

Our ref: ICTA/160/161-09
Your ref: GRCR/GR 15.4

30 April 2009

Mr. Darrel Rankine
Vice President Regulatory Affairs
Cable and Wireless (Cayman Islands) Limited
PO Box 293
Grand Cayman KY1-1104
CAYMAN ISLANDS

Dear Mr. Rankine,

Re: Amendment to Table 1 of Annex 5

In a 6 March 2009 letter, Cable and Wireless (Cayman Islands) Ltd., now doing business as LIME ("LIME"), applied for an amendment to Annex 5 of its Licence. In particular, LIME requested for Fixed Domestic Voice Calls that "Interconnect plus Retail costs" be replaced with "Cost" in the Imputation Test Table on page 49 of Annex 5.

According to LIME, the current imputation test methodology fails to protect the public interest and negatively affects LIME's ability to compete with other licensed operators. LIME also submitted that the imposition of special price and other regulations on LIME are not warranted as LIME no longer has market power or a dominant position that it could exercise to the detriment of consumers or competitors. Further, LIME contends that it is subject to regulatory discrimination and that Annex 5 puts it at a competitive disadvantage.

The Authority notes that, as identified in paragraph 42 of LIME's licence, the purpose of the imputation test is to act as a safeguard against anti-competitive pricing. For fixed line calling, it is designed to ensure that LIME's retail rates are at or above the sum of interconnection costs it charges its competitors to use its network and LIME's retail costs for non-interconnection service components. This test is particularly important in markets that are dominated by one supplier.

In the Authority's 27 November 2008 letter concerning LIME's request for IDD forbearance, the Authority stated that, in reviewing the Quarterly Monitoring data filed by service providers, the Authority notes that LIME maintains the vast majority of the fixed-line access market and the Authority was not satisfied that competition in the fixed-line access market was sufficient to protect the interests of consumers.

LIME has provided no evidence to suggest that its market power, or dominance in the market for the fixed services under question, is no longer present nor has it provided any evidence that it would be constrained in its ability to engage in anti-competitive pricing. Allowing LIME to base the imputation test on interconnection rates lower than it would charge its competitors would, in the Authority's view, significantly harm the interests of customers by further entrenching LIME's position in the fixed line market.

The Authority notes, that Annex 5 was subject to considerable debate at the time it was negotiated by the parties, and eventually involved concessions on the part of both sides. As it stands it regulates closely in particular those services that fall within Category 1. However, it also allows for less stringent regulation over time where this is appropriate. One example of this was the re-categorisation of mobile services from Category 2 to Category 3 resulting in considerable more pricing flexibility for LIME and less regulatory oversight for these services.

In the Authority's view closer regulation of certain services including fixed line calling services as dictated by Annex 5 remains necessary for the time being, given the state of competition in the market for these services.

Accordingly, the Authority denies LIME's request to amend Annex 5.

Yours sincerely,

[Signed]

David A. Archbold
Managing Director