



CABLE & WIRELESS

Cable & Wireless
(Cayman Islands) Limited

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Our ref: GRCR/GR 15.24
21 July 2008

Mr. David Archbold,
Managing Director,
Information and Communication Technology Authority,
3rd Floor Alissta Towers,
P.O. Box 2502GT,
Grand Cayman. KY1-1104

Dear Mr. Archbold:

Re: C&W Wireless Backup Leased Circuit – Interrogatory Responses

Please find attached Cable and Wireless (Cayman Islands) Limited (“**C&W**”) responses to the Interrogatories on its Wireless Backup Leased Circuit service, as per your letter of 10 July 2008 (ICTA/160/161-09).

Confidentiality Claim

C&W is filing its responses, in confidence with the Authority. The marketing and product development plans of C&W are information that is of a commercial nature and is consistently treated in a confidential manner by C&W until they are implemented. C&W’s competitors and potential competitors would gain advance knowledge of C&W’s marketing and pricing plans, even before the information could be made available to C&W’s customers or to the general public. This would enable them to develop competitive and targeted marketing and pricing responses, even before C&W would be able to implement its own plans.

An abridged version of the questions and responses will be filed. All confidential information in this letter will be replaced by “###”.

Please contact me should you have any further questions.

Yours faithfully,
Cable & Wireless (Cayman Islands) Ltd.

“Signed”

Rudy B. Ebanks
Chief Regulatory and Carrier Relations Officer

cc: Timothy Adam, Chief Executive C&W
Ian Tibbetts, Chief Operating Officer C&W
Frans Vandendries, Vice President Legal and Regulatory Affairs C&W

Cable and Wireless (Cayman Islands) Limited
Interrogatory Responses
New Service Filing of 2 July 2008
21 July 2008

Q 1. Please identify the specific frequencies that will initially be used for the service.

RESPONSE

Cable & Wireless intends to offer the service using frequencies in the #### MHz band.

Q 2. C&W's 2 July 2008 letter refers to the ability "###

###" that C&W may use for this service.

RESPONSE

Cable & Wireless has not made any decisions with respect to####.

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####. This is why the Tariff does not refer to the technologies or underlying platforms used to deliver the service.

We note that #### chosen to deliver the new service have limits on the bandwidths/speeds that can be offered to customers. If customers require higher speeds than what is currently planned to be offered, we would be required to explore other options. Obviously, any new bandwidth/speed options to be offered to customers would first be filed with the Authority for tariff approval. However, as noted above, Cable & Wireless has made no decisions in this regard.

Cable and Wireless (Cayman Islands) Limited
Interrogatory Responses
New Service Filing of 2 July 2008
21 July 2008

Q 3. Please explain the rationale of including Note a) to the Rates and Charges table in proposed Tariff Item 506.4 considering that the explicit discounted rates are already provided in the table.

RESPONSE

The rationale of including Note a) was to make it clear contract term discounts are available to customers. Cable & Wireless is prepared to delete the note in question if the Authority believes doing so would increase the clarity of the Tariff Item.

Q 4. Provide the rationale for why the first sentence in item 2.3 of the proposed wholesale Service Schedule specifies "two ###" rather than "two ###".

RESPONSE

The wholesale service is designed to be a simple resale service. In other words, we will deliver to the wholesale customer exactly what we would have provided to one of our own retail subscribers. Given that the retail service is designed to ###, the wholesale service is also designed to ###. The only difference is that the "subscriber", i.e., the ultimate end-user, is not a Cable & Wireless retail customer.

We believe the language mentioned by the Authority in the interrogatory would be inappropriate, as it could misleadingly suggest the wholesale service is something other than a simple resale service.

Cable and Wireless (Cayman Islands) Limited
Interrogatory Responses
New Service Filing of 2 July 2008
21 July 2008

- Q 5. Provide the rationale for why the second sentence in item 2.3 of the proposed wholesale Service Schedule specifies that "[t]he Customer and the Subscriber must not use the Service or allow anyone else to use the Service" for certain purposes when the agreement is with the Customer and not the Subscriber and the sentence, with "Subscriber" removed, would stipulate that the Customer must not allow anyone else to use the Service for those purposes.

RESPONSE

The important issue here is that neither the wholesale Customer nor the end-user "Subscriber" must use the service in the improper manner specified in the paragraph 2.3 of the Service Schedule. It would be inappropriate, for example, for Cable & Wireless not to have any remedy in a situation where use of the wholesale service puts the Cable & Wireless network into jeopardy, simply on the basis that it was not Cable & Wireless' customer, i.e. the wholesale Customer, who misused the service, but a third party, i.e. the end-user "Subscriber".

It would not be advisable, in our view, to remove the reference to "Subscriber", as suggested by the Authority, as that reference puts the wholesale Customer on clear notice that it cannot be indifferent to the actions of the end-user Subscriber and that it cannot treat its Subscriber as it would any other unknown third party. However, Cable & Wireless' remedy would in any event be against the Customer, not directly against the Subscriber, and we do acknowledge that the sentence, as currently worded, could be interpreted to suggest there is privity of contract between Cable & Wireless and the Subscriber, which is clearly not the case. We propose, therefore, that the sentence be revised to read: "The Customer must not use the Service or allow the Subscriber or anyone else to use the Service...". This would address our concerns that we have a remedy where necessary, and clarify the relationships between Cable & Wireless, the Customer and the Subscriber.

Cable and Wireless (Cayman Islands) Limited
Interrogatory Responses
New Service Filing of 2 July 2008
21 July 2008

- Q 6. Provide the rationale for why item 2.5 of the proposed wholesale Service Schedule restricts the service to only be available if ###

considering that it is the Customer who subscribes to ### and not the Subscriber.

RESPONSE

As noted in our answer to interrogatory 4, the wholesale service is designed to be a simple resale service and we would deliver to the wholesale Customer exactly what we would have provided to one of our own retail subscribers. In this case, the retail service is only available as ####

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####, which is not the intent of the service.

- Q 7. Provide the rationale for why item 4.3 of the wholesale Service Schedule states that, following the expiry of the Initial Service Period, the Schedule will be extended on a month-to-month basis at the "undiscounted month-to-month terms" whereas proposed Tariff Item ### for the retail service states that the Service will renew at C&W's "then-current" monthly rates.

RESPONSE

For this particular type of service, Cable & Wireless automatically adjusts its wholesale prices when it adjusts its equivalent retail prices. Further, there is no discount that applies to the month-to-month prices, which are therefore "undiscounted". As a result, Cable & Wireless considers that there is no practical difference between "undiscounted month-to-month terms" and "then-current monthly rates". However, our intent is to have a wholesale Service Schedule that tracks the retail Tariff Item and, if it would facilitate comparison, we are prepared to replace the words "at the undiscounted month-to-month terms" in paragraph 4.3 of the Service Schedule with the words "at the then-current monthly rates".

Cable and Wireless (Cayman Islands) Limited
Interrogatory Responses
New Service Filing of 2 July 2008
21 July 2008

- Q 8. Provide the rationale for why item 4.3 of the proposed wholesale Service Schedule stipulates that the service will extend "unless terminated by either Party" instead of "unless terminated by the Customer".

RESPONSE

This is not an unusual provision in standard commercial contracts. However, Cable & Wireless is prepared to specify "...unless terminated by the Customer giving not less than one month's prior written notice to C&W, or unless..." in paragraph 4.3 of the Service Schedule.

- Q 9. Provide the rationale for why item 4.4 of the proposed wholesale Service Schedule states that "[t]he Customer may terminate this Agreement by giving one month's notice to C&W at any time after the Initial Service Period has expired" considering that a later sentence in item 4.4 states that "[i]f the Customer terminates this Agreement during the Initial Service Period" early termination fees apply. The Authority notes that the second reference appears to be similar to the terms and conditions of the retail tariff and the first reference does not.

RESPONSE

This is likely the result of imperfect cutting-and-pasting. Our intent is to provide that the Customer may terminate at any time on one month's notice to C&W, but that if such notice is given during the Initial Service Period, Early Termination Fees will apply, exactly as is provided for in the retail Tariff Item. We propose to delete the words "after the Initial Service Period has expired" in the first sentence of paragraph 4.4 of the Service Schedule.

Cable and Wireless (Cayman Islands) Limited
Interrogatory Responses
New Service Filing of 2 July 2008
21 July 2008

Q 10. Provide the rationale for why item 4.5 of the proposed wholesale Service Schedule states that the contract for ###

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are with the Customer and not the Subscriber.

RESPONSE

As noted in our answer to interrogatory 4, the wholesale service is designed to be a simple resale service and we would deliver to the wholesale Customer exactly what we would have provided to one of our own retail subscribers. The retail service is designed to be a #### service. If the Service Schedule were to be worded as suggested by the Authority in interrogatory 10, the wholesale service would become a ####. The wholesale service would then not be a simple resale service, as intended by Cable & Wireless.