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Information & Communications Technology Authority

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27 November 2008

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

Dear Mr. Rankine,

C&W request for IDD forbearance

On 17 March 2008, Cable & Wireless (Cayman Islands) Limited ("C&W") submitted a forbearance application in accordance with clauses 18 and 19 of Schedule 1 to the 10 July 2003 agreement between C&W, the Governor in Cabinet of the Cayman Islands and the Information and Communications Technology Authority (the "Authority" or the "ICTA"). The application requested that the Authority forbear from regulating C&W's International Direct Dial ("IDD") services.

In its application, C&W submitted that the relevant market consists of the supply of IDD services (whether originated on a fixed-line/fixed-wireless telephone or a mobile handset). C&W also submitted that there is effective competition in the relevant market for the supply of IDD services and that rate regulation is not necessary to protect consumers.

Relevant Market

In the Cayman Islands, originated IDD calling is provided by the same service provider that provides the network access service. That is, in the current Cayman Islands

telecommunications market, a mobile customer or a fixed-line customer of one service provider does not have the ability to place IDD calls over another service provider's network on that network access (respectively, the mobile handset or the fixed-line telephone). Therefore, in previous forbearance determinations, the Authority has included consideration of the underlying network access service. For example, the Authority's 2 September 2005 determination granted forbearance to C&W's retail mobile telecommunications services. The list of services that were granted forbearance and the items that C&W was permitted to remove from its tariff as a result of that determination included the mobile access services and the rate schedules for IDD calling from those mobile access services. As another example, the Authority's 6 July 2007 determination granted forbearance to C&W's IDD services made from payphones, in part, because of the availability of competitive payphones offering IDD services.

Therefore, as the Authority has in past determinations treated the mobile and fixed-line markets as separate markets, the Authority considers it appropriate to first review the market conditions in the separate fixed-line IDD market.

In reviewing the Quarterly Monitoring data filed by service providers, the Authority notes that C&W maintains the vast majority of the fixed-line access market and the vast majority of the fixed-line IDD market. Therefore, when looking at the fixed-line market, the Authority is not satisfied that competition in either the fixed-line access or fixed-line IDD markets is sufficient to protect the interests of consumers.

The next step in this forbearance analysis is to evaluate whether mobile and fixed IDD calling are substitutes.

Are mobile and fixed IDD calling substitutes?

While the Authority has previously granted forbearance to mobile IDD services, in this application C&W suggests that it is appropriate to include fixed and mobile IDD service in the same IDD market because, in its view, those services are substitutes for each other and customers do not view them as different services.

C&W claims that the high penetration and ready availability of mobile services has led many customers to substitute mobile for fixed line when making calls. C&W suggests that the following is evidence of mobile substitution: while the number of fixed lines has declined slightly between 2004 and 2007, the number of mobile handsets has increased dramatically, and while the minutes of use per fixed customer has increased between 2004 and 2007, there is a much more pronounced increase in the minutes of use per mobile customer.

In support of its view that the fixed and mobile IDD services are substitutes, C&W states that C&W's fixed and mobile prepaid and postpaid IDD rates are the same and therefore, customers are indifferent as far as the cost of the call is concerned.

Authority Analysis

The Authority is in general agreement with C&W that the number of mobile handsets and the number of minutes of use of mobile services has increased since 2004. The Authority also recognizes that one possible explanation of why the number of mobile handsets and the minutes of usage of mobile services has increased could be due to customers substituting mobile services for fixed services. However, the Authority also recognizes that those increases in mobile handsets and mobile usage could be indicative of unsatisfied demand for mobile calling that was not being met in 2004 and could also be due to the increased competition and pricing activities in the market since that time. The Authority therefore concludes that the increase in mobile handsets and mobile usage does not conclusively show that mobile IDD calling is a substitute for fixed IDD calling.

Also, as pointed out by C&W, there has only been a small decline in the number of fixed lines from 2004 to 2007 and fixed-line IDD calling has actually increased during the period mentioned by C&W (although at a slower rate than the increase in mobile IDD calling). If there was substantial substitution, one indication could be significant declines in the number of fixed lines and or in the usage of those lines for IDD calling.

While the Authority does believe that there are some individual customers who use mobile calling as a substitute for fixed calling, the Authority must be sure that the market as a whole treats those services as substitutes. For example, there are probably customers who have chosen to forego a fixed line and instead subscribe to a mobile service and there are probably customers who choose between making an IDD call on a fixed line or a mobile handset because they have immediate access to both access services. However, the question that needs to be addressed is the degree to which there is any substitution and what affect that has on the market. The Authority has no information that shows the extent of any such substitution and its affect on the market and C&W has not provided any studies that show the degree or effect of any such substitution.

In addressing IDD calling specifically, C&W claims that "[a]ny consumer wanting to make an IDD call would find fixed telephone and mobile handsets equally available to them". In support of this claim, C&W states that the geographic coverage of the mobile and fixed networks in the Cayman Islands is equivalent and near 100%. The Authority notes that while fixed and mobile services provide near 100% coverage in the Cayman Islands, whether or not a particular consumer has those options available when the

consumer wants to make an IDD call would depend on the network access service the consumer has purchased. For example, the Authority suspects that there are portions of the market that only have fixed-line services (for example residential customers who don't subscribe to mobile services or business customers who don't provide employees with both fixed-line and mobile services). As the ability to place an IDD call is restricted to types of network accesses the customer has, in order to have fixed telephones and mobile handsets equally available to them to make an IDD call, each user would have to have both at the time they make the IDD call. The Authority strongly doubts that this is the case.

In addition, the Authority would expect that, because of different market conditions, the degree of any substitution may be different in the business market from what the degree of substitution may be in the residential market. For example, in the residential market, the user of the phone is likely either to be, or have a close relationship with, the customer who made the purchase decision for the phone, while in the business market, the user could be far removed from the person who made the purchase decision. The Authority can easily envision a business operation where the company chooses only to supply its employees with a fixed-line phone and does not make a mobile phone available to all employees (for example in an office environment where employees are not often required to work away from their location). C&W has provided no information on what, if any, degree of substitution exists in the separate business and residential markets.

Concerning C&W's statements that its "fixed and mobile prepaid and postpaid IDD rates are the same" and that "customers are indifferent, as far as the cost of a call is concerned, as to whether to make an IDD call from a fixed line or a mobile handset", the Authority notes that there is no requirement that C&W's IDD rates be the same for mobile and fixed line and, in fact, C&W's marketing material indicates that there are indeed differences in the rates. For example, C&W's "Anywhere" mobile calling plans include IDD calling at reduced rates and the "AllTalk" plan include IDD calling at reduced rates (see <http://www.time4lime.com/content/9/section/6/category/11/25> and <http://www.time4lime.com/content/9/node/700>). These IDD calling plans are available to mobile customers but not to fixed-line customers.

Authority Determination

As recognized by C&W in its application, clause 19 of Schedule 1 of the 10 July 2003 agreement between C&W, the Governor in Cabinet, and the ICTA stipulates that "[a]ny Licensee making an application for forbearance is under the onus to prove to the Authority that the test for forbearance has been met."

The Authority determines that C&W has not provided evidence that there is sufficient competition to protect the interest of consumers in the fixed-line IDD market nor has C&W provided evidence to demonstrate that there is sufficient substitution of mobile for fixed-line IDD services to warrant the forbearance of regulation for fixed-line IDD services offered by C&W. Therefore, the request for forbearance is denied.

Yours sincerely,

[signed by Mark Connors for]

David A. Archbold
Managing Director