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Information & Communications Technology Authority

Our ref: ICTA/160/161-09
Your ref: GRRCR/GR 15.24

24 May 2011

Mr. Anthony Ritch
Country Manager
LIME/Cable and Wireless (Cayman Islands) Limited
PO Box 293
Grand Cayman KY1-1104
CAYMAN ISLANDS

Dear Mr. Ritch,

Re: Revision of LIME Residential Terms and Conditions of Service

Thank you for the letter dated 18 May 2011 in which LIME identified that it was notifying the Authority of its revised terms and conditions for service for unregulated services.

The Authority has reviewed the proposed terms and conditions document and requests responses to the following questions by 7 June 2011. When responding, please repeat the entire question above the corresponding response to each question.

- 1) The second full paragraph on page 2 of the covering letter states that "The T&Cs for Category 1 and 2 services (e.g. Fixed Line and NetSpeak) do not form part of the revised residential T&Cs..." The definition of "Service(s)" in item 1.1 on page 2 of the "General Terms and Conditions – Residential Services" means "the telecommunications services including but not limited to, where applicable, Fixed Line, Mobile, Internet, Netspeak..." Please explain why Fixed Line and NetSpeak services are listed as being included in the definition of "services".

- 2) If Fixed Line and NetSpeak were not intended to be included as services subject to the terms and conditions, provide a revised document that removes those references from item 1.1, item 9.1, and item 9.6.
- 3) If Fixed Line and NetSpeak were intended to be included as services subject to the proposed terms and conditions, provide a detailed rationale for their inclusion considering that Fixed Line is a Category 1 Service, that the Category 1 Service rules apply to NetSpeak, and that these services are subject to the terms and conditions approved by the Authority which vary from the proposed terms and conditions.
- 4) Item 15.6 states that "Once the Minimum Period has expired, You can also all outstanding amounts this Agreement by providing Us with not less than thirty (30) days written notice." The Authority is unable to discern the intent of this item. Please provide a detailed explanation of what is meant or provide revised wording.
- 5) Item 6.2 of Schedule 3 (broadband internet service) includes the sentences: "You must not allow the Service to be used, modified or adapted to transmit voice on Our public telecommunications system or that of any foreign telecommunications provider, and You must not connect to the PSTN at either the local or the distant end."

In a 25 November 2004 letter to C&W concerning an application for approval of two new ADSL plans (an copy is attached for your reference), the Authority noted that C&W had removed a similar restriction from its other Internet and Data services and required C&W eliminate a similar restriction from the terms and conditions for its ADSL services.

Please provide a detailed justification of why this restriction is being re-instated or provide revised terms and conditions that remove that restriction.

Sincerely,

[signed]

Mark Connors
Head of Economics and Regulation

ICTA/160/161-09

25 November 2004

Mr. Rudy Ebanks
Vice President, Regulatory and Carrier Relations
Cable & Wireless (Cayman Islands) Ltd.
P.O. Box 293 GT
Grand Cayman

Dear Mr. Ebanks,

Broadband Business DSL 1.5 and Broadband Business DSL 2.5 (Tariff Item 201)

The Authority is in receipt of an application filed by Cable & Wireless ("C&W") on 10 November 2004 to introduce two new ADSL plans, Broadband Business DSL 1.5 and Broadband Business DSL 2.5 (Tariff Item 201) (collectively, "Business DSL"). In addition, the Authority notes that C&W plans to reduce the monthly rate for one of its existing services, Broadband ADSL 1544, from \$349.00 to \$199.00.

C&W stated that the new service filing replaces its 28 August 2004 application to introduce two new ADSL plans, Business DSL 1.0 and Business DSL 1.5 (Tariff Item 202).

In arriving at its determinations, the Authority relied on information provided by the company in its two application filings; interrogatory responses filed by C&W on 10 August 2004; interrogatory responses filed by C&W, Wireless Ventures, Digicel, TeleCayman, WestTel Ltd. on 30 August 2004 and by Blue Bison on 31 August 2004 on the breakout restriction; and correspondence between the Authority and C&W regarding interception and monitoring and early termination fees.

The Authority has four main areas of concern: 1) a restriction on customers of Business DSL from using the service to transmit voice services on the PSTN and from connecting to the PSTN at the local or distant end; 2) the potential for interception, monitoring and interruption of customer messages sent or received for purposes other than those set out in section 75(2) of the Information and Communications Technology Authority Law (2004 Revision) ("ICTA Law"); 3) the structure and level of the proposed early termination fees ("ETF") for Business DSL; and 4) the proposed category classification of Business DSL service for regulatory purposes. The Authority's determinations are discussed below.

Regarding issue 1, the Authority notes that currently, C&W imposes the following restriction in the terms and conditions for its ADSL service: "The Customer shall not allow the Internet Service to be used, modified or adapted to transmit voice Services over the PSTN. The Customer shall not connect to the PSTN at either the local or distant end." In its 10 November filing, C&W proposed to eliminate the restriction in the terms and conditions for its ADSL services, including Business DSL, by 31 December 2004.

In responses to interrogatories, C&W stated that, at a minimum, it should be given the opportunity to launch its own VoIP service before such restrictions are lifted and the Authority should consider whether rate rebalancing or some other funding mechanism such as a Universal Service Fund would be appropriate to fund the existing subsidies. However, C&W provided no quantitative or substantive support that VoIP services and VoIP-based products will significantly impact any necessary cross-subsidies required to maintain the current level of penetration of telephony service. Moreover, there is no legal or regulatory restriction preventing the company from currently proposing the introduction of a VoIP service or VoIP-based product.

C&W agreed to eliminate the PSTN breakout prohibition for Dialup Internet Access, ISDN Internet Access and Dedicated Internet Access services (Tariff Items 601, 602 and 604) effective immediately. In addition, C&W removed the PSTN breakout prohibition effectively immediately in its revised tariff for domestic private leased circuits (Tariff Item 502) and in its proposed tariff for international private leased circuits (Tariff Item 501).

Lastly, regarding other countries of which C&W is aware which prevent the use of incumbent-provided Internet access for purposes of voice communications on the PSTN, C&W provided no examples of developed countries that prohibit VoIP. However, C&W stated that regulators in many of these jurisdictions consider that VoIP raises policy concerns.

In the Authority's view, given that C&W provided very little support for the proposed restriction in the first instance; that there appear to be practical limitations in enforcing such a restriction in any event; and that C&W has removed the restriction in its other Internet and data services effective immediately, there appear to be no sound reasons for maintaining the restriction until 1 January 2005. C&W is therefore required to eliminate the restriction from the terms and conditions for its ADSL services no later than the date it begins offering Business DSL service.

Regarding issue 2, the Authority accepts C&W's revision in its 10 November 2004 application whereby the references dealing with the interception, monitoring and interruption of messages from the terms and conditions for all ADSL services including Business DSL are removed, as this is consistent with section 75 of the ICTA Law.

Regarding issue 3, C&W revised its ETF policy for ADSL including Business DSL service to a flat fixed charge of \$170.00 for customers under a one year contract; a 50%/25% ETF structure for customers under a two year contract; and a 50%/25%/15% ETF structure for customers under a three year contract. As C&W's proposed ETF appears to be fair, reasonable and equitable both to the company and the customer, the Authority finds C&W's proposal acceptable. However, given that rates may well decrease for this service as other Licensees begin offering similar or comparable

services, the Authority reserves the right to review the appropriateness of this ETF provision given the emerging competitive environment.

Regarding issue 4, notwithstanding that a customer is required to subscribe to C&W telephone line service in order to be eligible to receive Business DSL service, C&W argued that Business DSL is not a bundled service and therefore should not be treated as a Category 4 service for regulatory purposes. Authority has not made a determination on this issue yet. However, in order to not unduly delay the introduction of C&W's proposed Business DSL service, the Authority has treated the service as a Category 3 service. The Authority reserves the right to determine whether Business DSL is a bundle at a future date.

The Authority approves the proposed introduction of Business DSL 1.5 and DSL 2.5 effective immediately conditional upon the following:

- a. deleting paragraph 21 in section 3 of Tariff Item 201;
- b. filing final versions of Tariff Items 200 and 201 with the Authority, in electronic format forthwith, and in any event no later than three business days prior to the date the company begins marketing the service;
- c. publishing Tariff Items 200 and 201 on C&W's website forthwith and in any event no later than three business days prior to the date the company begins marketing the service;
- d. filing a draft customer letter with the Authority;
- e. reflecting any changes to the draft customer letter, as required by the Authority;
- f. filing the revised final customer letter with the Authority as it will be sent to its customers and indicating the planned service launch date, no later than three business days prior to the date the company begins marketing the service; and
- g. requesting other Licensees to indicate whether they would be interested in a wholesale ADSL service no later than the date C&W begins marketing Business DSL service to retail customers. If any other Licensees indicate they would be interested in subscribing to a wholesale ADSL service, C&W is to develop and file a draft Service Agreement with the Authority no later than 15 days after the commercial introduction of Business DSL service and to post the draft Service Agreement on C&W's website. C&W is able to begin to offering such wholesale service to other Licensees who may be interested in wholesale Business DSL service immediately upon filing the draft Service Agreement with the Authority, subject to any required changes the Authority may have.

Yours sincerely,

"Signed"

David A. Archbold
Managing Director

Attachments