



Electronic Communications Sectoral Review

Public Consultation

Consultation Document

Matter: 20260603

Date: 3 June 2026

Responses Due: 6 July 2026

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1. Introduction

1. The Regulatory Authority of Bermuda (**RA**) publishes this Consultation Document initiating a comprehensive review of the Electronic Communications Sector (**EC Sector**), including all applicable policies, legislation, regulations and administrative determinations (**Sectoral Review**).
2. The Sectoral Review¹ is required by section 17 of the Regulatory Authority Act 2011 (**RAA**). The previous Sectoral Review was concluded with the publication of a final report on 9 June 2023 (**2023 Sectoral Review**). The RA must initiate each subsequent sectoral regulatory review no later than three years after the date on which the previous final report was published.
3. At the conclusion of the consultation process, which the RA initially estimates to be 3 March 2027 the RA will issue a Final Recommendation and Decision.
4. For clarity, this Sectoral Review is separate from the processes relating to the market review of the EC Sector (**Market Review**)² required under part 4 of the Electronic Communication Act 2011 (**ECA**). This Consultation Document does not directly deal with the specific issues raised as part of the Market Review. The last Market Review was completed on 28 August 2025, culminating in the Regulatory Authority (Market Review of the Electronic Communications Sector) General Determination 2025. Elements of the Market Review are being appealed in the Courts.
5. This Consultation Document is structured as follows:
 - (a) section II sets out the Consultation Procedure;
 - (b) section III sets out the Legislative Context;
 - (c) section IV provides the RA's assessment of progress made since the 2023 sectoral review; and
 - (d) section V sets forth the RA's Initial Tentative Conclusions and Recommendations to the Minister of Home Affairs (**Minister**).

¹ The EC Sectoral Review is conducted to comprehensively review all policies, legislation, regulations and administrative determinations applicable to the EC sector.

² Market Reviews are conducted to assess if EC sectoral providers individually or together with others possess significant market power in relevant markets and determine if ex ante remedies must be imposed, modified or withdrawn to prevent or deter anti-competitive effects that are or are likely to be caused by the presence of significant market power in a relevant market (sections 21 and 23 of the ECA).

2. Consultation Procedure

6. This consultation is being undertaken in accordance with sections 69 to 73 of the RAA and section 18 of the ECA. The procedure and accompanying timelines (as set out in section 70 of the RAA), under which this consultation is taking place has been set out below.
7. Written comments should be submitted before 11:59 PM (Bermuda time) **6 July 2026**.
8. The RA invites general comments from members of the public, electronic communications sectoral participants and sectoral providers, and other interested parties.
9. All submissions will require a 'declaration of interest'. Any submission must include the name, address and occupation of the commenting party. It must be signed by the individual, in the case of a personal submission, or by an authorised representative of any business. Personal submissions must declare any relevant link to a licenced or government body, whether commercial or personal (i.e. family, etc). Where a business is not a licenced carrier, any business' submission must declare commercial relationships to any licenced operator. Failure to declare an interest that is subsequently identified will lead to the rejection of the submission.
10. Responses to this Consultation Document should be filed electronically in PDF format. Parties wishing to file comments follow this link: <https://www.ra.bm/consultations/consultations-directory> and click on the relevant consultation title).
11. All comments should be clearly marked "Comments on Electronic Communications Sectoral Review – Consultation Document".
12. The RA intends to make responses to this Consultation Document available on its website. If a commenting party's response contains any information that is confidential in nature, a clearly marked "Non-Confidential Version", redacted to delete the confidential information, should be provided together with a complete version that is clearly marked as the "Confidential Version." Redactions should be strictly limited to "confidential information," meaning a trade secret, information whose commercial value would be diminished or destroyed by public disclosure, information whose disclosure would have an adverse effect on the commercial interests of the commenting party, or information that is legally subject to confidential treatment. The "Confidential Version" should highlight the information that has been redacted. Any person claiming confidentiality in respect of the information submitted must provide a full justification for the claim. Requests for confidentiality will be treated in the manner provided for in section 33 of the RAA.
13. In accordance with section 73 of the RAA, any interested person may make an *ex parte* communication during this consultation process, subject to the requirements set forth in this paragraph 13. An *ex parte* communication is defined as any communication to a Commissioner or member of staff of the RA regarding the matter being consulted on in this Consultation Document,

other than a written submission made pursuant to this Section 2. Within two business days after making an *ex parte* communication, the person who made the *ex parte* communication shall submit the following to the RA: a written description of the issues discussed, and positions espoused; and a copy of any written materials provided.

14. The principal point of contact at the RA for interested persons for this Consultation Document is Érika Thomas, who may be contacted by email, referencing “Comments on Electronic Communications Sectoral Review – Consultation Document” at consultation@ra.bm” or by mail at:

Érika Thomas
Regulatory Authority
1st Floor, Craig Appin House 8 Wesley Street
Hamilton, Bermuda

15. The RA tentatively plans to issue a final report on this matter by 2 March 2027. This timeline will ultimately depend on several factors beyond the RA’s control, such as the nature of any public comments submitted. However, reasonable efforts will be made to attempt to adhere to this indicative timeframe.
16. In this Consultation Document, except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them by the ECA, the RAA and the Interpretation Act 1951.
17. This Consultation Document is not a binding legal document and does not contain legal, commercial, financial, technical or other advice. The RA is not bound by this Consultation Document, nor does it necessarily set out the RA’s final or definitive position on particular matters. To the extent that there might be any inconsistency between the contents of this Consultation Document and the due exercise by the RA of its functions and powers, and the carrying out of its duties and the achievement of relevant objectives under law, such contents are without prejudice to the legal position of the RA.

3. Legislative Context

18. Under section 12 of the RAA, the RA must ensure that the regulation of the electronics communications sector promotes competition, the interests of residents and consumers of Bermuda, the development of the Bermudian economy, Bermudian employment and Bermudian ownership, and innovation.
19. Section 17(1) of the RAA requires the RA to conduct a comprehensive review of each regulated industry sector every three years, including all policies, legislation, regulations, and administrative determinations applicable to the sector.
20. Under section 17(2) of the RAA, the RA must initiate the review process by publishing a consultation document, pursuant to section 70 of the RAA, inviting comment regarding:
 - (a) market conditions in the sector;
 - (b) regulations and administrative determinations to the sector that should be made, modified or revoked; and
 - (c) any other issues found to be relevant by the RA.
21. Section 17(3) of the RAA requires the RA to issue a preliminary report no later than six months after the date on which the RA issued the Consultation Document.
22. Section 17(4) of the RAA requires the RA to issue a final report no later than nine months after the date on which the RA issued the Consultation Document.
23. Section 70(2) of the RAA outlines the required contents of a Consultation Document which are set out below: the Consultation Document should include:
 - (a) the relevant factual and legal background;
 - (b) the issues on which public comment is sought;
 - (c) any tentative conclusions that the Authority has reached including, where appropriate, proposed language for any regulations that the Authority proposes to recommend to a Minister or any administrative determination that the Authority proposes to adopt;
 - (d) any questions that the Authority may request interested parties to address;
 - (e) the date by which responses must be filed;
 - (f) the deadline for completion of the consultation process and the issuance of a final report, recommendation or decision and order; and
 - (g) the name and contact information for the staff member who will serve as the principal point of contact for interested persons during the public consultation.

4. Assessment of Progress Made Since the 2023 Sectoral Review and Current Initial Recommendations

24. This section of the Consultation Document summarizes the recommendations made in the Final Report of the 2023 Sectoral Review and the progress made on those recommendations since then. This section also provides the RA's initial and in some instances renewed recommendations for this current Sectoral Review.
25. It is the RA's interpretation that section 17 of the RAA gives the RA the power to make recommendations that were made in the past if the said recommendations were not adhered to by the Ministry of Home Affairs or Legislature.

Amendments to the RAA

Sections 69-72 – 2023 and renewed 2026 Recommendation regarding public consultations

The RA recommends to the Minister the amendment of various sections of the RAA identified during the RA's fully comprehensive review. These suggested amendments include, but are not limited to, the following:

- *Amend the statutory requirement to conduct an initial public consultation as part of the General Determination process to account for exceptional circumstances where an initial public consultation may not be required (ie due to technological or and market developments, timing, sensitivity of the matter, inherent simplicity of the matter).*

26. Regarding amendments to the RAA concerning public consultations, in the 2023 Sectoral Review the RA recommended that the legislative provisions relating to the conduct of public consultations be streamlined. The RA recommended a two-stage approach public consultation, with the possibility of extending it to a third stage.
27. To provide clarity regarding the RA's 2023 recommendations, below you can find the RA's proposal in the 2023 Sectoral Review:

"62. The current consultation process set out in sections 69-73 of the RAA requires the RA to obtain public responses at two stages: an initial Consultation Document and a preliminary report, recommendation or decision and order.

63. Section 72(1) stipulates that within a reasonable period after the conclusion of the initial consultation period that RA must issue (i) a preliminary report; (ii) a preliminary recommendation; and (iii) a preliminary decision and order. Once the preliminary report, preliminary recommendation and preliminary decision and order are published, section 72(3) stipulates that the RA must provide the public with a reasonable period in which to file written responses.

64. *In 2018, the RA noted that the practical application of these two requirements can not only affect the RA's ability to respond to market and technological developments quickly and effectively, but also allows potential respondents to delay the process by requesting extensions to the deadline to submit responses. The RA has found that the public consultation process that is required as part of developing a General Determination can be lengthy and cumbersome, particularly where an issue requires a prompt resolution in response to market developments or where the subject of the consultation is not overly complex and does not require extensive deliberation. The RA considers that the current process is not appropriate in all circumstances and therefore seeks to introduce an element of discretion to address this matter.*
65. *For example, the RA held a public consultation for such a simple administrative task as decommissioning the Price Check Website which invited no controversy or comments from sectoral providers, and which took over two years to complete.*
66. *The RA recommends that the provisions governing the consultation process as set forth in sections 69-73 of the RAA be amended in order to streamline the process, which would include at a minimum:*
- a. Creating a two-stage process for public consultations instead of a three-stage one (while still retaining an optional ability to prepare as many additional documents as the RA, in its discretion, regards as appropriate; and*
 - b. Requiring consultations for the making of General Determinations only in cases of 'public significance', allowing the RA to bypass consultations for routine administrative tasks. The RA should follow the approach of OfReg in the Cayman Islands – see section 7(3) of the Cayman Islands Utility Regulation and Competition Act, which defines a matter as having 'public significance':*

“where it relates to a sectoral utility and is likely to lead to (a) a major change in the activities carried on by the Office under this or any other Law; (b) a significant impact on a sectoral provider; or (c) a significant impact on members of the public.” “

28. In reviewing and considering the 2023 Sectoral Review recommendations, the RA continues to hold the view that the proposed changes are still necessary. As such, the RA initially recommends that the legislative provisions regarding the conduct of public consultation be streamlined to give the RA more flexibility when conducting public consultation. For example, consultations regarding Market Review and Sectoral Review would be at least a three-stage consultation process.

Section 93 – 2023 and renewed 2026 Recommendation regarding enforcements

The RA recommended to the Minister the amendment of various sections of the RAA identified during the RA's fully comprehensive review. These suggested amendments included, but were not limited to, the following:

- *Amend the existing adjudication process and enforcement process to ensure that the RA is afforded the ability to quickly and effectively resolve circumstances and impose remedies where there has been a breach, or alleged breach of an Integrated Communications Operating Licence (ICOL) holder's legal obligations, or there are disputes between two sectoral providers or a sectoral provider and a consumer.*

[...]

29. In 2018 and 2023, the RA stated that it found the operation of the current adjudication and enforcement processes counterproductive and cumbersome. The RA also noted the problematic nature of its role as both a party to an adjudication and enforcement proceedings and the ultimate decision-maker.
30. The RA also informed the public that its first enforcement proceedings in 2020 and 2021 proved to be expensive, cumbersome and time-consuming processes not too dissimilar to a fully contested court proceeding.
31. Between 2022 and 2024, the RA faced numerous challenges to make certain³ sectoral providers become compliant with their regulatory framework.
32. In 2025, the RA attempted to commence enforcement proceedings against certain sectoral provider. The RA faced numerous issues regarding the enforcement including resistance to the process by sectoral providers, difficulties to appoint an independent presiding officer, and lack of funds given the government's delay in approving the RA's work plan. Many of the RA's efforts to resolve the matter were frustrated due to these issues. The matter was finally resolved by consent but should not have dragged on for the amount of time that it took if the RA's powers were wider.
33. Analysing the rights of reconsideration and appeal of a decision pursuant to sections 82 and 96 of the RAA, the RA concluded that:
 - the legislation created uncertainty,
 - took a long time to reach any sense of finality; and
 - reduced its effectiveness in encouraging sectoral providers to remain compliant with their regulatory framework.

³ The name of these sectoral providers cannot be disclosed to protect their commercial value and/or prevent adverse effect on their commercial interests.

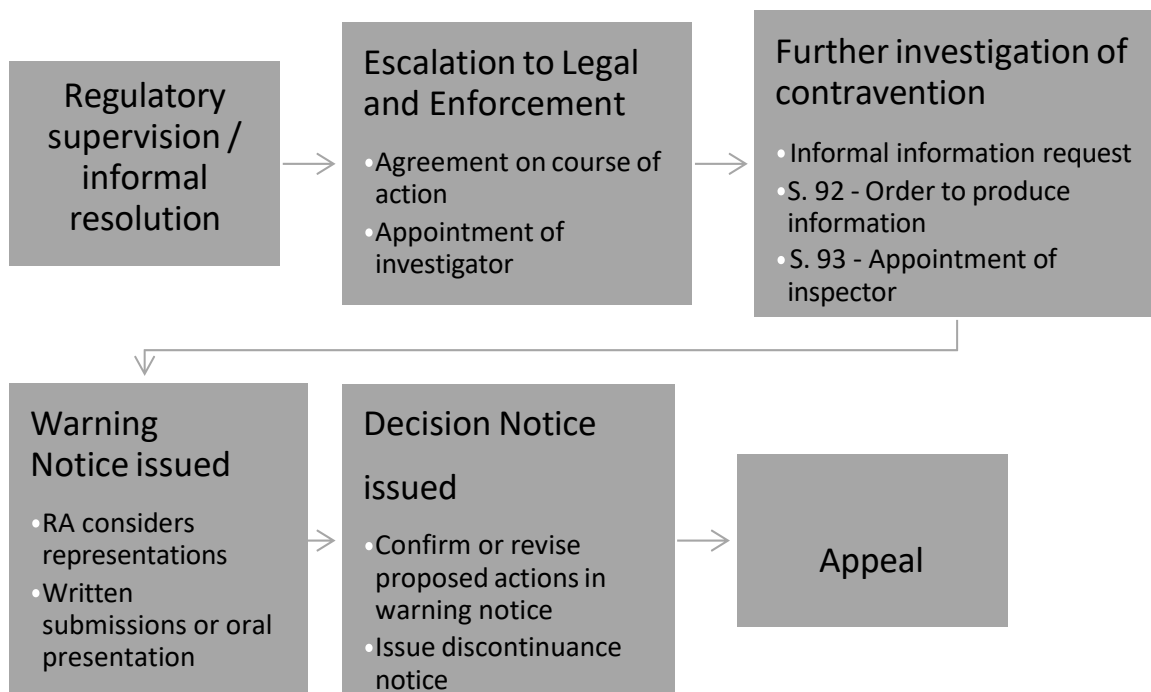
34. Given the above, the RA concluded that the current adjudication and enforcement procedures were not fit for purpose insofar as the need for an effective, efficient and dissuasive regime for the resolution of alleged breaches by sectoral providers were concerned. The RA continues to work with its sectoral providers to maintain compliance. However, the RA continues to hold the view that having power to issue a simpler warning-and-decision notice procedure based on that used in the sectoral legislation of the Bermuda Monetary Authority (**BMA**) would make the adjudication and enforcement procedures more effective and efficient. The RA also continues to believe that widening its disposal options for enforcement can also assist the RA in protecting consumers from harm and provide a stable regulatory regime which can attract investments and promote the orderly development of Bermuda's electronic communications sector.
35. Regarding amendment of adjudication and enforcement process, the RA recommended to the Minister to amend the RAA, replacing the cumbersome adjudication and enforcement process with a simpler warning-and-decision-notice procedure based on that used by many other regulators and locally by the BMA. The RA further recommended that its disposal options for enforcement should be widened.
36. The RA continues to hold the view that the changes proposed in 2018 and 2023 are still necessary.
37. Given the above reasons and considering that the amendments proposed in 2022/23 were not implemented by the Ministry of Home Affairs, the RA initially renews its previous recommendations to amend/change the enforcement/adjudication proceedings.
38. Based on the previous sectoral review the RA initially renews its previous recommendations to update its enforcement proceedings as follows:

Proposal to Update the RA's Enforcement Proceedings:

- (a) **Warning and Decision Notice** – As proposed before, the current IPO-led adjudication process is cumbersome and costly. It should be replaced with a new procedure based on the warning-and-decision-notice procedure used by the BMA.
- (b) **Objectives** – The new enforcement regime should achieve the following objectives:
 - i. The procedures should be simple to navigate;
 - ii. The enforcement process should be streamlined;
 - iii. Enforcement options should be wide and varied;
 - iv. Decisions should be taken internally by the RA to the greatest extent possible, with a view to minimizing costs;
 - v. All actions and decisions taken should continue to be guided by the regulatory principles of the RA contained in section 16 of the RAA;

- vi. There should be appropriate consideration of the rules of fairness and natural justice, with an appropriate appeal to the Courts; and
 - vii. To achieve each of the foregoing objectives, the legislation should provide only a framework and avoid being overly prescriptive; the RA should be able to flesh out the processes through policy documents and a statement of enforcement principles published on its website.
- (c) **Disposal options for enforcement** – There should be a wide variety of disposal options for any type of enforcement. Such disposal options would assist in taking an appropriate course of action to alleviate any offending behaviour. “Appropriate” would mean an effective, proportionate and dissuasive action Similar to the BMA legislation.
- (d) **Civil Penalties** – The RA should be able to impose a civil penalty of up to \$500,000 (similar to the BMA’s civil penalty) or 10% of total annual turnover (currently under the RAA) noting that maximum penalty imposable by the RA should be whichever is the higher of these two numbers.
- (e) **Restitution** – The RA should retain its power under the RAA to require a sectoral participant to make restitution to any person directly injured or otherwise prejudiced because of any contravention. The BMA legislation does not address restitution.
- (f) **Directions** – The BMA legislation does allow for the issuing of directions, with variance across the sectoral legislation. The RAA allows for a uniform power to direct a sectoral participant to take, or refrain from taking, actions the RA reasonably determines to be necessary to ensure that the sectoral participant acts in conformity with its duties and obligations. This uniform power should be retained. For the avoidance of doubt, this provision should also refer to powers by the RA to seek prohibition orders and court injunctions where appropriate.
- (g) **Suspension, revocation or modification of licence** – The RAA treats these matters as a separate disposal option following enforcement/adjudication proceedings. The BMA legislation does not. If the RA’s legislation is to be amended to allow for streamlined processes, these dispositions should remain under the head of ‘enforcement’ in the RAA.
- (h) **Public censure** – While the BMA legislation specifically has this disposal option the RA’s legislation does not. Such disposal should be included in the RAA as a way to address non-compliance.
- (i) **Refer a matter to criminal prosecution** – This option exists in the BMA and RA’s legislation. As such it should continue as a disposal option, but it should also exist independently of the enforcement proceedings.

39. The RA initially proposes that the RAA should be amended to reduce cumbersome proceedings that are currently in place such as appointment of independent presiding officer, hearing notice, hearings, preliminary adjudicative order, final adjudicative order, motion to reconsider and appeal to courts. The RA initially proposes that a streamlined procedure contained in the BMA's legislation be implemented. Below is a chart streamlining the procedure for enforcement that the RA is initially proposing:



40. Based on the above chart, the RA should attempt to resolve matters informally as the first step of its enforcement proceedings if it was of the view that a sectoral participant or provider was in breach of any regulatory obligations. The RA's Regulation Team should have oversight of the regulated sectors. The RA's view to suggest this is that a simple matter can be resolved without having to escalate it to the Legal and Enforcement Team.
41. The RAA does allow the RA to enter an undertaking in lieu of taking enforcement proceedings (as per section 95 of the RAA). Given this, the RA should retain this power, which should be permissible at any stage of enforcement. However, a formal "decision and order" should not be required to give effect to this power; the Regulation and/or Legal Teams should be responsible for these matters and decide if this power should be exercised.
42. The RA should solely decide to initiate, continue or conclude an enforcement. This means that the matter should not be vested in an independent presiding officer especially if the decision will ultimately be taken by the RA's Board of Commissioners and will be subject to an appeal. For

clarity, currently decisions made by the independent presiding officer require approval of the RA's Board of Commissioners. Such a requirement shows how cumbersome the process is.

43. Historically, the BMA's decisions regarding enforcement proceedings were delegated to the Chief Executive. However, the BMA Board created an Enforcement Committee to which it delegated the powers of enforcement. This committee comprises the Chief Executive, Director of Legal Services and Enforcement and other senior members of staff who are not involved in the day-to-day management of any file. Their legislation is not overly prescriptive regarding the decision-maker, as the RA's legislation is. The flexibility in the legislation would give the RA flexibility to adopt the procedure it considers appropriate and to evolve with time.
44. The RA initial recommendation is to follow similar suit and create an enforcement committee comprising of the Chief Executive, one Commissioner and one member of the legal team who is not involved in the day-to-day management of the matter at hand.
45. If a matter cannot be resolved internally and has to be the subject of enforcement proceedings, the RA could engage its investigative and information-gathering powers to understand if a contravention had occurred. The RA would have to consider the evidence available to it to decide whether to adopt any disposal options noted above or if it should issue a notice of discontinuance
46. If the RA decides to adopt any of the disposal options mentioned above, it would issue a "warning notice" to the offending sectoral participant or provider. The "warning notice" would provide the offending sectoral participant or provider with an opportunity to make representations regarding the matter.
47. The warning notice should:
 - (a) state the action which the RA proposes to take;
 - (b) be in writing; and
 - (c) give reasons for the proposed action.
48. The warning notice should also specify a reasonable period within which the person to whom it is given may make representations to the RA. The RA would then have to consider the representations made by the offending sectoral participant or provider when deciding whether to give a decision notice. Further, the warning notice should also set out other specified particulars which may be required, depending on which disposal option is proposed.
49. The RA, after considering the sectoral participant or provider's representations must adopt a "decision notice" setting out the relevant disposal option(s).
50. The decision notice should:
 - (a) state the action which the RA will take;
 - (b) be in writing;
 - (c) give reasons for the action;

- (d) advise the sectoral participant or provider of its rights to appeal to the Supreme Court the RA's decision;
 - (e) be issued within 90 days of the warning notice being given; and
 - (f) set out other specified particulars which may be required depending on which disposal option is adopted.
51. If a decision notice is issued after 90 days of the warning notice being given the matter should be treated as discontinued.
52. The RA may publish on its website appropriate information about the decision notice subject to confidentiality considerations. It is of note that the BMA legislation permits but does not require publication, except in the case of public censure. Even then, the BMA may choose to just issue general information about a decision notice and not necessarily the entire decision notice. Based on this, the publication of any information about the RA's decision notice should be at the discretion of the RA.
53. As mentioned, any decision notice (along with certain other aspects under the legislation) should be subject to an appeal to the Supreme Court.
54. As recommended before, once the amendments were made the RA would conduct a public consultation to implement the Enforcement Guidance. The public consultation would contain the principles, processes and procedures for the Enforcement Guidance. The RA provided as an example to support its recommendations, the BMA⁴ and OfCom⁵ enforcement guidance. The RA renews its previous recommendation and initially recommends that the enforcement guidance be based on the guidance of those two entities.
55. Regarding financial penalties, associated with the enforcement/adjudication proceedings the RA recommended that the maximum applied fine be either \$500,000 or up to 10% of the total annual turnover to allow the RA's powers to be sufficient to deter contravention. The RA continues to support this previous recommendation.
56. Additionally, the RA proposed carrying out a public consultation to change its current Adjudication Rules while it waited for legislative amendments replacing its cumbersome adjudication and enforcement process. Given the delay in approval of the RA's Work Plan in the financial years 2024-25 and 2025-26, the RA was unable to conduct the proposed public consultation.

⁴BMA Enforcement Guide Statement of Principles and Guidance on the Exercise of Enforcement Powers (2019) <https://www.bma.bm/viewPDF/documents/2019-03-27-05-40-10-Enforcement-Guide-Statement-of-Principles-and-Guidance-on-the-Exercise-of-Enforcement-Powers.pdf>. Accessed 25 May 2026.

⁵OfCom Revising the Regulatory Enforcement Guidelines (2025) <https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-2-6-weeks/238024-revising-the-regulatory-enforcement-guidelines/associated-documents/enforcement-guidelines.pdf?v=401913>. Accessed 25 May 2026.

Consequences of Amending the RA's Enforcement Proceedings on Consumer and Sectoral Provider Complaints

57. As stated in the 2023 Sectoral Review, sections 57 and 58 of the RAA respectively empower the RA to resolve disputes between:
 - (a) end- users and sectoral providers, and
 - (b) sectoral providers.
58. Such provisions concern alleged contraventions of the RAA, sectoral legislation or any regulations made by the Minister or administrative determination made by the RA by sectoral providers.
59. The provisions foresee a process whereby disputes should first be resolved by direct negotiations. Failing that, the RA acts to facilitate an informal resolution of the dispute. In the case of an end-user dispute, this is within 30 days. Relating to a sectoral provider dispute, this is within 60 days.
60. At the end of that process, the RA may decide to dispose of the matter in one of three ways:
 - (a) Where both parties consent, and the RA concludes to be appropriate, it may escalate the matter to arbitration, at the parties' expense;
 - (b) The RA may conduct an adjudication; or
 - (c) If the RA determines that the complaint is plainly without merit, it can issue a decision and order dismissing the complaint.
61. All complaints must be predicated on an allegation of contravention, and such allegations can potentially be the subject of enforcement proceedings. Given this, it is not immediately apparent why provisions 57 and 58 are contained in the RAA.
62. It has been the RA's view that a more sensible solution would be to allow it to consider complaints informally. To do this, the RA should be empowered to settle its complaint intake process without the need for legislation. As such, the RA should escalate complaints deemed to have merit to its legal department for consideration of enforcement proceedings.
63. Given the above, the RA reiterates its previous recommendation and initially recommends that sections 57 and 58 of the RAA be deleted. Alternatively, the RA renews its previous recommendation that there should be consequential amendments effected because of the RA's recommendations to change its enforcement proceedings and references to adjudications in sections 57 and 58 be replaced with a more generic reference to "enforcement action" under section 93 of the RAA.

Amendments to the ECA

The RA recommends to the Minister the amendment of various identified sections of the ECA in response to the RA's fully comprehensive review. These suggested amendments include, but are limited to the following:

- **Amend section 18(5) of the ECA to allow** revocation or suspension of an ICOL or COL upon the RA issuing a written notice to a sectoral provider that:
 - has an inactive licence;
 - fails to comply with the ECA or any act that prohibits, controls or regulates the operation of an ICOL or Communications Operating Licence (**COL**);
 - is bankrupt; or
 - has in the course of his operation as an ICOL or COL holder been convicted of an indictable offence involving dishonesty.

Section 18 - Recommendation to amend the ECA to allow revocation or suspension of the ICOL or COL in a more cost-effective way

64. The RA's enforcement powers allow the RA to revoke an ICOL because of an enforcement/adjudication proceeding (section 93(5)(e)). Section 51(5) of the RAA allows the RA to issue a written notice to an authorization holder advising it of the RA's intention to revoke or suspend a licence, permit or authorisation. Section 51 of the RA states:

RAA

51 (1) The Authority, when authorized by sectoral legislation, on its own motion or at the request of an authorization holder, may modify or vary any term or condition of a licence, permit or other authorization if the Authority concludes that such modification or variation is necessary in the public interest.

(2) Before taking any action pursuant to subsection (1), the Authority shall give the authorization holder reasonable notice and an opportunity to comment, and shall take into account any representations made by or on behalf of the authorization holder.

(3) The Authority may issue a decision and order suspending or revoking any licence, permit or other authorization where the authorization holder has –
(a) made false statements of material facts, committed fraud or made a misrepresentation in the application for the licence, permit or other authorization or in any subsequent statement to the Authority;

(b) failed to comply with—

(i) any applicable requirements contained in this Act or in sectoral legislation;

(ii) any regulations made by a Minister or any administrative determination made by the Authority; or

- (iii) the terms or conditions of the licence, permit or other authorization; or*
- (c) failed to pay to the Authority any authorization fees, regulatory fees or any other required payment.*
- (4) the Authority may suspend or revoke any licence, permit or other authorization in –*
 - (a) any circumstances provided for in sectoral legislation; or*
 - (b) any case in which the authorization holder has breached a condition in the authorization.*
- (5) before the Authority issues a decision and order suspending or revoking a licence, permit or other authorization, the Authority shall provide written notice to the authorization holder.*
- (6) The Notice specified in subsection (5) shall include –*
 - (a) the action that the Authority proposes to take;*
 - (b) the basis on which the Authority proposes to take the action;*
 - (c) the time frame within which the authorization holder may submit written comments regarding the proposed action; and*
 - (d) the actions that the authorization holder must take to avoid suspension or revocation, and the time frame in which such actions must be taken.*
- (7) The Authority shall specify the date on which any revocation shall occur, which shall be at least ten days after the effective date of the decision and order.*

65. Despite the provisions of section 51 of the RAA, section 18(5) of the ECA requires the RA to conduct an adjudication, adopt a final adjudicative decision and order by unanimous vote of the RA's Board of Commissioners and obtain the written consent of the Minister of Home Affairs in order to revoke an ICOL or COL. Such legislative requirement to conduct an adjudication is extremely cumbersome and costly for the RA.

66. By way of background, there are currently 19 ICOLs issued by the RA. Out of these 19 ICOLs, two ICOLs are inactive and the ICOL holders are non responsive to the RA. Additionally, there is another ICOL holder that is 'responsive' but is basically holding the licence "inactive". As can be understood, these sectoral providers are in breach of their regulatory obligations. Given this, it is the RA's view that these ICOLs should be revoked. The revocation should be done by way of written notice giving ample time for the authorisation holders to make representations as envisaged under section 51 of the RAA and without the need of an adjudication process required under section 18(5) of the ECA. A simple adjudication process can cost at least \$30,000. The procedure can also be lengthy if the authorisation holder is responsive.

67. Sections 46 and 66 of the Submarine Communications Cables Act 2020 (**SCCA**) provides a more streamlined process. The SCCA authorises the revocation of a permit or licence if a written notice is issued to the holder of the permit or licence if the RA is satisfied that the holder has breached a condition of the permit or licence. To revoke permits or licences the RA must give the authorisation

holder an opportunity to submit to the RA any matters that the holder wishes the RA to consider when deciding to revoke a permit or licence (sections 51 of the RAA and sections 46 and 66 of the SCCA).

68. Sections 46, 66 and 67 of the SCCA state as follows:

“46 (1) Without prejudice to section 51 of the Regulatory Authority Act 2011, the Authority may suspend or revoke a protection zone installation permit by written notice to the holder of the permit, if the Authority is satisfied that the holder has breached a condition to which the permit is subject.

(2) Before a permit is suspended or revoked under subsection (1)—

- (a) the Authority shall give the holder 30 days’ written notice of the Authority’s intention to suspend or revoke the permit and the ground or grounds on which the Authority intends to do so;*
- (b) the Authority shall give the holder an opportunity to submit to the Authority any matters that the holder wishes the Authority to take into account in deciding whether to suspend or revoke the permit; and*
- (c) the Authority shall take into account any matters submitted by the holder under paragraph (b) and any action taken by the holder to address the Authority’s concerns or to prevent the recurrence of similar circumstances.*

(3) For the avoidance of doubt, section 51 of the Regulatory Authority Act 2011 shall apply to the suspension or revocation of a permit.

66 Without prejudice to section 51 of the Regulatory Authority Act 2011, the Authority may, in writing, at any time, revoke a submarine cable licence if the carrier—

- (a) no longer operates the submarine cable;*
- (b) applies to the Authority in writing requesting the revocation of the licence;*
- (c) fails to comply with this Act or any enactment that prohibits, controls or regulates the operation of a submarine cable;*
- (d) is bankrupt; or*
- (e) has, in the course of his operation of the submarine cable been convicted of an indictable offence involving dishonesty.”*

67 (1) The Authority shall, before it varies any conditions in a licence or revokes a licence –

- (a) give the carrier notice in writing of the ground or grounds on which it intends so to do;*
- (b) afford the carrier an opportunity to object in writing within the period of 30 days after receipt of the notice; and*
- (c) take any such objection into consideration,*

and, if the Authority decides to vary a condition in a licence or revoke the licence, it shall cause the instrument revoking the licence or varying a condition in the licence to be served on the carrier.

(2) The variation or revocation of a submarine cable licence takes effect on the expiration of 21 days beginning on the date of service on the carrier of the instrument varying or revoking the licence.

69. Given the above, it is the RA's initially recommends that section 18 (5) of the ECA should be amended to eliminate the need to conduct an adjudication process, adoption of a final adjudicative decision and order by unanimous vote of the RA's Board of Commissioners and the written consent of the Minister of Home Affairs and adopt the same procedure envisaged in section 51 of the RAA and sections 46, 66 and 67 of the SCCA.
70. Alternatively, the RA recommends that it should have the power to revoke an ICOL or COL, according to the provisions of section 51 of the RAA, if the authorisation holder meets any of the conditions of a licence revocation under section 66 of the SCCA. Therefore, the RA could have the right to revoke a licence if it determined that the authorisation holder:
- (a) had an inactive licence;
 - (b) failed to comply with the ECA or any act that prohibits, controls or regulates the operation of an ICOL or COL;
 - (c) was bankrupt; or
 - (d) had in the course of his operation of the ICOL or COL, been convicted of an indictable offence involving dishonesty.

Sections 41 and 50 – 2023 and renewed 2026 Recommendation to allow the fulfilment of RA's mandate in the EC sector

The RA recommends to the Minister the amendment of various identified sections of the ECA in response to the RA's fully comprehensive review. These suggested amendments include, but are limited to the following:

- **Remove the references to the adjudication process in sections 41 and 50 of the ECA and replace with a reference to consultation.**
 - As currently constructed, section 41 of the ECA stipulates that to impose remedies for the inefficient use of Spectrum, the RA must have completed a lengthy and cumbersome adjudication process. Similarly, section 50(2)(b) of the ECA stipulates that an adjudication must be completed in order to approve electronic communications technology, in accordance with section 50(2)(b) of the ECA. The proposed recommendation will ensure that the processes outlined in sections 41 and 50 of the ECA are more efficient.

71. Regarding amendments to the ECA, the RA initially recommends that the references to the adjudication process in sections 41 and 50 of the ECA be replaced with a reference to consultation.

72. As mentioned above, section 41 of the ECA requires the RA to conduct an adjudication process to impose remedies for the inefficient use of spectrum.
73. Additionally, section 50(2)(b) of the ECA requires completion of an adjudication to approve electronic communications technology. It is the RA's view that once it conducts a public consultation required under section 50(2)(a) and establish technical standards relating to electronic communications networks or radio apparatus and customer premises' equipment or any specified network, apparatus of equipment the RA should consequently be able to prohibit the sale, supply or use of any electronic communications network, radio apparatus or customer premises' equipment which does not comply with the requirements of any such standard.
74. The RA renews its 2023 recommendation and initially recommends n that it should measure efficient use of spectrum and approve electronic communications technology through a public consultation process.

Section 44 – 2026 Recommendation to amend the ECA to allow aircraft flying in Bermuda airspace to use their radio apparatus

The RA recommends to the Minister the amendment of various identified sections of the ECA in response to the RA's fully comprehensive review. These suggested amendments include, but are limited to the following:

- **Amend section 44(3) of the ECA to allow** aircraft flying in Bermuda's airspace to utilize their radio apparatus for any purpose.

75. Section 44(3) of the ECA states as follows:

No radio apparatus on board an aircraft shall be used while the aircraft is in Bermuda airspace or on the ground in Bermuda except for the purpose of communication with a licensed ground station, for operational and commercial control service, or for testing prior to flight of the apparatus used for air traffic control and air navigation purposes, notwithstanding that a licence, whether granted under this Act or the law of any other country, or territory, is in force in respect of such apparatus.

76. With the advancement of satellite based communications and in particular satellite based internet connectivity, the limitations contained in section 44(3) of the ECA have become outdated. Almost all aircraft and vessels transiting Bermuda airspace and territorial waters have some form of satellite based communications (particularly internet broadband) that can provide more connectivity options than the ones listed in section 44(3) of the ECA.

77. While section 44(5) of the ECA does permit the RA to provide specific permission to amend parts of section 44(3), such permissions are only offered upon application and for a limited (typically 3 year) term. The RA is aware of a handful of such requests over the past 3 years. Given Bermuda's geographic location, there are likely a substantial number of airlines/satellite providers that have not sought a section 44(5) authorisation and therefore are technically in breach of the ECA. Practically however, the RA is unable to identify these entities and seeking enforcement action would be counterproductive.
78. Considering the difficulties in ensuring compliance with the ECA and the advancement of technology, the RA initially recommends that Section 44(3) of the ECA be amended to allow aircraft flying in Bermuda airspace to use their radio apparatus for any purpose. The RA also initially believes that the prohibition contained in section 44(3) of the ECA should continue to apply to aircraft on the ground. Given those initial recommendations, section 44(3) of the ECA should be amended to delete the words "*in Bermuda space or*" from it.

Section 46 - 2026 Recommendation to adopt and publish the national numbering plan by Order

The RA recommends to the Minister the amendment of various identified sections of the ECA in response to the RA's fully comprehensive review. These suggested amendments include, but are limited to the following:

- **Amend section 46(1) of the ECA to remove** the requirement to issue a general determination to adopt and publish a national numbering plan for those categories of communications providers that the RA deems eligible for participation in the national numbering scheme.

79. Pursuant to section 46(1) of the ECA, the RA is required to issue a general determination to adopt and publish a national numbering plan for categories of communications providers deemed eligible to participate in the national numbering scheme. As noted in the 2023 Sectoral Review, the RA considers the requirement to conduct a public consultation for updates to the National Numbering Plan to be unnecessary in certain circumstances—particularly where a three-phase consultation process is mandated. The RA's position is that administrative matters, such as updating the National Numbering Plan, should instead be effected through an order published on its website. Given this, the RA initially recommends that section 46(1) of the ECA be amended to allow for adoption and changes to the National Numbering Plan by order.

5. Tentative Conclusions and Initial Recommendations to the Minister

80. Regarding public consultations, the RA initially recommends that the legislative provisions governing public consultation be streamlined. Specifically, the RA proposes replacing the current process with a two-stage public consultation framework, with the option of extending to a third stage where necessary.
81. The RA initially recommends that the Minister pursue amendments to the RAA to replace the existing adjudication and enforcement process with a simplified warning-and-decision-notice procedure, as outlined above. The RA further proposes broadening its enforcement disposal options. In light of these changes, sections 57 and 58 of the RAA would become redundant and should therefore be repealed.
82. The RA initially recommends that the Minister amend the RAA to authorize the imposition of financial penalties up to a maximum of \$500,000 or, alternatively, up to 10% of the total annual turnover, thereby ensuring sufficient deterrent effect in cases of contravention.
83. Regarding amendments to the ECA, the RA initially recommends amending section 18(5) of the ECA to remove the requirement for an adjudication process, including adoption of a final adjudicative decision and order by unanimous vote of the Board of Commissioners and written consent of the Minister of Home Affairs, in order to revoke an ICOL or COL. Instead, the RA recommends adopting the procedure envisaged in sections 51 of the RAA and sections 46, 66, and 67 of the SCCA.
84. The RA also initially recommends that the Minister requests that references to the adjudication process in sections 41 and 50 of the ECA be replaced with a reference to consultation.
85. The RA initially recommend amending section 44(3) of the ECA to allow aircraft in Bermuda airspace to use radio apparatus on board the aircraft.
86. The RA further initially recommends the amendment of section 46(1) of the ECA to allow for adoption and changes to the National Numbering Plan by order.
87. Finally, the RA recommends amending all Radio Class Licence Regulations (see more details in Annex 1 below) as in the RA's view they are outdated.
88. This Consultation Document sets forth the RA's initial views on recommendations to be made as part of the Sectoral Review. The RA welcomes comments on the proposed recommendations or any other matter related to this Consultation Document.

Annex 1 – Sectoral Review – Detailed Analysis of Law and Regulations

General Determinations Considered in the 2023 Sectoral Review

General Determinations	RA's 2022 Comments	RA's 2023 Proposal(s)	Current status
Regulatory Authority (Market Review of the Electronic Communications Sector) General Determination 2020	This General Determination was made in 2020 allowing for the designation of certain sectoral providers as possessing significant market power. It also imposed several remedies to prevent anti-competitive conduct and promote effective competition.	This Sectoral Review was separate from the Market Review. The next such review was to be concluded by 2024, and any further comment relating to the 2020 General Determination was to be reserved to that review.	The Regulatory Authority (Market Review of the Electronic Communications Sector) General Determination 2020 was revoked on 30 September 2025 due to the conclusion of the 2025 Electronic Communications Market Review and enactment of a new general determination (more details below).
Regulatory Authority (Removal of Moratorium; Exposure to 5G Radiofrequency Electromagnetic Fields) General Determination 2021	This General Determination followed from the Radiofrequency and 5G Safety Preliminary Report Consultation and recommendations made by the Advisory Panel on 5G safety to the Board of Commissioners.	No further proposal was made by the RA regarding this General Determination.	No further proposal is made by the RA regarding this General Determination.
Regulatory Authority (Interconnection and Interoperability) Emergency General Determination 2021	The purpose of this Emergency General Determination was to ensure that new operators could compete on an even playing field. Key policies included obligations on interconnection ensuring that incumbent sectoral providers allowed new operators' access to services at fair prices and interoperability ensuring that interconnection was technically feasible.	The RA proposed to finalize this consultation process in the future imposing on all sectoral providers interconnection and interoperability obligations as detailed in the Regulatory Authority (Interconnection and Interoperability) Emergency General Determination 2021.	Obligations regarding interconnection and interoperability were imposed in the Regulatory Authority (Electronic Communications Market Review) General Determination 2025.

General Determinations Since the 2023 Sectoral Review

General Determinations post the 2023 Sectoral Review	RA's 2026 Comments	RA's 2026 Proposal(s)
Principles of Consumer Protection Consultation	In October 2024, the RA commenced the public consultation to allow updates to the Regulatory Authority (Principles of Consumer Protection) General Determination 2020. The amendments are intended to enhance consumer protection in Bermuda's regulated sectors, including the Electronic Communications Sector. Due to restraints the consultation is still in its initial phase.	The RA proposes to conclude this consultation in the financial year 2026-2027.
Modifications to the Regulatory Authority (Grant of Spectrum Licences, Permits and Exempted Frequencies) General Determination 2020	In December 2022, the RA commenced the public consultation to modify the Regulatory Authority (Grant of Spectrum Licences Permits and Exempted Frequencies) General Determination 2020. The intent of the new general determination is to clarify the processes and procedures regarding the grant of new HDS/NHDS licences, permits and exempted frequencies contained in the 2020 general determination. Due to restraints the consultation is still in its initial phase.	The RA proposes to conclude this consultation in the financial year 2026-2027.
Regulatory Authority (Market Review of the Electronic Communications Sector) General Determination 2025	This General Determination was made in 2025 allowing for the designation of certain sectoral providers as possessing significant market power. It also imposed several remedies to prevent anti-competitive conduct and promote effective competition. Certain Sectoral Providers deemed to have significant market power have exercised their right to appeal the RA's decision. As such some of the remedies imposed have been stayed by the Supreme Court of Bermuda.	The RA awaits conclusion of the litigation regarding the stayed remedies. Depending on the result of the litigation, the RA may have to conduct an annual benchmarking exercise to review the entry level fixed broadband and mobile anchor products and a biennial benchmarking exercise to review the retail minus X% of the fixed broadband wholesale and wholesale business connectivity products. Additionally, the RA committed to conduct a public consultation regarding the potential impact of Low Earth Orbit and Device to Device services before issuing any licences for satellite-based services.

Administrative Determinations Considered in the 2023 Sectoral Review

Administrative Determinations	RA's 2022 Comments	RA's 2022 Proposal(s)	Current Status
Order setting out Consultancy Deposits under the Submarine Communications Cables Act 2020, dated 27 December 2020	The RA issued a Final Decision and Order setting the Consultancy Deposits required under the Submarine Communications Cables Act 2020.	No further proposal was made by the RA regarding this Administrative Determination.	No further proposal is made by the RA regarding this Administrative Determination.
Order setting Application Form, Permit and License Templates under the Submarine Communications Cable Act 2020, dated 22 July 2021	The RA issued a Final Decision and Order setting the Application Form, Permit and Licence Templates under the Submarine Communications Cables Act 2020.	No further proposal was made by the RA regarding this Administrative Determination.	No further proposal is made by the RA regarding this Administrative Determination.

Administrative Determinations Since the 2023 Sectoral Review

Administrative Determinations post the 2023 Sectoral Review	RA's 2026 Comments	RA's 2026 Proposal(s)
Order setting granting confidential treatment to the redacted Annex A of OneComm's Confidential Supplemental Information dated 26 August 2026.	On 26 August 2025, the RA issued an Order according to sections 33(1), 33(2)(c), 33(4), 33(5), and 63 of the Regulatory Authority Act 2011 and rules 30(1), 30(2)(d), 30(3) and 30(6) of the Regulatory Authority Interim Administrative Rules 2013 GRANTING confidential treatment to the redacted Annex A: Confidential Supplemental information of One Communication Ltd response to the 2025 Electronic Communications Market Review Preliminary Report dated 9 June 2025.	No further proposal is made by the RA regarding this Administrative Determination.
Order granting confidential treatment to the redacted sections of LinkBermuda's response to the RA's Electronic Communications Market Review Questionnaire, dated 21 February 2024.	On 21 February 2024, the RA issued an Order according to sections 33(5) and 63 of the Regulatory Authority Act 2011, granting confidential treatment to the redacted sections of LinkBermuda's response to the RA's 2023-24 Electronic Communications Market Review Questionnaire dated 30 January 2024 submitted to the RA on 19 February 2024.	No further proposal is made by the RA regarding this Administrative Determination.

Order approving a change of control of the Integrated Communications Operating Licence of Bermuda Telephone Co. Limited and Telecommunications (Bermuda and West Indies) dated 26 January 2024.	On 26 January 2024, the RA issued a final decision and order authorizing (conditional upon receiving the written consent of the Minister responsible for electronic communications in accordance with section 18(6) of the ECA) the change of control of the Integrated Communications Operating Licences (ICOL) held by Bermuda Telephone Co. Limited ICOL201305Rev1-754 and Telecommunications (Bermuda & West Indies) Limited ICOL201318Rev1-767 (together Digicel Bermuda). The Minister's Consent was provided also on 26 January 2024.	No further proposal is made by the RA regarding this Administrative Determination.
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Regulations Considered in the 2023 Sectoral Review

Regulations	RA's 2022 Comments	RA's 2022 Proposal(s)	Current Status
Electronic Communications (Regulatory Authority Fees) Regulations 2022	The purpose of this Regulation was to set up the RAF for the Financial Year 2022-2023.	No further proposal was made by the RA regarding this Regulation.	This Regulation was amended in 2023 to include a RAF for an Inspection Fee for Network Interference Investigation in the sum of \$1,500 for the Financial Year 2023-2024.

Regulations To Be Considered in the 2026 Sectoral Review

Regulations to be considered in the 2026 Sectoral Review	RA's 2026 Comments	RA's 2026 Proposal(s)
Electronic Communications (Regulatory Authority Fees) Amended Regulations 2023	The purpose of this Regulation was to amend Schedule 2 of the Electronic Communications (Regulatory Authority Fees) Regulations 2022 to include the RAF for an Inspection Fee for Network Interference Investigation in the sum of \$1,500 for the Financial Year 2023-2024.	A new regulation will probably be enacted upon approval of the RA's 2026-2027 Work Plan updating the RA's service fees (RAF). The RA can only specify what the fees will be once the Work Plan is approved.

Class Three (Amateur Service) Regulations 1987 Class Four (Two-Way Radiotelephone Services) Regulations 1987 (1989 Revision) Class Five (Small Craft) VHF Regulations Class 6 Aeronautical Radio Licence Class Eight (Personal Radio Services) Regulations 1988 Class Nine Radio (maritime Mobile Service) Regulations 1988 Class Ten Receiving Services Radio Permit Class Eleven Radio (Aeronautical and Maritime Land Services Regulations 1987	The purpose of these regulations was to determine who may operate certain radio apparatus and provide the conditions for use of such apparatus.	Upon reviewing the Radio Class Licences Regulations, the RA is of the view that they are outdated. The RA, therefore, recommends that these Regulations be updated as part of the RA's ongoing Work Plan initiatives. It is the RA's intention to have legal disposition regarding all Radio Class Licences in one single regulation rather than the multiple regulations that have been issued in the past regarding Radio Class Licences.
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