciation for you finding the time to come here because we know you have a few irons in the fire as a result of certain machinations in the United Kingdom House of Commons, so we appreciate you finding the time to come.

You know that the rules require that when you answer the first question you identify yourself by name and title for the records.

We want to ask you some questions this afternoon on the Auditor General's report on Government's use of Consultants and Temporary Staff and we also have a few questions that have been deferred or spilled over from the interview with the Chief Fire Officer because he kept saying "You have to ask the Ministry, you have to ask the Ministry, you have to ask the Ministry", so he put you in the hot spot but we will manage it.

Chris, do you want to start please?

Mr. Christopher S. Saunders: Sure.

Dr. Dax, first of all thanks for coming this morning. As the Chairman said, we know you do have a lot of irons in the fire but I want to start out by saying that we are grateful for the work that you and your team have been doing. As we said to the last witness, people sometimes believe that the role of the PAC is just to see if something is wrong. In many cases some

things are going right and based on the report from the Auditor General, there are many things that are actually going right since you have taken over as Chief Officer. Our goal is to keep the public informed as to those things that you guys are doing right, and what it is that we can do to improve processes. This is just a part of the whole oversight process, so in this situation, I can assure you that you are more here on the good side of things as opposed to the bad side of things, so I just want to set the stage for that.

One of the things that came out of the Auditor General's Report was the use of single use suppliers. Now, this is not something that is new, it is not unique, it is not something that has not been done before and one of the things that we want to understand is the process surrounding why you would use a single source supplier and, in some cases, why it's not competitive. And to kind of understand the rationale behind the decision-making process, in terms of not having some contracts to open bid to competition. Thank you.

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Good morning, Dax Basdeo, Chief Officer in the Ministry of Financial Services and Home Affairs. I thank the Member for the question.

The Ministry has not traditionally used consultants very heavily. I think more so now that the subject has changed and we are much more involved in procurement for consultants. Historically, we have utilised primarily consultants for legal and public relation support in key markets—the US in particular. And by and large now, we are doing an open competitive process. I do know that in the report there was one consultant for legal and public relations services that was done based on a direct award, but that one was a long standing historical relationship, so it is a bit of an anomaly in that sense, but the others were all done through an open competitive process.

Mr. Christopher S. Saunders: Thank you. I noticed you said earlier in the answer that you mostly focused on the US market. Is that for lobbying in terms of the US? Or, in public relations, is it more, like lobbying, congress type?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: In a way, yes. Rather than using the word "lobbying", what we have sought to have done and continue to do now and in the past, is try to make sure that the relevant politicians and officials in the US are aware of fact; aware of Cayman's actions and our adherence to international standards. So certainly, where there are misperceptions or misunderstanding of what this jurisdiction does in terms of international standards, we have used certain contacts that we hired through consultancy arrangements to provide introductions to key

persons, but also utilising our own contacts as on an unofficial level, we also have interactions with certain agencies as well.

So, lobbying to the extent that we are getting introductions to the right persons in Congress, for example, to try and give them factual information but primarily, that was part of the role that the firms are doing on our behalf. The other key thing would also be to look at US legislation and understanding that from our standpoint and how it impacts us, will be the second key part of that relationship.

Mr. Christopher S. Saunders: Well, seeing what has happened in the last two weeks with the UK and us, you would actually think that we need to have spent more lobbying in the UK, because clearly that was where the double cross came from or all the swords were drawn. So, the question is now, in light of that, what are you guys looking at now in terms of getting that done on the UK side to make sure, because we are busy covering for the Americans and someone forgot to tell us that the British are coming.

[Laughter]

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Thank you for the question. The efforts in the UK have been sustained over the past few years and I would say that we have made good progress, in particular with the assistance of the London Office, in getting in front of parliamentarians both in favour and those not in favour of the Cayman Islands, to try and make sure they understand just what we do from a standards perspective, how transparent we are, to show them all the international assessments that we have done that prove the fact that we are transparent.

We would recognise that not always do the facts matter in certain context, and sometimes the representation that we provide have been dismissed. The particular instance over the last week is an interesting circumstance where a variety of other political factors had an impact on the numbers voting on the [UK] Government's side. So yes, I do think that we can do a lot more to educate and inform in the UK, both, from a parliamentary perspective but also from a public perspective and certainly that is where the Ministry is working very closely with the industry, to discuss how do we get in front of the right stakeholder groups, not just parliament or public but also other industry associations in the UK; those who have opinions that may sort of speak to the quality of our jurisdiction and make sure that we are getting the right message in the UK.

So, that is a process that we are going through right now and we will continue to do and intensify, given the current circumstances.

Mr. Christopher S. Saunders: So, in essence then, we did not get what we were expecting out of the UK? Because I think the London Office falls under a different Ministry, correct? So, in essence now, you guys abdicated some of your responsibilities to a different Ministry and you ended up with something different than you expected?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: I would not say "abdicated"; we have worked in partnership with the London Office. Certainly, we have coordinated on messaging and when similar amendments have occurred in the past, proposed amendments occurred in the past and they were defeated, in both, the Lords and the Commons, it was a joint initiative between the Ministry of Financial Services and the London Office. But, of course, since the London Office is on-the-ground, they are the ones that are executing on behalf of the Government. So, it has been a partnership and it has worked in the past. Again, this last week has shown a different set of circumstances.

Mr. Christopher S. Saunders: Well, to be honest, I know I used a strong and that was to see your reaction. What I am looking for ultimately is ownership. I mean partnership is fine but somebody needs to own it and at the end of the day, the London Office still is not part of your Ministry and now you realise that regardless of who is underground, this is still now something for the Ministry of Financial Services to deal with. I look at the skillset based on the report, of who you hired in the US to basically get the work that you wanted done, versus the skillsets in the UK in terms of via the London Office, and there is a mismatch in terms of the skillsets being used in the US versus the skillsets being used in London.

I am going to tell you right now, based on the people that I spoke to in the UK; this decision did not come as a surprise. The thing about it is that the Labour Party has been running, to some extent, a very successful campaign against the tax havens. When we look at where the UK Government is, in terms of the very slim majority that they have, it is a weak government and it is very hard to negotiate with very weak people; this was actually on the horizon so this did not really come as a surprise.

So, the question is now: What kind of big guns or arsenal do we need to make sure we have in the UK, because we were busy looking at the Americans and got caught? Well, should not have been unaware, but we basically got caught in the UK and the damage has already started to some extent. So, the question is now, looking forward: What, in terms of consultants or expertise would you guys be looking now to beef up the UK with to make sure that, yes, there is partnership, but the ownership has to be here for something because this itself was a big booboo.

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: In looking at what has happened, and certainly I cannot suggest that there was a surprise, because we knew that there would be a prolonged attack against us in terms of pushing us towards public registers.

The indication, as I was saying, given the previous experiences, was that we were doing our best to make sure that the votes were in our favour; in the sense that the facts of the situation were put in the hands of either the Members of Parliament in either the Commons or Lords to make sure that they could speak from fact, and I do recognise and looking and listening to all those debates that they spoke to the information that we provided. So, I do recognise that we were successful in the first few instances.

Again, what happened last week was a bit of a unique situation given the variety of other factors happening and we are certainly looking to change the approach and improve how we are engaging in the UK. I do know, and certainly the Premier has announced, that there are other experts now involved in this process.

Mr. Christopher S. Saunders: Thanks very much.

One of the things from the public's standpoint now, is that the Government has a very large vested interest in this for the simple fact that it is well over a third of the Government's annual budget in terms of revenues and everything else. But what the Government makes from financial services, and even though it is the driver of the GDP, it pales in comparison to what the private sector makes.

Now, one of the things when you talk about partnership, what we hear about is that people need more money from the Government to do this, this, this, this. The question is now, from a partnership standpoint: What is the private sector doing to defend their portion of what we need to do in terms of protecting the financial services industry? It cannot be a situation where everything is borne by the Government and the private sector does not play a part when they are making far more money from what the Government is making in terms of revenues from this.

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Certainly, from the Government's standpoint, a very significant increase in the budget allocated for sporting industry activity was put in place in this current budget. At the same time, we are trying to work a lot more closely with all parts of industry, drawing upon their expertise when it comes to either getting intelligence on circumstances in the UK or the EU to understand what actions they are pursuing in terms of educating and informing on our behalf. And certainly, as we continue to work on all the various international initiatives, we are heavily consulting, making sure that we are getting a wide cross-section of industries involved in the process.

Certainly I am very thankful that industry members and various associations have come together to provide support to the Ministry in these exercises.

Currently, for example, we have got a number of groups working on the issue with the EU, looking at their so-called Blacklist and trying to understand from their perspective how these things will impact us, and providing that advice to the Ministry in terms of our overall position and how we can engage on an European front. So, the industry, certainly from a time spent perspective, has quite a number of volunteers and groups who are working actively with the Government to try to support all of the activities that we are engaged in and certainly, the mandate that I do have is to work very closely with them to get their input and ensure that we are on the right track.

Mr. Christopher S. Saunders: Thanks Dr. Basdeo.

The reason I raised that question, just to put it into context, is that many of these law firms and different firms have presence in multi-jurisdictions and if you look at even how the business is distributed now, especially in the Hong Kong market where they are doing quite well in different places, it is just a matter then of business being shifted from Cayman to elsewhere. So, a lot of them in terms of the same, and not to downplay the importance to them, but I would like to think that ultimately to the Caymanian people where we depend on that in terms of tax revenues versus for these guys, it is just a matter of saying to the client, *Let us move from Cayman to Hong Kong*. One thing that we have seen with the Financial Services Industry, and with the history of it, it actually moved from some place to come here and it is just a matter of time before it moves from here to go someplace else. So, in terms of defending it and fighting for it, this still has to be something that is central.

It is one thing for them to say, *Oh yeah, we will donate services*, but this is a point now where we need money to fight money and the question is not that the money just is not coming from the taxpayers, it is also coming from them. Yes, they have lawyers, but at the same time, those lawyers need their billing fees and all that kind of stuff, so unless they are working for free or they are bringing in some of their QC friends for free, the question is: Who else is really fighting with us, putting resources up, man power, money and everything else that is needed to get past this?

One of the things I am fearful of is that the financial services have not done as well a job of informing the public of the importance it is to the Cayman economy and, looking at some of the comments that are coming from a lot of people in our Facebook and other social media, it is clear that there is a disconnect. We have people that are basically saying, *Let it fall, let it go* and not understanding the full impact. Clearly there is a PR issue that needs to be done and yes, we have spent millions overseas in terms of pub-

lic relations, but the one place where we have not spent on public relations is actually right here at home, where we need to get everybody on board.

With all of that being said, what we are looking for now is that partnership. Is it the Maples, the Walkers? I mean which of the firms are saying, *Guys, let us do this together*. And it is not a situation of their lawyers sitting in the office and saying, *You know what, Cayman is on its way down, let us move the business elsewhere*. That is what we are looking for. Thanks.

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Thank you for the question.

This year has been busy so far. I think because we are so focused on fighting these external fights, we have not done as much as we could have to educate the local audiences about what are extensive, very complex issues, sort of a series of knock on effects between jurisdictions. What I mean by that is that things that are going on in Europe, impact what is going on in the UK and the US, so it is not a sort of simple picture that we can paint in all respects. We have been extremely focused on fighting those fights and the industry has been right there along with us, helping us to do so.

We are coordinating the efforts from the Ministry's perspective. Again, we have had a number of meetings and engagements with local industry to discuss approach, discuss strategy, discuss actions and we continue to do so. So, there is coordination there, and I do expect that there will be some cost spent by industry as part of this process, in terms of their own engagement as well. So, from the international perspective, it is difficult, yet we are working together to try and achieve the right outcome.

We do recognise, and certainly my Minister recognises that we need to do more locally to educate the public, and that is something that we have, at this point, discussed, and we are trying to do, and there will be perhaps a bit more being done over the next few weeks as we try and understand how to respond to some of these threats. But it is a point that we are aware of and although we are, as I said, more focused internationally right now, we will need to get to that point at some time, hopefully this year.

Mr. Christopher S. Saunders: Thank you.

One of the things that I guess has been more of a concern every time these issues pop up . . . because I am old enough. One minute it was ample tax competition, the next minute it was this. We have had over the last 20-odd years all of these battles, so this is just one more that we have to fight. I know without a doubt that we do have the talent here both in the public and private sector to weather these storms.

One of the things I have noticed over the last few years is that we have moved to having more gen-

erals; all industry leaders, but ultimately what has made the difference in the past is that we also had a lot of soldiers and what I am trying to find in this process is, where are the soldiers?

It is clear that the campaign has changed in the sense of looking at what the Labour Government has been doing. I have people calling me saying, *Oh Chris, I did not know that the Cayman Islands is causing us so much trouble*. So, they have changed their tactics in terms of their campaign, whereas we have generals still fighting the same battle or the same approach.

The question is now, we are looking for that difference of approach in terms of they have carried it underground so now we need to take it underground. Where are those soldiers coming from in terms of battling this one because, clearly, now the landscape has changed?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: One of the things I think we have done very well, over the past five or six years, is that we have been much more engaged in international fora on a variety of issues, to build the sorts of relationships that allow us to understand what is going on from a governmental perspective and an international body perspective, and that has certainly helped us to try and plan more in advance and to be a bit more proactive rather than reactive.

In doing so, it has helped us to work better with the industry to develop strategies to address those issues. I think, over the past five years in particular, there has been a threat nearly every single year in the past five years; whether people realise that or not. We have effectively addressed those issues and perhaps dodged a few bullets, but that has come from a change in how we work and understand the landscape.

Obviously, and I think you have rightly pointed out, the NGOs [Non-governmental Organisations] have themselves increased and become more sophisticated in their own campaigns and part of our shift in approach over the last two years has been more engagement with NGOs themselves, again, trying to adapt to how they are changing their approach. Obviously, there is much more that can be done. These are extremely well funded bodies. The Transparency International, the International Consortium of Investigative Journalists, they have got a lot at their disposal to really provide attacks on all fronts.

We do need to adjust further and, again, that is part of what we are discussing with the industry, and hopefully we can make a difference in the new approaches that we are going to adopt.

The Chairman: It seems like we have used the old (to go back a couple years old) McNamara strategy of the then with the nuclear weapons. Can we move more to the Cheney thing of pre-emptive strikes? And is it

possible to get the "industry" more involved? For instance, in this case, I have not seen any articles in the international media, by any of the industry players in Cayman, supporting Cayman's position, which I believe would go a long way to educating the public that these people represent. I think part of our new strategy should be, to engage the people that these politicians represent and somehow reaching to them, and I think a part of that would be to encourage local industry, because I think the industry has to realise that this is now beyond the Government carrying this battle on its own.

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Again, thank you sir; that is a very good point. In the past few years there has been an increase in the number of articles produced by the industry in various publications internationally and, while I would not suggest what we are going to do right now, I think part of our consideration is to be strategic in how we use articles to further an overall objective and overall strategy. So yes, it is being considered; yes, we have discussed a number of different approaches. Until we are settled on the current strategy, given the events of last week, we are not going to fully implement all the options available to us until we are sure we are clear on the overarching approach that we are going to utilise.

The Chairman: I accept that you do not want to give out, but I am talking more on a consistent basis because we seem to sit back and let mainstream media . . . because yes, I will agree that there are articles that can be found in industry and professional related articles. The average person on the street does not read them. But the London Times, New York Times, these are the magazines that are killing us, because that is how the people who are against us are influencing the people that influence their politicians and I think we have to start fighting them on their own front, and not wait until it lands on our own shores. So I would hope that the industry itself would be willing, when they see something being said in the New York Times, to write an op-ed and put it out there.

If it is always coming from the Government, that in itself carries a certain amount of scepticism because we are defending our own position, but if the London branch of Maples and Calder's Senior Partner did an op-ed in the London Times supporting the position that the Government has taken on beneficial ownership, I think that would go somewhat to influencing the people who Dame [Margaret] Hodge is representing, in terms of her own political career.

How do you monitor the performance of your PR contracts? For instance, if there is an article that is critical of the Cayman Islands, do you expect some of your PR agencies that are on the contract to respond to those articles? How do you monitor the performance of people you have hired for PR?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Thanks for the question, it is a very good one and that is an ongoing process. Once we have established a relationship with, whether it is a more mainstream type communications company or a law firm, there is ongoing communication, discussion on issues as they arise. So, from a performance standpoint, it is not where they are left to do something and then we find out about it afterwards but it is an ongoing discussion anytime, anything happens where, in some instances, they are bringing stuff to our attention, some instances we are bringing stuff to their attention saying, *How do we address these issues?*

From a performance standpoint then, it almost becomes a daily/weekly type issue where we are trying to make sure that we are on the same page with them and they are doing what we have asked them to do and trying to measure results. The hardest part is actually measuring results, because, in many instances it is trying to determine that we have changed opinion and therefore it is harder to measure that. What I can say is that once we have defined the projects that they worked on for us, there are some indications of success for instance, how many relevant, appropriate, high-level officials can they get us in front of, to have the discussions and other more simpler metrics perhaps.

Whether we sort of shift the opinion at that point in time, again, that is something we think we have done based on what we have heard these officials say on our behalf or about Cayman after the meetings and so forth, but that is harder to quantify. But, in general, because of the relationship that we have with these firms, there is ongoing discussion. If we are not seeing something being performed the way we want it performed, it is a feedback mechanism on a regular basis. So, it may not be following in the form of an evaluation, but it is an ongoing discussion to make sure that we are adapting as things happen.

Mr. Christopher S. Saunders: I am going to move from Financial Services . . . well, external issues, but I am going to leave you with this Sun Tzu quote for you to – it is from Chapter 6 it said: **“Whoever is first in the field and awaits the coming of the enemy, will be fresh for the fight; whoever is second in the field and has to hasten to battle will arrive exhausted. Therefore the clever combatant imposes his will on the enemy, but does not allow the enemy's will to be imposed on him.”** We have been a little bit too reactionary and we need to understand that this is war for the survival of our people from that standpoint.

Now, we are going back to the consultant issue. I noticed that you guys hired a consultant for the Fire Station which is good, but one of the more pressing domestic issues is what the banks are doing in terms of mortgages and all of these frivolous charges

that they are imposing on the people from paying them to make a deposit, charging them to cash cheques and everything else. The question is: Have you guys engaged any consultant to deal with those people? And I say ‘those’ being a former banker myself, just to put that out there; I do not want to make it look as if I do not understand the nature of the beast. The question is: What steps or what is it that you guys will be looking at? Are you guys looking to hire anyone to deal with the bankers, because we have these international people who are trying to take our business, and then we have these domestic people who are trying to take our money too? So, do you guys have any consultants in the pipeline to deal with those greedy bankers?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Thank you for the question. I am not as familiar with this area of work, not on a day to day basis involving a lot of the discussions from a positive perspective. I do know that Minister Rivers has taken a very keen and leading role in this process and there have been several meetings with the Bankers’ Association, with CIMA, to try and make sure that we understand what the situation is and how to address it. There was work done previously on the same issue, and those preliminary findings were given to the Ministry. Currently, there is a process started to bring someone on to assist in looking at the issue more fully and developing solutions. Again, I do not know all the details, as I have not been directly involved in the process, but it has been an active part of what the Ministry has been taking care of and there has been some engagement. There is some research that has been done and there are some action steps that are being implemented as we speak.

Mr. Christopher S. Saunders: Thanks very much.

The reason I raised that is that, just as how we hire technical people overseas to deal with technical issues overseas . . . (give me another word, I don’t want to use the term ‘domestic terrorism’). Either way, the flip side is, and the reason I am saying what I am saying, is that when you are engaging these people, regardless of wherever they are located, we still have to send the right person who speaks their language to basically ‘jug um’ as they would say, to deal with them.

From that standpoint, what I want to say to the Ministry on this point is to go and find that person to go deal with the banks, because what they are doing . . . and if there is ever a time that you need an external consultant to go deal with an issue, this is one. Send somebody inside there to mash up those bankers’ ‘dolly-house’, because we need it for that.

I know we cannot tell the Government how to spend money, but this is one time that it is actually needed. The reason I am raising it is that when we

look across the road . . . tomorrow people are going to pick up cheques for child support and when the cheque is sometimes \$60/\$70 and someone is taking \$10 from that, and that is per week, you are losing \$40/\$50 a month on these things. It adds up for families who depend on that, so I would encourage you guys to go find somebody to go deal with these people who have their hands in the pocket.

Just switching to the Fire Station, I know it is something that you inherited and one of the things the Committee would like to get an idea of, and I know the consultant cost has not been included in this, but since it is something that is topically relevant, I figured that this would be the right place for it in terms of: What exactly is it that the Ministry is doing to deal with the issues we are having at the Fire Service arising from the PWC [PricewaterhouseCoopers report?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Certainly, I think we are making great progress right now, and I am hoping that the fire officers themselves see just how much progress is being made. We have committed to them a very aggressive timeline for delivering on a variety of issues and we are doing our best to keep doing it and so far we are on track.

The key thing with the PWC report, from my perspective, was the research that was done to look at the operational standards and some other issues to understand what is going on in the Fire Service. But coming from that report, and based on my own observations, I think one of the key things, that have to be addressed, first and foremost, is stability in the leadership team in the Fire Service. To make sure we have the right individuals involved to not only stabilise the organisation, but to make sure that they are making progress and addressing the range of issues that I have heard are affecting the fire officers. Again, there are a lot of small issues I have heard about, but I do think that once we have stable leadership we can quickly take action to address all those concerns.

So, in terms of the process we have engaged with PWC, they have given us the starting point for a lot of the work that is going to be done on the Ministry side and we have worked in conjunction with the fire service to implement a few things more recently.

The primary of which is the move towards hiring full-time, permanent post in the senior leadership for the organisation to remove all the acting appointments that have historically been there for a good number of years at this point. We have engaged a small local firm to assist in an exercise to do coaching for the upper ranks of the Fire Service, to make sure that those who are perhaps in the best position to advance into the higher posts, to make sure that they understand their career path, to understand, from our standpoint what training they have undergone so far to make sure that they are prepared as best as possible to apply or be promoted into these higher roles.

At the same time, we have taken a bit of time to redo all the job descriptions which were vastly out of date, and at this point we have completed the post for the upper ranks and they are now with the fire officers themselves for comment, to make sure that we have gotten everything captured correctly, and incorporate the new standards. So, between the job descriptions being done, the coaching that is underway right now, and other interactions we are having with fire officers, we are hoping to be in a position to start the Promotion Board process for the deputy post by June of this year. Following that, the other upper ranks by July and August, and I am hopeful that by August we will have a strong team in place that can then continue the leadership of the organisation and ensure that all the other issues are being addressed.

Mr. Christopher S. Saunders: There is this saying that people have to get along before they can go along. One of the things I am curious about is what, exactly, you, as the Chief Officer is doing. I will tell you where I am coming from. When we look at the Public Service Management Law there are a lot of responsibilities that are vested within the Chief Officer. Now, as I said earlier, I know you inherited a big challenge to some extent, but one of the things, from speaking to the fire officers, that remains is the issue with the Ministry. So, you guys need to rebuild that trust first, and where that has been damaged to a point that you guys may not realise, is when they were trying to offer the fireman 50 cents on the dollar for their overtime and everything that they have worked. These are the guys who spend time away from their families to make this money, and they consider that an insult in terms of . . . yeah, that was actually done.

Before the Ministry can get anything, that trust and credibility needs to be rebuilt. From the Ministry's standpoint . . . because the fire officers who are probably listening just want to know exactly what it is that the Ministry is going to do to at least fix that. I can tell you, for some of those guys it was personal, it was a matter of their dignity and everything else, when they were spending time away from their family, sacrificing, and for someone to say, *I cannot pay you, so I am going to give you 50 cents to the dollar* as opposed to saying, *Guys, the budget is tight, can I give you half now and half later?* But to have this kind of take it or leave it attitude, it is one of the things that you have inherited and, if no one said it to you before, I just want to put it out there, because this is one of the feed-back that I have gotten. So, from that standpoint: What exactly is the Ministry doing at least to undo the damage that was done in the past to kind of get along before you can start going along, kind of thing?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: A very good question and I think trust is fundamental to any relationship

and, certainly in this case, it is a key component to make sure that things are going to improve.

I have personally invested a lot more time than most other departments in the Fire Service, trying to make sure that we have a clear plan in place to address all these issues. I have done my best to meet with them on a number of occasions; in fact, I am back there this Friday again, more so than most other departments at this point in time. So, they are getting more of my personal attention because I understand that that trust has been eroded. I do not expect trust to be built over night, which is why when I spoke with them I have gone to give definitive timelines and dates that they can hold me accountable to deliver on. They have those commitments, they have seen those timelines and Friday when I go back again, it is to show the same timeline and progress been made and we are still on track.

So, I am hopeful that if we can demonstrate as a Ministry that we are taking the right action, making progress and delivering on our promises, that at some point that trust can be built again but I know it is not an overnight process. We are going to continue to invest to ensure that our time, energy and efforts to address their issues but it is not going to be as fast as some of them would like. In hearing their feedback, I know that they have been waiting five, six years or more. There are those who are beyond frustrated, there are those who are not willing to wait any longer. We are going as fast as we can with the right amount of pace, bearing in mind the complexities on some of the issues they have had to deal with and make sure that we do things the right way. Again, wanting to ensure that we are fair and competitive in our recruitment processes, to make sure that we have the right individuals, because if we get that part wrong that is not going to serve the Service well going through the next few years. We've got to get that part right.

Mr. Christopher S. Saunders: I thank you very much for that [answer]. One of the things I want to put out there is that one of the feedback that has been given by the people who have engaged with you, is that they found you to be a decent and straight forward person and I just want to at least record that that is one of the positive feedbacks I have gotten, where you are concerned. And, like I said, I think that you are moving in the right direction in terms of getting that done and, I am really sorry that you have that to deal with, but I just want to at least thank you on behalf of the people I represent, for the approach that you have taken and for being fair and straight forward with many of those guys.

Hon. Bernie A. Bush: Mr. Chair, through you.

I have here a copy of the Hansards of the questioning with the Fire Chief. I will be giving you a copy of this and I am humbly requesting a meeting with you, at your convenience, as soon as possible, to

go through these answers to show you where it is obvious in many ways, and once again, to repeat what the Member for Bodden just said, you inherited this. There is no doubt in anyone's mind, what or who is fair and have common sense; that there have been people who have been hired and are not qualified. I would like to use a simple analogy: when you go for your driver's license, the first thing is that you have to be 17 and three weeks.

If a post is advertised and it says you need this and you hire someone, as in the case of the Chief Officer who did not meet the requirements—the Fire Chief, sorry, my apologies. The Chief Officer is qualified to be Governor actually; this one. And in another Ministry a HR that only has a certificate when it is required for a degree, something is obviously wrong.

In the contract, three things he was supposed to have done: a succession plan (not in place yet); job description (PWC did that). There were three things that were in his contract that the Ministry has since had to hire PWC and spent \$80,000 of our money when we have people out there that are hungry and need help, people losing their homes.

I am asking you, and what the Member for Bodden Town has said, I too have gotten from the firemen and their families. They feel that you will be their only hope, because people that were there before you, people below you and people above you have all been tainted in their ways or been touched and they are worried about the information that you will be given to make your decisions. Please see them all, listen to them all and make your own decisions. That is the one request that the people are asking. They have some faith in you, in others, they have been burnt too many times.

Every time they are supposed to get a pay raise for the last five years I have sat in this House and all we hear is, "it's being looked into, it's being looked into, it's being looked into". That is all the firemen [hear]; whereas, along the way, everybody else have gotten a pay raise. How can you be working 30 years, operating a \$300,000 piece of equipment, putting your life at risk and not even making \$3,000 per month? That is something to think about. So, how much will you, personally, be involved in the assessment of these top officers? And you did say, I do believe, that from station officers or substation officers, will all be given a fair chance for an interview and a shake to apply.

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Yes, that is right.

Hon. Bernie A. Bush: And will things like if an individual has taken it upon himself—and I am going to quote what the Deputy Governor said in the *Cayman Compass* and it was presented on the Floor of this Parliament, "**Civil Servants who better themselves academically will be given the chance for ad-**

vancement.” Will these people who have gotten more qualifications, besides the training that the Fire Service gave them, and specific to fire service, be given a fair shake? In other words, they did not get a degree in turtle farm; they went and got a next degree in fire-fighting issues. Will those credentials be looked at and taken into consideration and not being made to be belittled by the present Chief Fire Officer who seems to think it is only good if it comes from Serco. Will all of these other people be given a chance to be given a shake and be listened to?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Certainly, my approach is to make sure that we have the best candidates and select the best candidates for the positions we have, factoring all variables, whether it is experience or education, whatever the case may be. That is part of what is mandated and part of what we have to do to ensure that we have the right persons selected for the future. There is no question in my mind that that has to be done.

Hon. Bernie A. Bush: Mr. Chairman, through you. On behalf of a lot of people in this country, do not ever fool yourself, people respect the fire services after Ivan. Do not feel that people do not love them for what they did after Ivan, when a lot of the police disappeared. I thank you very much Chief Officer.

Thank you Mr. Chairman.

Mr. Christopher S. Saunders: I just have one request, really. When I look at the hierarchy of the Fire Department ranks, it starts with recruit, then fireman, leading fireman, sub-officer, station officer, division officer, senior division officer, deputy chief and then chief. That is the hierarchy from my research.

It is difficult, if you hire somebody who has only been at the rank of a sub-officer, and you expect them to train a station officer, you expect them to train a division officer, you expect them to train a senior division officer, you expect them to train a deputy chief and you expect them to train a chief when they have never held any of those positions. So, this is the kind of crap that you inherited, that you just basically have to clean up. And, I am really sorry that you did not have a better place to start but I can say, like I said, the guys that you have dealt with have found you decent and all the interactions that I have had with you, you have always been decent, polite; always been professional and if there is anyone that can actually get this mess cleaned up, I believe it will be you.

It is a bit unfortunate, and what I am about to say some people may not like, but I am going to say it anyway. We have a certain individual that have gone, a kind of mayhem follows behind him and it is just more stuff to clean up so, you can read between those lines. But I just want to say, for me, thanks very much

for what it is that you are doing, the approach that you are taking and I really appreciate it.

The Chairman: Yesterday we heard evidence from the ICTA and the whole OfReg group, and one of the concerning things that they gave evidence on, was Hazard Management. Most people hear 911, but Hazard Management is currently undergoing substantial re-equipment, \$6.-something million, I believe, it is, in new radios and all that sort of stuff, and ICTA said they basically had not been consulted and, in fact, they launched a fund under ICTA for replacement of Hazard Management radios and stuff, because they realised that the whole framework was somewhat outdated, but unfortunately that money got swallowed up when we created OfReg and there was not a proper funding in the budget for it.

Is there any particular reason why the expertise in ICTA in terms of communications was not consulted?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Mr. Chairman, I am not familiar enough with what happened over the past few years.

The contract to replace the radio network was signed, I think it was late last year, but had been outstanding for a good number of years. Maybe it was an issue of, again, this is my opinion, I do not know what has happened, but the fact that it has been outstanding for so long, that they were not recently consulted on it.

I do know, since inheriting both HMCI and the Department of Public Safety Communications, that there have been some discussions and communications with ICTA on a number of joint projects. I do not know specifics but I do know that they are talking to each other.

The Chairman: One of the other things that concerns us that they raised, is the fact that the whole Hazard Management communications require a certain number of licenses from the ICTA under the ICTA Law and it did not appear that that section of the ICTA Law was being complied with by government, so you may want to look into that aspect of it as well. This was one of the contracts that were single source provider, was it?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Not to my knowledge. If I can recall correctly, I did see some of the early paper work from previous . . . there was an extensive process that was undertaken through CTC a few years ago, which identified a number of providers. There was then a change in approach, and based on the submissions, only one candidate emerged but it had been based on an open competitive process to my knowledge.

The Chairman: Okay. But even when the single candidate emerged, for some reason, the local agent provider was completely ignored and eliminated from the process. Do you know whether that was a financial thing, otherwise, they did not want to pay their costing?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: Mr. Chairman, I do not know the answers. Again, I was not involved in the process at that point in time.

The Chairman: There is consideration of some kind of upgrade to the CCTV cameras for crime. Is that being handled as a single source provider of an upgrade on the current system which seems, by reports that we get from the police, as to have been hopelessly inadequate and never went even close to delivering the kind of clarity and photography that was expected?

Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs: To my knowledge, we have a sufficient budget this year to address the CCTV network. I do know that there were some concerns with poor quality of cameras in the past, and the ones that they are procuring now, I think, are a lot better and that is no longer an issue. Again, not being as intimately involved in that process, I do know that all of my departments have been engaged with the Central Procurement Office to make sure that they are following the right procedures when it comes to the new Law, in particular. I can investigate further, but I have confidence that they are doing things the right way.

The Chairman: There is nothing wrong with single-source procurement, as long as it is handled correctly within the procurement process. I guess the Public Accounts Committee's concern is that this was the company that won the bid the last time, and many of the competitors claimed at the time, that they did not bid on the same quality of cameras, and that government was going to find themselves exactly in the position that it is in.

One would hope that having worked with a company for a number of years and the service is such that, I guess, to put it deplorable is not too strong a word. For instance, the accident that happened in my constituency a couple weekends ago is less than 200 feet from one of these cameras but yet the police are out appealing for eyewitnesses. The only assumption that we can make is that the cameras were not working because if the cameras were working it would be looking at a red car, you should be able to see a red car on the camera.

I guess our concern is we are making sure that we do not get in the same position that this whole thing was orchestrated in the very beginning by un-

derbidding other people to produce a lesser than required product, because it would be able to negotiate the upgrades under some other scenario. I am just giving you that warning because we will be looking very closely at it when it comes here.

Mr. Christopher S. Saunders: Sorry, forgive me. If memory serves me right, we spent \$5 million on those cameras, and again, they are basically—

Hon. Bernie A. Bush: Of no use.

Mr. Christopher S. Saunders: I will tell you what, Dr. Basdeo—you can save me the trouble of filing a parliamentary question from now, to get an update on what happened to that \$5 million worth of cameras because, like I said, major mayhem; wherever some people go, certain things follow.

Anyway, I just want to say on behalf of my people, thanks for what it is you're doing; like I said, decent, polite, and professional. I appreciate the fact that if you did not know, you said that you did not know as opposed to some people who prefer to come down here and just outright lie, so I am very appreciative of that. It is well because if you don't know, you don't know and we can live with that. We do not expect everyone to know all the moving parts in their Ministry.

The Chairman: "I do not know if it is the truth" is a legitimate answer.

Mr. Christopher S. Saunders: Well, silence can be misrepresented but never misquoted.

Dr. Basdeo, thank you very much for taking the time and keep up the good work and if there is anything that any of us inside here can ever do to help, just know that we are on the same team. Thank you.

The Chairman: Thank you, sir and your get out of jail free card has been issued.

We will adjourn for lunch and we will come back at 2:00 pm, so you can please get a message to Ms. Gloria to come.

Proceedings suspended at 12:40 pm

Proceedings resumed at 2:20 pm

The Chairman: Good afternoon, let the record show that we have a quorum present for the Committee and I would like to call the Committee to order and ask the person to bring in the next witness, Mrs. Gloria Mcfield-Nixon.

ADMINISTRATION OF OATH OR AFFIRMATION

Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service: I swear by the Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

PORTFOLIO OF THE CIVIL SERVICE

The Chairman: Good afternoon Miss . . . you don't mind if we call you Miss Gloria? Or do you want the full title of Gloria Mcfield-Nixon?

[No audible reply]

The Chairman: Thanks for coming. We understand that you are busy but today we are dealing with the Government's use of consultants and temporary staff as reported by the Office of the Auditor General. Mainly, what we want to talk to you about is the use of temporary staff. We have some questions about the amount and maybe we could start off by you telling the Committee under what authority do the various entities in government hire temporary staff. Are there established processes that they need to go through, or, is it left up to them and do they involve your entity, the Portfolio of the Civil Service, for guidance or assistance in recruiting the temporary staff?

Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service: Thank you, Mr. Chairman.

Gloria Mcfield-Nixon, Chief Officer for the Portfolio of the Civil Service. Thank you for the question.

Mr. Chairman, I would like to say that the temporary staff referred to in this report refer to staff that have been procured or hired from private sector companies. That is distinct and apart from what our Public Service Management Law allows in terms of persons' ability to make temporary emergency hires as it were, without open competition; the ability for us to be able to hire returning graduates without open competition and the ability to make longer term emergency hires without open competition.

The Public Service Management Law, which is our employment legislation for the civil service contemplates and allows persons to be able to be appointed without going through the normal recruitment processes, and the cheques and balances that are in place there is that those hires require the approval of the Deputy Governor.

The Deputy Governor realises that that is a significant discretion and so he retains that authority with the exception of our summer interns program. In that case, to encourage the take up of young persons, particularly during the holiday periods of summer and Christmas, the Deputy Governor will delegate his authority to appointing officers to be able to directly hire student interns over the period, but for all other processes he retains that authority himself.

We do facilitate a number of persons being hired, typically on a temporary basis of three or fewer months, where cases arise for vacancies that may come about and need to be urgently filled. The numbers that I have here is that in 2012/2013 the Deputy Governor facilitated 29 such approvals; in 2013/2014 41; in 2014/2015 49; in 2015/2016, 62 such approvals were given. So this demonstrates that within our processes there is the ability to hire someone if an urgent need arises and we need to be able to fill a position quickly and temporarily.

The Chairman: These temporary hires we are talking about here, are, like you said, people they hire from temp agencies for government. Well, some of us on the Committee are of the view that maybe it would be more effective if government had a pool of people employed permanently, who provided this temporary relief to these agencies, as opposed to going out and paying the high rates that some of these temporary agencies charge, when they are paying the Caymanians that they have employed, in some instances, less than 25 or 30 per cent of what government is paying them for the person per hour.

Has any consideration been given to that kind of arrangement, where you would have people that were employed fulltime, for instance, maybe in your portfolio, who other entities in government could call on when they speak of demand, like for instance, secretarial staff? One of the agencies we understand that does a lot of this is the DPP. They hire secretaries to help type up court cases and that sort of stuff. But even there, we have reports that some of their temporary staff is there for much longer than three months and they usually have . . . well, the last time I checked on it they had like three or four of these temps, some of which had been there a year or six months et cetera. And Caymanians who were sent there by the temp agencies tried to get, in particular the DPP, to hire them full time in one of the temp slots but they were unsuccessful, although the DPP was quite happy with the performance of the Caymanian as a temp from one of the agencies.

Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service: Mr. Chairman, there are a number of ways in which that type of arrangement could work. It could work, as you suggested, where we keep on our payroll, persons who are essentially floaters and would be going to other departments when needed.

As you are aware, that has not been our practice but it does not mean that we do not share resources where there is the ability to do so. For example, for HR, if there is a particular need in a department and someone has gone off on study leave or is on maternity leave or sick leave, it is our practice to either provide cover from our offices within the Portfolio of the Civil Service or to loan a person out on a

form of secondment to cover that. So, where we have those existing resources within, it is possible and it is routinely done, that we would share those services to cover on behalf of someone else or where a department goes through particular peaks and valleys. The Department of Education has particular peaks with its recruitment; not every year, but in some years they would ask us to assist and we would do that.

In some of the Departments that you have mentioned, for example, the DPP or the Portfolio of Legal Affairs, they will sometimes have need for Crown Counsel and they will be aware of persons who have done work with them previously who are available for short term and that is another way that they are able to have appointments without open competition. But in all those circumstances, it requires that you either, have internally, you have identified persons who have those skillsets and who can assist or you know of someone externally that can be quickly appointed. Other examples of that might be in Planning, where they would sometimes need an inspector and they would call upon persons, many times who are retired, to come back in and assist them.

We think that our retirees are a good pool of persons that we might be able to call upon and we have had informal discussions with our pensions board and our Civil Service Association about ways that we might be able to use persons who are known to us, and more importantly, who are familiar with our government services. You can appreciate when you bring someone in who is unfamiliar there is a learning curve and if it is a short term hire, that learning curve could last the entire stint of their contract, so we believe that there are certain benefits there. But that is all premised on whether we have those same skillsets available.

Sometimes the skills that are needed are not in abundance or present within our Civil Service and going outside is necessary. Now, whether departments choose to source those skills from a temp agency or whether they were to call, for example, on the NWDA [National Workforce Development Agency] to see who might be available there, becomes a management decision. But there are many avenues for being able to fill a position through emergency appointments, and that can be done through the Public Service Management Law, in which case persons appear to us on our payroll, or the route that you have covered in this audit, which is when they are contracted from these recruitment agencies, in which case, they are not really visible to us because they are not civil servants during that timeframe.

The Chairman: Do you think that this is a way that certain agencies could avoid the recruitment freeze, where they could not get post-certified by the Portfolio of the Civil Service or the Deputy Governor, but they could get in temporary staff; they could get the same thing and it just would be more expensive?

Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service: That is a very good point and what I would say is that, the moratorium has been gradually being eased until we pretty much reversed many of the austerity measures that were in place as of April 2017. But even prior to that, the way that the moratorium operated for many years was not a freeze on recruitment. What we did was to vet your request to make sure that you had the funding in place, but if you had already gone through all of the procedures of putting forward a budget and having that approved by Cabinet and this Legislative Assembly, then, those were in the main automatically approved.

So, in going through the moratorium process it was not preventing you from filling positions that you had managed to have approved in your budget process, but there were sometimes where departments may not have had positions approved, but they had savings or professional fees, and so in those cases they may have sought to bring in additional people to work through those means. We have tried to be more flexible and there are a number of examples of people who have now come in to government who are not against an approved position per se, but where we are comfortable that they will stay within their appropriations.

So, there have been works happening. Environmental Health is a Department that comes to mind, where they got project funding, but that funding was not itemised down to "this many head count", but it is still within the overall project funds or, in some cases, where we are able to bring people in and the funding for that arrangement is through service level agreements with SAGCs [Statutory Authorities and Government-owned Companies] but they fall under our management structure. That is the example of some of our project managers for Major Projects Office. So, we are trying to better understand the business realities that face our departments and, as HR, facilitate those, so that they are able to, wherever they need to hire persons, they are doing so in a way that is cost-effective and also is giving them access to the expertise that they need.

The Chairman: Do you believe that any of these might have been attempts by the agencies who are using these temporary hires to fill vacancies for established posts but, because they did not want to abide by the process of competitive hiring, they could actually pick the person that they wanted, send them through a temporary agency and get them in the office in an established position, oftentimes the possibility exists, that they would also be reducing employment opportunities for Caymanians?

Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service: Mr. Chairman, that is a very specific scenario you have painted. Again, because these individuals are not visible to us and they are not

coming through our payroll systems, we would not have the same wherewithal to identify the type of mischief that you are suggesting. They are not a part of our HR framework because they are procuring them the way they would other services. So, I could not say.

The Chairman: Okay. Can I encourage you to look at some of these entities where you know vacancies have occurred and that they may be making that attempt to get the person of their choice by bringing them into a temporary agency, as opposed to going through the recruiting services which give Caymanians the opportunity to compete?

Are there any other questions?

Mr. Austin O. Harris, Jr.: Yes, Mr. Chairman.

Through you Mr. Chairman, and again, I am grateful to Miss Gloria for answering the question in terms of giving an idea of the circumstances why temporary staff and consultants are from time to time required in the Public Service. I think you are well justified in stating that, whether it be the size of the Public Service or the population base, we simply do not have access to the kind of expertise, opinion or guidance that may sometimes be required in government. We look over the last five years, 2012-2017, we sought advice on health care systems, whether it was good or bad; we sought advice on waste management systems; we sought advice on bringing financial statements up-to-date and more current.

I think the question that the Chairman asked at the very beginning, is the pertinent one that still requires an answer, as it relates to what is the process involved in deciding on bringing in, whether it be temporary staff or consultants, because in the absence of that process, I think it opens the door for the 23 consultants that the Auditor General's Office reviewed being opened to speculation or mischief, because there has been a lack of process. If I could expand on what I mean, according to the Auditor General's Report, of the 23 consulting contracts maintained between 2012 and 2017, just 6 of those were found to have a business case or a justification for why they were needed; 17 did not, accounting for some \$12.2 million. Eight of those 23 contracts were considered sole source bids, presumably suggesting that there were no other companies deemed capable of providing this guidance, and a further, I think, it was 7 of the 23, were only subjected to lawyer scrutiny; that is, of course, looking at the business cases that were provided.

I think the absence of these key aspects of governance and process to ensure both accountability and value for money were missing, and I think that was what jumped out at me most predominantly in the Auditor General's Report. I wonder if you could explain whether or not these were things that are required, and/or if they are, why were they not applied in

the overall 23 contracts that the Auditor General's Office reviewed between 2012 and 2017.

Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service: Through you, Mr. Chairman, and I thank the Member for that question.

I want to be really clear about the types of contracts that I am speaking to, because those are the contracts for temporary hires which the Auditor General's Office, in their report, have broken out as a sub-category of other types of procurement contracts. Generally for procurement, and I am sure a number of persons have spoken to this, the Government has made significant strides to improve its procurement practices, including the very first threshold to be met, which is the justification of whether or not this particular work needs to be done through external sources, and you have alluded to some of the reasons why. But when you are getting down to the temporary staff, that is a different sum, as I have understood from the report. What I understood that the Auditor General's Office has said about the use of temporary staff is that, over the five year period, government spent around \$3.6 million on hiring temporary staff, mostly from local recruitment services; just citing Page 33 of the report, and if I have misunderstood that, I welcome that clarification.

So, in terms of the mischief of the recruitment firms that may be being accessed or other places of procuring persons through consultancy contracts, rather than going through normal hiring practices, we are talking about a much smaller subset, and when you put that within the context of government's total expenditure, what we are seeing is that this truly is the exception and not the general rule. We have had a practice out of necessity, of compliance. And so, whenever we have seen the anomalies arise, our tendency, centrally, has been that we would adopt a policy and apply that across every agency equally, and in this case, what we are seeing is that most persons avail themselves of normal ways contemplated in our Public Service Management Law, for filling temporary positions.

There is a relatively very small number that we are talking about here and fairly concentrated of where agencies have gone outside of our normal recruitment processes to get temporary staff and they have said that those are primarily focused on three recruitment agencies that have been used. So, that gives us a way to be able, to the Chairman's earlier point about investigating this, to see if there are some steps that might have been missed or some scrutiny that may need to be paid to why it is that these agencies are choosing to go that route to fill their temporary positions. But it is a very small percentage of the expenditure that was being reviewed in this report, and I think that is in large part because our Law does allow for temporary hires and it has the highest level

of scrutiny, being that of the Deputy Governor, in terms of the approval that is needed.

Mr. Austin O. Harris, Jr.: Yes.

I think also, when we consider the timeline, 2012-2017, how quickly we forget the several years of austerity that this Government went under when we were in deficit spending, there is some room to speculate that perhaps agencies saw this as a means of sidestepping the hiring freeze. But certainly, I think the end product is what is important that we view, that obviously, the Government got back on track, balanced the books and, for lack of a better word, most of the agencies are back on track and that was justified at the start of this year's Public Accounts Committee hearings, with awards going out to various departments, so clearly it worked.

What I am curious about, likewise to the Chairman's point, is \$3.6 million in temporary staff from 2012 to 2017; whilst it was a period of austerity, it was also recognised the highest period of local unemployment. We made use of three particular recruitment agencies in hiring these temporary staff, so I guess the question that, again pops into mind is, what were the services perhaps that government was buying, that were not readily available in the local work force?

Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service: Mr. Chairman, through you. I could not speak definitively to what these contracts were for. I can tell you that, in the positions that are visible to me, I know, for example, we had at our front desk for a period of time, somebody who had been sourced through (and when I say our front desk, Government Administration Offices) a local recruitment firm. What I can tell you is that that individual was also Caymanian and what I can also say is that person had been regularised through our normal recruitment processes to come on board as a civil servant. So, not all of these contracts would necessarily have been awarded to persons who were not Caymanian. So, it may very well be that even through these means, we may have been addressing unemployment amongst Caymanians within our community.

As they are not showing up in payroll, I do not have visibility of the details that go behind the numbers that have been reported by the Auditor General, I would certainly welcome having that information in order to look at, whether there is something here that I think is more suspect, but it is clear that this is not widespread. And, I know there have been some concerns about why it might be increasing, and I think, in looking at our own headcount numbers, this would have mirrored the demand for labour within the civil service generally, so our own headcount would have gone up in 2015/2016 and again in 2016/2017.

Is this something that we need to look at? Absolutely! But I think we have already paid a significant

amount of time and attention. Legislation has been put into improving procurement generally, and we are making a conscious effort within HR, to be business facilitators and not to create another policy simply for the sake of "there may be a handful of persons who are not making sound business decisions." It may be that the better outcome for the civil service is to come alongside those individuals than to penalise the vast majority who seem to be able to fulfil their business needs using a Public Service Management Law. And even where we have individuals who have gone outside of that, as the example I illustrated shows, they then may, like in the case of our own facilities management, avail themselves of regularising that, so that it truly is a temporary situation.

I would like us to be able to do what the Chairman suggested, which is to answer the question, because I think this is what happens why persons may not always avail themselves of the ability to make a temporary hire without open competition. I think it is because they may not know who has that skillset. So, if we can work with various groups, including our retirees, to have a better catalogue of the types of skills that exist, so that, similar to what happens with a supply teacher, if you have a vacancy that cropped up on short notice, you have a group of people that you know have the skillsets and you can call upon them. I think that we can have greater impact by working with others such as our Public Service Pensions Board and our Civil Service Association to close that loop.

There are others who have common purposes or missions in terms of the things that they do within our community, so we believe that collaboration would help us to fill that gap and allow persons to have access to a list of people who have various skillset so that they can come through the normal recruitment processes. That should decrease demand for having to go to a temp agency to provide you with that similar type of database.

Mr. Austin O. Harris, Jr.: Just one final question, Miss Gloria, and I thank you very much for the stated point that much progress has been made at addressing the processes that may have been identified by the Auditor General's Office as being missing.

Specific to the \$3.6 million that was spent on temporary staff, the Auditor General noted, I think, three things also:

1. That the Government does not hold sufficient information on how long temporary staff are engaged.
2. The Government lacks the appropriate guidance to ensure that temporary staff are appointed appropriately.
3. The Government has no formal mechanism for managing temporary staff.

Are these areas that you agree or disagree with? And if you agree, have these areas been reme-

died in one of the many improvements that have happened in the last five years?

Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service: The Auditor General's comments about temporary staff, again, are relating to the ones that are hired through these types of recruitment agencies. To be perfectly clear, we retain detailed records about persons that are appointed by the Deputy Governor on a temporary basis, who employs them, how long they stay, and if they go into a permanent or longer term contract, the means by which they do so.

Where a department, through accounts payable, enters into a contract with a firm to bring someone in, they are going to get caught up in the overall regime for procurement. The way that any expenditure is made is going to have full transparency in terms of our reporting. What I can say is that there are already a number of solutions, because this falls within a category of procurement and procurement has been improved.

As it relates specifically to what HR is doing about that, we will no doubt be gathering again very soon to talk about workforce planning, and I think it is through that means that we will come alongside departments to better contemplate the demand they have for labour generally, and how they are going to source that, and where we have identified the commonality of need because we are not going to have every skillset that is going to be available within the civil service for sharing, or potentially even, amongst those persons who have already retired from us. We may have to go outside of our civil service family to identify those skills and we then need to see what we are doing to attract those types of skills to the civil service, so that we have access to it.

Now, where this is truly temporary, sometimes the type of mischief that we have experienced in the past was staffing up permanently for what were temporary spikes, and so, I would be very cautious about telling people that there is only one avenue to the way that a vacancy is filled. When we have had particular capital projects on, and we needed to bring in certain skills, we may have recruited in such a way as to contemplate that that type of intensive capital work was always going to be ongoing and then government no longer had the same demand for what, in some cases, could be very specialised skills. So, we just want to make sure that what we are doing makes business sense to your point about what is the justification for doing it the way that we have.

In the Auditor General's report, it does mention that if some of the entities by going to outside firms, the cost to the entity may actually have been less than if they had to pay overtime to an existing staff member. So, I think that, again, getting to the nature of the mischief, there is, on the face of it, some justification for how these services have been pro-

cured. But the fact that we do not have more information, to the Auditor General's point, suggests that there is also the opportunity that rules may have been evaded and that value for money may not have been achieved, and I think that is the role of leaders, to be scrutinising the way that budgets are being accessed. If this is going to be a longer term need, and I have heard reference to the fact that some contracts may look and feel like these are tenured staff, then those are the situations we would really expect workforce planning to address and persons should be able to be recruited to fill that through normal means, so we are going to want to look very closely at that.

The improvements that have been made in our procurement, of which, this is a form albeit a very small percentage of government's total procurement, those rules will automatically apply to this as well in terms of the justification that has to be made before we incur that type of expenditure. And working from the other side, in terms of the HR response, we want to get better at coming alongside departments to help them articulate and contemplate what their labour demands are going to be in order to fulfil their strategic plans and business plans and helping them to think more long-term about how they are going to fill it, and making sure that our rules, procedures, and laws provide sufficient flexibility to do that, so that people do not feel forced to do ridiculous things.

The Chairman: I noticed that you keep referring to the Procurement Law. Are you confident that the Civil Service understands that there are aspects of the Procurement Law that actually apply to HR hiring? Because that is not the impression that we get in talking to them; they think that it is more for services and capital stuff and hard goods and not necessarily apply at all to personnel.

Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service: Well, again, I know that training has been intense and ongoing over the last several weeks, but where they are signing contracts for these persons and they are not employment contracts, then, that hopefully provides some distinction to them. They are more than likely accessing this through their professional fees; that should be another indication to them that it is a form of consultancy that they are undertaking. So, the training is ongoing. I think it may have been focused initially on high-level senior staff in terms of persons with financial responsibilities, but it will continue to make sure that the ranking file understands the Law and the obligations under the Law.

I think that that already contemplates significant improvements, and I just want to make sure that we give that an opportunity to work and be assessed before we potentially add more bureaucracy to the process. Training is a big part of this, but there are some reporting requirements that are part and parcel

of our Procurement Law that, if they do not know it applies, they will know shortly.

The Chairman: The other thing we ran into, this morning actually, is that, I was a little bit taken aback that the Procurement Law was passed in December 2016 and the Civil Service only seems to be gearing up to do training after the Law has become effective on the first of May. I think it is fair to assume, that the normal period between when the Legislature passes a [Bill] and the Governor signs the Vellum copy, until Cabinet issues a notice that the Law is into effect, that that period of time is used specifically to prepare for the implementation of the Law.

The evidence that we are getting now is that nobody has really done a lot in terms of preparation for the Procurement Law, until after the Gazette notice says it became effective the 1st of May this year.

Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service: Mr. Chairman, what I would say is that the overarching Law had been passed, to your point, some time ago, but the regulations were finalised more recently. So, persons would have been made aware, even as part of the development of the Law, they would have been consulted and there would have been sessions to explain how the Law was intended to work, but those would be broad strokes. The regulations is the day to day that really puts out the specific procedural requirements and how you are meant to fulfil the obligations that the Law creates and, because that was more recently passed and, my apologies, I do not have those dates with me, it has meant that there has been a second round of training.

Every day we have new staff that joins the civil service and we do not expect that on something as significant as procurement, our training will ever stop; it is meant to be ongoing, so that persons coming into the civil service continue to be apprised of what their obligations are, so that they have the knowledge they need to fulfil it.

Mr. Christopher S. Saunders: When I look at \$3.6 million over five years, it is \$720,000 per year, \$60,000 per month, \$15,000 per week and \$3,000 per day. And when I look at it, that is \$120,000 per year at the average cost of roughly \$40,000 per employee, depending, and that is about 18 full time employees. In the grand scheme of government total expenditures, Mr. Chairman, \$720,000 out of, between \$200 million and \$300 million a year in staff costs, is not even one per cent, it is not even half of a per cent, but when I look at it in terms of people, that is 18 positions or thereabouts, depending on the average cost, and \$3,000 per day.

Going back to my colleague from Prospect, the only thing I would just like to understand, if we are going to spend \$3,000 a day is that that is spent on Caymanians because my issue is, and I am going to

tell you straight up, I have a fundamental problem with some of those temp agencies and that is something that I got from my time sitting on the Business Staffing Plan Board.

A lot of those agencies . . . I would not say a lot but some of them are known to not push Caymanians in the right place, so I just need to make sure from a comfort level standpoint. Ultimately, I do recognise that under the Public Service Management Law, the chief officers for the different areas have a lot of responsibilities for those areas. And it would be kind of unfair for us to ask Mrs. Nixon the activities in other Ministries when those chief officers, just like her, have pretty much the same amount of authority and responsibility to do what they want in their Ministry.

What I would like is at least a commitment, or an endeavour of the Government, to make sure that at the end of the day that: 1) the agencies that they are using are not the ones that Immigration know have been abusing the system; and 2) at a minimum, that they are Caymanians.

We saw, from last week, when the Portfolio of Legal Affairs came here, that we are doing business with people who are basically suing the Government, and the last thing that we want now is to be going around giving work to temp agencies that are not doing right by Caymanians who are actually looking for work too. I believe that they are also part of the problem why we have some of the employment issues that we have, because of the way in which it is set up.

So, in all of that Mr. Chairman, through you to the witness: The commitment to ensure that the people who are hired, granted that it is a small amount, and it may look insignificant in the grand scheme of things, but \$3,000 per day or 18 full time staff a year, that is a lot for a person right now who is actually listening and may be looking for a job. At a minimum, it is at least a Caymanian. I have never been a fan of big policies to create more bureaucracy and one size fits all rules, but I would expect as a policy, coming out of POCS [Portfolio of the Civil Service], is that at a minimum, it is Caymanians that are given the first task in terms of who we are spending this money on. Thanks.

The Chairman: Any other questions?

Mr. Bush?

Thank you very much . . . oh, you have one more?

Mr. Christopher S. Saunders: I just wanted to just use this opportunity to also thank Mrs. Nixon and her team.

I know they have been doing a lot of stuff and I think, again, as we said to the other witnesses, that the group we have here today are some of the people who are actually doing things right. The group last week were the ones who were, just to put things in context but, we do not want the public to believe . . .

because sometimes I have heard people use the term "consultants for this and consultants for that". Some consultants are necessary; some, naturally, are not but there is a negative connotation that comes with the term, and the one thing that I would want to take away from this is that if we are going to be spending \$34.5 million or roughly \$35 million over five years, which is \$7 million per year, it highlights the importance for the civil service that is supposed to be providing the technocratic expertise. If we are going to invest \$7 million a year in external consultants, I believe taking a fraction of that to develop our own people, would actually serve the public much better.

Now, if it is medical it is a different thing to specialise and it is something we will expect, some level of specialisation, but \$7 million a year, over the last five years for consultants, says that we are still lacking some level of expertise within the civil service and that is not an average I expect to see continuing. So, if it means that we need to spend more on training and development, so be it. But \$7 million, I can tell you, it is very hard for us as legislators to sell that to the public and we cannot sell what we cannot buy. So, at a minimum, I would prefer to see that number drop to \$2 million or \$3 million and it goes into training and development of staff within the civil service. That, I think, would be a much better approach.

Some; I do recognise, is external, such as the Ministry of Financial Services and also Tourism; we can live with that. But, at the same time, if we can develop our own people and have those in offices overseas, if this is going to be ongoing, then, it is worth us investing in our people to do that kind of job that we will be going out to buy people for. Because we will always be marketing in the Cayman Islands, so if we know that we are going to be marketing, invest in marketers. If we know that we are going to be selling financial services, invest in those people. But we are not looking into the next 10, 15, 20 years to be using the same consultants to do something that we know we are going to need year in and year out. With that, I would just like to have that take away in terms of training and development as opposed to investing.

So, it is not okay for tourism to come and say, *Yeah, we are going to spend this much money because we need this* when we can have the expertise in-house because we know we are going to need it. Thanks.

The Chairman: Thank you very much, Miss Gloria, and keep up the good work. Hopefully you will be back. The next time you come back you will come back to get another certificate of good standing. Thank you very much.

Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service: Thank you, Mr. Chairman, and thank you to members of the Committee.

[Short pause]

HURLEY'S MEDIA LTD— (Cont'd)

The Chairman: Mr. Merren, thank you for coming back, sir. We have a couple more questions for you. I want to remind you that you are still under oath having sworn-in yesterday. I do not think that it is necessary to re-swear you today. I do not think that being on a double oath can make you any more truthful than you were yesterday. We have just a couple of questions and then you will be free to go.

Mr. Chris.

Mr. Christopher S. Saunders: Mr. Merren, first of all I have to apologise for bringing you back down here. One of the issues that was a parliamentary question of mine in the last sitting of the LA was concerning the telecom providers; those who have broadcast licence and what it is with regards to the obligations to the public in terms of free TV and everything over the air.

I understand from the response given, that that is an avenue no one would be looking at because of changes in technology and everything else, but I am mindful of World Cup Football coming up and it is a big thing for many of my constituents and I am sure it is the same for other Members and their constituents.

Hon. Bernie A. Bush: Those of us in the rural areas.

Mr. Austin O. Harris, Jr.: Quite right.

Mr. Christopher S. Saunders: Those of us in the rural areas [chuckle].

I understand from media releases that the entity that has the rights to the World Cup football has worked out some arrangement with the other providers to have those five games, at least I think the opening, the two semi-finals and the finals, plus the third place would be the five games, three. The question is: With World Cup looking to start (is it the next two months, July I believe or June?), where exactly are we in terms of preparing the public for that in getting World Cup Football to members of the public?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, as it stands today, the Free-to-air rights for the Cayman Islands was awarded to Logic. I have no idea how they are going to provide those. My understanding is that they are going to create two channels on their cable system, so if you want to watch those games, I think it is only four that they are actually making available through free-to-air. I do not know that they actually even have a free-to-air channel. So, if you want to watch the World Cup in the Cayman Islands, you are going to have to subscribe to Logic. I brought this up to the regulator on more

than one occasion and made them aware of the situation because it is more than just this one case.

Hurley's TV was licensed a free-to-air channel that we bought from the same company, Logic, back in 2015. Before they granted my licence, they were very specific as to what we had to do that would be considered "local content" and "free-to-air" and what our obligations were. We have basically done all that we can as far as that; I think the only thing in the licence that we just cannot afford to do is local news on weekends, but we do four hours of content, some nights, five hours of content per night.

Logic does not do any of that and I think this is the only rights that they have actually acquired since we have bought the TV station from them. I think the regulator should have stepped in on that to say, *If you are going to do the free-to-air rights, you are going to start acquiring content, you need to have the same licence and make the same obligations as Hurley's TV.* We are required to produce X amount of local content and do all this other stuff, but if they can just knit-pick and basically pick the content that they want, and it is being done so they will drive subscribers to their cable system when it should be available free-to-air to the masses, I think that is absolutely wrong.

The Chairman: In other words, you are telling us that the free football is going to be like free government TV? It is free if you pay Logic their monthly subscription but if you do not pay Logic their monthly subscription, then you do not get it?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, I think that is exactly . . . you have hit the nail on the head.

The Chairman: Some time ago the ICTA said they were doing consultations on a definition of local content. I do not know why that was necessary but I think they said that they were doing some kind of survey to find out what the people meant by local content. As I understood it, when the TV licence was granted when we were in the government way back in the 90s, there was a requirement that you had to have at least one over the air free channel and you had to have basically 24/7 or local content on that channel. Has that been changed in, for instance, like you all that have now gotten a more recent licence?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: I think their approach on that has changed. They did a consultation, I think it was in 2014, and they asked for input on local TV and free TV and in that consultation they asked what local TV should consist of; should every provider of a subscription TV licensee be required to have their own free-to-air station. My input on that was 'no', because this market cannot support four or five, or how many TV

stations that would be. We need to worry more about quality, and I proposed that it was one free-to-air TV station, maybe even two, and it had to be subsidised by the licensees paying a subscription fee because they had an obligation to do local content, make this free-to-air channel available in all our licences.

They seemed like they went down the path doing that when they gave us our licence to Hurley's TV and they were going there, but they have fallen short of that. You know, we have some cable TV operators that do not have *any* local content on their channels or they do not even offer that. So, they did define what local content had to be in our licence. Basically, public content would have to be 6 per cent local news, 25 per cent local arts and culture, 50 per cent local education and stuff like that. So, they went out and they said, *This is what you have to do as far as what is considered local content.* They went as far as to say we had to have four hours of public content per day and at least two hours per day of that content must be first time; in other words, made each day, not just made once and put in a loop. So once again, I think I am going to blame the regulator here. I think they have lost sight of what free-to-air should be. It was done so that the people in the rural areas . . . not everybody here can afford subscription TV, and that was there to ensure that those people had some sort of TV.

Now, I think what they have done was to strip that out of the cable TV providers and they are no longer required to do that or even play it, and now the burden falls on me, so I fund it.

The Chairman: It would not be outside of the norm for the regulator, to say to the other providers, just like how they have to pay subscriptions or whatever you call it, or royalties to HBO or Cinemax, to say to Cayman 27, *You need to carry local content.* And you need to talk to Cayman 27 about what kind of arrangement you can meet with them, so that that station has an opportunity to, and C3 would have to do the same as everybody else; but Cayman 27 would then have the opportunity to succeed in producing local content and developing local news and local programs for education and other purposes.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, that is correct.

The Chairman: Okay.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: When I looked at buying a TV station, I met with the regulator on numerous occasions and I pointed out to him that it was almost impossible for a free-to-air station stand-alone to generate enough revenue and to produce the content and acquire the content that it needed to be successful. I had a very open book policy on that and showed them what it

would cost to operate and what we thought the cable TV operators should pay as subscription fee, because every channel they have on their thing they are paying a subscription fee. They may have a few that are free like maybe TBN or something like that, but everything else from HBO, ESPN, World CUP, they bought those rights for that. So, yeah, it should be a fee. Classify Cayman 27 as a must carry; they are now required to put that on all their packages and then pay us a subscription fee. That is common in the United States and Canada. The UK is a little different, they charge everybody a subscription fee in Canada, to support BBC and their channels. So, that is definitely not out of the norm.

The Chairman: Alright, and they could do the same thing with the Government TV?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Yes, sir, should be.

The Chairman: Any other questions?

Mr. Austin O. Harris, Jr.: Yes, Mr. Chairman, thank you for the opportunity.

When the initial discussion took place, obviously it was largely questions to OfReg and I had to of course recuse myself as Councilor with added responsibility for OfReg, but as Councilor I have no responsibility, oversight or otherwise, over private sector companies and I just wanted to ask a question that I think is relevant to whether or not, as the witness has identified, the regulator should be/could be doing enough.

Yesterday, Mr. Merren, you stated over and over, the reason why Infinity Broadband, trading as C3 has not completed its license obligation to roll out broadband service to the entire Island, including the "rural" constituencies in the Cayman Islands, was because the regulator had not done enough. Again, to the question by my colleague, the Member for Bodden Town West, when querying and asking questions of the World Cup, it is interesting that, again, the reason why World Cup would not be available across the Island is the regulator's fault.

You mentioned yesterday also, that the biggest hindrance to your roll out or your make-ready costs which is again, prohibitive, to say the least. I do not think that anyone disagrees with you in terms of some of the challenges, as it relates to Datalink, and I think that is identified by the decision made by the regulator to suggest Datalink was being prohibitive with other licensees; of course, they have appealed that decision.

Getting back to your statement that the regulator has not done enough to facilitate new entrants to this broadband market, is it not accurate to state that in November 2015 the regulator agreed to amend the licensing contract for Infinity Broadband to allow it to

put in place its own infrastructure? And as a result of that amendment there are only two companies in Cayman that are allowed to erect poles; that is CUC and, now, Infinity Broadband? Is that accurate?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, that is accurate but we have to get permission from either, Cabinet or the NRA or someone to put on those poles. We cannot just start blasting poles down the road. We have made two applications in two different areas to put up our own poles and those have been basically stopped and no progress has been made on those.

Mr. Austin O. Harris, Jr.: Is it correct to say that with the ability to erect your own infrastructure for your broadband service, that could be accomplished at a fraction of the cost that you would otherwise be forced to deal with through the existing poles on the Datalink arrangement, if, of course, bearing the approval from the other boards, were made possible?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, our numbers suggest that it would be far less; that is correct.

Mr. Austin O. Harris, Jr.: Alright. Thank you, Mr. Merren.

The Chairman: Any other questions?

Mr. Christopher S. Saunders: Yes. In a nutshell, in your professional opinion, the games that are mandated by FIFA [Federation International Football Association] to be free, how are we going to get those games free? How can this work? The bottom line is that I want my free World Cup games for my people. I want my free football.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chair, it is simple. They need to make them available on their free-to-air channel and that free-to-air channel, if it is free-to-air, the other cable operators can carry those channels on their cable system just as they do with Cayman 27 because we are not a must-carry at this moment, but we have no issues with him carrying it. If it is free-to-air, all those games should be free to air and you should be able to watch them on your TV without a cable system.

The Chairman: Question: Can one of the other companies (I have to be careful of the word I use here as "pirate" is not a good word but I cannot think of a better word now) pirate signal down on a satellite and put it on their system, in this environment, if somebody has the franchise for that or would it be blacked out on the areas that you would have access to?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, the games are available on Fox out of the United States, Telemundo—both of those channels are on our cable systems, Flow's, Logic's, C3's cable system, but we have been advised that we have to block them by Direct TV that has the rights, that have now granted their rights on to Logic. So, we have been advised that we have to block them.

The Chairman: I guess in trying to help Chris to get his football, what would be the consequences if you did not block them?

Mr. Christopher S. Saunders: Hold on a second. Here is what I need to understand now: Your subscribers now, who have paid for, say, 30 channels, or whatever, you are going to tell me now that you will be blocking two of your channels that your subscribers have paid for?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, yes, sir. When those games are on we are supposed to block them out.

The Chairman: The same thing happened with the Commonwealth Games, right? There were certain channels and certain other providers that had to be blocked, if I recall correctly.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: That may have been the case, sir.

The Chairman: Yeah.

Mr. Christopher S. Saunders: So, are the customers going to get a refund? Because they are basically being . . . okay, granted, no fault of yours, but I mean, if I pay for Fox and I like to watch Fox and Friends, or whatever, you know, for all the Trump fans out there who love their Fox, and I expect to be watching Fox 24 hours in my house per day, you are going to tell me that for couple hours out of the day during that time, it may be shut down?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, there are content rights and everybody is allowed to buy them. There are two forms of content rights. There are the cable TV rights and then there are free-to-air rights, and what is happening here is that they are mixing both; they are allowing cable operators to buy both the free-to-air rights and the cable rights. That is how they are doing that. It is mostly sports that they are going to do this with, the large sporting events. They will not block your Friends or your Family Guy or anything.

The Chairman: So, what you are saying, and correct me if I am wrong, is that our local regulators have in

fact allowed a cable provider who has no free TV to buy both the cable rights and the free TV rights for the Cayman Islands?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: That would seem so, sir. I have not seen the contract, but I have been told that we have gotten a notice that we have to block those channels, that only Logic has those games.

The Chairman: Well, I would tend to agree with you that it should be up to the regulators to intervene and say, *We have no problem with you, a cable provider solely, buying the cable rights, but the free-to-air which you cannot possibly deliver under the present circumstances, you cannot purchase it.* And they should so inform Direct TV or World Cup, or whatever it is that they cannot sell that component to a company that has no ability to do it, because all they are doing is forcing you to go to the cable channels.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, I wrote a letter to the ICTA stating that a long time ago, that they have got to protect the free-to-air rights and not allow these people, that do not have a free-to-air channel, to buy the free-to-air rights.

The Chairman: Have you gotten a response?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: No, sir.

The Chairman: Okay. Maybe we can help with that.

Mr. Christopher S. Saunders: Mr. Chairman, I am going to tell you my issue with all of this. We learned yesterday that the telecom provider who is supposed to be rolling out a network is not going to roll out a network because it is not feasible. And by the way, I do not want to hear any of you guys referring to Bodden Town and Bodden Town West as a rural area again, because—

Hon. Bernie A. Bush: Or West Bay.

Mr. Christopher S. Saunders: Or West Bay. Yeah.

People have licences, we have granted licences, and they have X amount of responsibilities that go with those licences. If we are granting too many licences that it does not make it economically feasible for someone to do everything, then that is a problem. If we have granted licences and people have made promises that they are going to do something and they have not done it, then that is a problem, there has to be some penalty because, at the end of the day, this is really all about the public.

Now today, we are having the same situation where local content is supposed to be provided and all

of these licensees who have these licences are not doing it. So, the question is: Why do we keep granting licences to people who have an obligation to provide the public with a certain service, only for them to give the excuse that it is no longer economically feasible or, in this case, it is no longer technologically feasible. The question is then: What is the public supposed to get out of this, other than people coming here getting licences and overcharging us and not producing what they are supposed to be producing?

Now, my question in all of this that is coming to the witness . . . take something like the news; for the United States I came across several articles in terms of local news, where a lot of states and counties are losing local news to national news for the simple fact that it is no longer economically feasible. We have seen it with newspapers and everything else and if we continue to allow all of this air time that does not promote our culture, because we are still a young developing country in many respects, and even something as simple as the news, because that in itself, is no longer an area that makes money, it actually loses money. So, in other words, we are providing a public service. I mean, if they cannot even take the basic time out to even provide the news, at what point do we step in and say, *You know what, enough is enough* and start penalising these guys?

At the end of the day I do not expect and I know Randy they are your competitors, but something as basic as the news at a certain time, carry the rights or something like they do in the States, but to have them not provide their obligation to the public, it cannot continue. You have an obligation to the public, and somebody needs to enforce these obligations but do not come back down here and tell us that it is no longer economically feasible or technologically feasible. The public still demands to get something for what it is that they are giving up!

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, I would take that a step further. I am pretty sure that on any given day, our news cast is probably one of the most heavily watched programs on any of the cable systems, from 6:00 to 7:00 and other shows. As far as going and doing the build out, I do not think Logic or we have made any statement that it is not feasible to build to those other parts of the Island, especially the eastern districts. I think it is just the speed of which make-ready is being done at 160 poles. They have said that they can wrap that up faster but let us say that they double that, we are still talking a long time before the districts get the TV service or broadband service out there. So, I think Government or the powers that be, has got to get Datalink to the table and figure out a system.

You know, they have granted four licences—C3, Digicel, Logic and Datalink have been granted licences to build all these. So, they have probably put

too many subscribers out there to service this and it is going to be a battle to the death. Hopefully, the Caymanian people will support the Caymanian Company—I will take that little free plug (*chuckle*). But there are other things that need to be done too. Before all of you leave this House, Cayman 27 may not be producing news because it is a significant burden on the company to produce news every day. Mr. Chairman, you were there, Mr. Saunders you were there, Austin you have been in there, and Mr. Bush, you have been in there. You have seen what it takes to produce local news every day. We have 9 reporters in there, we have a slew of people sitting down behind, producing that news every day. It is a lot of human capital to produce that every day and we are required to do that at least one hour a day.

Mr. Austin O. Harris, Jr.: On the issue of World Cup, just because we are airing the subject out. On the one hand, I think there are grounds for agreeing with the witness and those in the Committee; that blocking the use of two channels which subscribers in Cayman have paid for, may present a problem. But certainly, likewise, as popular as the World Cup may be, and I too will be watching as many games as possible, hopefully free, but we have also adopted copyright laws in the Cayman Islands and I do not think that it would be appropriate at any given time to encourage the regulator to turn a blind eye to potential copyright infringement. The question that would come from this to the witness would be: Would you expect the regulator, in this case, OfReg, to enforce the existing copyright laws, whether it worked in our favor or in this case, not in our favor?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Well, we have been told that we cannot broadcast them or make them available on our cable system, we planned on doing that. The same thing happened to us with the Olympics, we had to take a legal action to get them to be forced to pull off the broadcast that they were told to be blocking. We will block it on our channels so, unless we can get some rights from Logic to broadcast those, C3 will have those games.

Cayman 27, I think it is a simple way to solve this thing and the regulator should say, *"If you do not have a free-to-air channel, you should not purchase the rights to the World Cup . . . to anything! You should not purchase those rights, the free-to-air rights. And if you are going to purchase those free-to-air rights, make a free-to-air channel, pay the \$7,000 or whatever the ICTA is; here is the licence just like Hurley's TV and start doing it."* I think you will see them sit down and they will pull back and stop acquiring these rights. We are not asking them to break the Law. I respect the Copyright Law; it was needed, it is a good thing to have it here. You know, these people, even the artists, it is how they make their money, the con-

tent that we get, in this Island, the movies and different things. If we were all pirating or stealing content, you would not get the quality of movies that are happening now in the world. So, I do support the Copyright Law and we will do our job but I just think if it is free-to-air, it needs to be free-to-air; it should not be free-to-air through cable TV.

The Chairman: I have another question for you. If I have my own satellite dish and I have direct TV on that, can anyone stop me from watching it?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: For Direct TV, the subscription you probably have is illegal in the Cayman Islands.

The Chairman: But everybody has it.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Yes, but there is nobody enforcing that. Dish Network, HBO have been here to try to push that. The laws are in here but nobody is taking the step to actually go after these people. There are people like RoCay and stuff here; they do not have licences to do that.

The Chairman: But that is another one that you would probably be able to get it on by paying them a subscription which the regulators have no control over, right?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Well, that is a whole other issue as far as I am concerned. They are allowed to operate [but] they do not have a subscription TV licence and they are not an ISP. They are providing content that is not licensed over our networks using, whether it is C3, *Logic*, *Digicel* or *Flow*. So, that is a whole other issue in itself. To me, that is blatant infringement of copyrights. It is blatant that the lady is providing services to customers here that are not licensed and she is not paying. We pay six per cent royalty fees to government, so to me that is revenue leakage right there and then.

Mr. Christopher S. Saunders: This goes back to the same issue. Take WhatsApp calling, for example, you pay for a data plan and you can call anyone that you want. Now, that is a set fee that you would pay, that the telephone companies would pay for but technically, a lot of telephone companies are losing money from WhatsApp calls; people all do the same with Messenger. The internet itself has changed the game; we have seen it with Amazon in terms of the sales and everything else. If someone has a website in South Korea, that site is basically showing content that is Copyright from the States, and you are going to that South Korea website and seeing the content that

they have there. This in itself is the world that we are living in today.

The bottom line is that I do not think it is a situation where something is wrong with the technology; I think something is wrong or inadequate with the laws that we have to govern the technology. Amazon and Google and all of those guys are getting away with it so, at the end of the day, if there is some company out there that is doing something and taking advantage of the technology and the fact that we do not have the proper laws in place to catch it, then that is a different thing altogether. That is where we need to step up now, in this case, same as with the regulators to some extent, where you are allowing a company to buy free-to-air rights, but the company does not offer free-to-air service. And this is part of the culture that we have created in Cayman. So, the question in all of this is then, what do you think are the changes that we need to make? Clearly, the technology is way ahead of where the Law is now.

I can tell anybody this much; I have Dish and I will be watching my World Cup Football and nobody cannot tell me otherwise and I pay my legal subscription. I do remember the times when I had Direct TV and I could go onto a website and get some codes, plug it in, do all that kind of stuff until one day they found a way to shut that down. The question in all of this is: What changes do you think we need to make in terms of the laws, because you used the term 'revenue leakage'. How can you actually stop that? In this day and age, you ever heard about regulating the internet?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Yeah, but that is not an internet, that is a closed looped internet system. That is somebody that is actually aggregating that content in Canada or wherever else that is, and providing you a box that you then get that content. Whereas, if you are watching that video on the internet, you know that is a broadcast, that is for the public and anyone of us can actually get that. You have to actually get a box to get those signals, so that is not a closed system; that is different. You know, they have Geotag and now they have Geo-blocking and different things like that. You can buy the broadcast rights for internet broadcast rights and stuff but one of the things that you have to is that you have to block that to just Cayman IP addresses. Just like every country, Cayman has been assigned area numbers which are IP addresses that are assigned to the Cayman Islands. So, you know what your area numbers are and you just block everything else out from that. We did that with the World Cup on some of the things we did. You just have to do that.

Mr. Christopher S. Saunders: Make a strong VPN [Virtual Private Network], I can tell you. You come into my house and you will swear you are in Miami

[Laughter]

Mr. Christopher S. Saunders: I have strong VPN. If we go to 0123Movies right now we can watch *Avengers Infinity War*; all of them are up there. So, the reality of it is, the technology is there and it is making the world smaller so these will be some of the challenges now. The point that I am making in all of this is that, recognising where the technology is going, it is important for us, therefore, to have access to this technology. Thus the reason the broadband issue is a big thing for me, because educationally it is something that we need. To live in the information age this is something that we need, and then having these little drip-drip speeds when everyone have all of these things coming down and being left out. It is really unacceptable. The speeds that we have, compared to what other people have, we really need to do a better job than this. And it is important for me and, I think, also to the public, that at least companies such as yours find a way to become economically viable. If it is a case where someone has a licence, and they are not doing what they are supposed to be doing, take the licence from them!

We are going to end up in the same situation because I suspect that it is just a matter of time and I am sure that you have had conversations about whether or not to keep your news divisions or not, but it is a public service and I would hate for us to end up losing local news to get stuck watching CNN, Fox or NBC or something else and, God forbid, we only have the newspapers to depend on for news. This is something that is important and typically, like with everything else, it is only after it is gone when we miss it.

Randy, I really want to thank you for continuing to do that, despite it not being profitable. At the end of the day, I will say this much, you are a Caymanian business owner and whatever it is that I can do, I still believe that you should be given preference in this market, as opposed to a bunch of foreign companies. I make that statement with no apologies and I think that is where we need to get to. So, whatever it is that we can do to help you and your company, as a Caymanian company operating within the Cayman Islands and reinvesting your money here, as opposed to someone taking my money and charging me an arm and a leg and not giving me the service and sticking that money someplace else, it becomes a no-brainer. So I just want to thank you for what it is that you are doing but this is not over.

Mr. Austin O. Harris, Jr.: Certainly, I would want to echo those sentiments of the Member for Bodden Town West, that I think we all in this room support Caymanian entities and . . . there you go, I agree.

I am just curious, because this has bothered me for some time, to know the private sector's view point on it. You brought up RoCay and of course the Members brought up Dish. As I understand it, the Dish

Network, similar to C3 or Infinity Broadband are selling licensed subscriptions to channels that you pay for but the providers of RoCay, Amazon or otherwise are not selling subscriptions, they are selling or renting a box. As such, the rules between subscription providers and the box providers, I do not know the technical term for what that box and that service is, but the rules are different. I wonder if you can express your thoughts on that.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Well, let us look at Netflix, because that is probably the easiest one. They have acquired that content. They acquired the content for different parts of the world; that is why if you go to the United States you may get a different set of contents available to view there, compared to international content or wherever else. They are under pressure from those content providers to make sure that that content that they are licensing for, whether it is just the United States, is not being watched outside the country. People are buying a Hide My IP and doing different things, so they are trying to stop that. A lot of it now—

[Inaudible Interjection]

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Yeah [chuckle]

A lot of them now are actually basically . . . they do not want to pay for content that are not really supposed to be paid outside the States, so people are finding a way around that, but they have an obligation to the content providers that they are acquiring that from to make sure it is only watched in the territories they bought the licence for.

Now, for Direct TV, you got a licence for that but I guarantee you, if Direct TV knew your address and knew that you were outside the United States, they would shut you down. So, as long as you keep up your address in the States or wherever else, but if they figure you are out, they are going to shut you down.

Content is changing how you consume it. It will get to the day where it is all available on . . . if you look now, Fox have their own 'over the top service' we call it. You can subscribe to that and you can get all of the Fox content. As you see, Netflix is developing more and more of their own content simply because the large content providers such as Disney and Fox and all of them are going, *Wait a minute, they are making all this money, we have our own content so we can do this as well and charge a subscription fee for it.* So, you will see more of that moving towards that and you know the subscriber is eventually going to pay even more, because the cable TV channels that you are consuming today and getting all of this stuff, they are eventually going to go away and more of these guys are going to come together and say,

Hey, if you want to watch any of the Fox stuff you are going to have to buy it from us. So, that may be \$9.95.

What we at C3 are building, is a superhighway so that you can get that content. We are just going to build the highway, so eventually our TV product as far as subscription TV may go away and morph into something else, but you still need to get that content one way, and whether it is wireless or on the highway of fiber, you are going to consume that somewhere else, and you are going to find that you have 90 different bills coming from Netflix and everybody else, that you are buying the stuff, so that is where it is going.

Mr. Austin O. Harris, Jr.: Just one final question, Mr. Chairman: Going back to the roll out of your broadband services, we mentioned that in your view, certainly the regulator could do more but, as it relates to your amended licence, you also have to get approval from the NRA, and was the second board Planning?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: No, it is NRA that controls the road and you know, the ICTA licensed us for that. We have made two attempts, the regulator has worked on us with that, but I think it was basically stopped at the NRA.

Mr. Austin O. Harris, Jr.: Just the NRA?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Yes, the NRA basically stopped that and did not go any further there, but we have made two attempts on it.

Mr. Austin O. Harris, Jr.: Okay.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: I am not sure, to be honest with you, whether we, if we want to put up those poles, I think rather than put them up as telecom-only poles, we put up a whole other infrastructure of poles and then CUC is coming across touching our poles and we are driving revenue under that, so it kind of goes both ways. The question for you guys is: Do you want to a two-pole system on all our roads? And that is something I do not know whether, you know, they are not the nicest thing to look at.

The Chairman: Yeah, and those poles tend not to move when they see a car coming.

[Laughter]

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: That is for sure.

The Chairman: I have one other question: Do you believe it would be normal, or the industry would react

favourably to this Committee making a recommendation to Government that the regulator encourage people who do not have free-to-air local content to subscribe to that channel which currently produces local content?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Mr. Chairman, I do not think I understand where you are going . . .

The Chairman: Let me put it to you simple: we do not want to use a name, but do you think it would be outside of the industry's norms if we made a recommendation to Government to encourage the regulator to tell all of the cable providers that they have to carry Cayman 27 and subscribe for it?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: That would be the norm. I think that is done all over the place, it should be.

The Chairman: Alright, okay, well thank you very much.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: And we have also suggested to them that they have to set a fee for the subscription fee. We have always said to them, *Meet with us and you set the fee*. Let the regulator set the fee and whatever it is that they set the fee at. If it is a penny, it is a penny.

Mr. Christopher S. Saunders: Has there been any consultation within the industry concerning the issue of net neutrality? Has anything been published with the ICT or any consultation out there?

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: I do not think they have sent anything out on that just yet, on net neutrality.

Mr. Christopher S. Saunders: Okay.

Just in closing for me, I think the UK is one of those countries where they actually have free boxes that they put in some of the homes to get the free TV or the free channels that are required in terms of keeping with the technological developments, as opposed to running stuff over the air. What would it stop then, because for the regulator to say, *Well, you know what guys, this is the box at a minimum that everyone needs to have and at a minimum, either, everyone pays to maintain this or someone carries it*. At the end of the day, if I was your competitor, I would be like, *Why are you going to force me to give Randy money, when I'm competing against him?*

At the end of the day, you guys in the industry need to get together and give the public what they are supposed to get one way or the other. And, if you guys cannot do that on your own, then I think the regulator needs to step in and make a decision and

say this is what needs to be done. So, I would support the Chairman in the sense of, not saying to force anyone because competition is still competition and they are competitors, but they have this obligation, meet this obligation or face a penalty. And if the solution is carrying Cayman 27 then, so be it, but they have an obligation that they need to be carrying out.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Well, Mr. Chairman, I think that is why you have a regulator. If we could all work everything out, we would not need any regulatory body in the first place, so you have to have somebody that sets the laws, and I may have been harsh on the regulator, but like I said, they just need to say, *This is what we are doing, this is what ought to happen*, and do it.

I think it is too much time spent with consultation. We feel, as the regulator, this is what should happen in this market and, to a certain extent, have your input, but I think it just drags out too long and you get lost in the noise. Just say, *This is what is going to happen; you have a requirement, you got this licence, their licence said that you have to have a free-to-air channel. We have moved away from that now, so we are going to put a free-to-air channel and it is going to be a must-carry, and if you want to have a must-carry, you go ahead and open a free-to-air station too. Pay for the licence and go ahead and open it.* So, I think that is where the regulator needs to come to.

The last part is we have to get CUC to the table, and they have got to be realistic. It is draining on all of us. We are trying to build as fast as we can because we need to acquire as many customers as we can. Having 2,000 customers is not paying the bills. We need 4,000, 6,000 customers to break even.

The Chairman: Thank you for your time.

Mr. Randy Merren, Managing Director, Hurley's Media Ltd.: Thank you, sir.

The Chairman: The Committee is adjourned until we have someone sometime in the future.

[Laughter]

At 3:52 pm the Public Accounts Committee stood adjourned.