



29 April 2008

Mr. David Archbold
Managing Director
Information and Communications Technology Authority
Grand Cayman, Cayman Islands

Dear Sir,

Re: Determination Request/Infrastructure Sharing/Dispute Resolution Regulations

This is further to your correspondence of 14 April 2008 requesting that TeleCayman Limited (TeleCayman) file a reply to Government's submission by 21 April 2008 and subsequent extension for filing to 28 April 2008. As of this date TeleCayman has been informed that outstanding is the fundamental issue of whether government will share infrastructure in accordance with the Law, the Regulations and its Licence. Also outstanding is the appropriate rate and whether it is reasonable to require "meet me" at each and every manhole.

The comments which follow address both process and substantive considerations.

PROCESS ISSUES

TeleCayman requested an extension in the belief that it was best to attempt to negotiate with the Government of the Cayman Islands (Government) resolution of outstanding issues rather than impose upon the Authority the requirement to adjudicate the matter. This decision was taken in the context of the Government's apparent recognition that it had to make duct space available and was prepared to do so.

Following receipt of Government's correspondence dated 10 April 2008, TeleCayman contacted the Computer Services Division of Government with a view to attempting resolution of any and all outstanding issues. Unfortunately Mr. Howell was ill and the initial call could not take place until 16 April. On the call it seemed that Government was prepared to share duct space as reflected in its correspondence of 10 April, 2008. Two issues arose on the call:

1. The appropriate rate; and
2. The desire to surface and install "meet me" boxes only at those locations where TeleCayman would need to access buildings in George Town.

Mr. Howell undertook to take the matter up with senior Government officials. On 17 April 2008 Government wrote requesting a deferral of a subsequently scheduled conference call and an extension of TeleCayman's reply to the Authority as the CFO for Cabinet Office and CSD was consumed with urgent financial matters. TeleCayman subsequently wrote Government indicating that it was agreeable to attempt to have discussions with a view to resolving the outstanding matters until 25 April 2008.

TeleCayman did not hear anything further from Government until the end of the day of the 28th wherein it was advised that the matter had been remitted to Cabinet. When questioned about the remit on the 29th, Government advised that both the issue of whether to share duct space and the appropriate rate had been remitted to Cabinet. Government could not confirm as to when Cabinet could give its attention to the matter as Cabinet was in budget deliberations.

Unfortunately, Government has failed to recognize the obligations contained in the Infrastructure Sharing Regulations to proceed in good faith (subsection 6(a), subsections 8(10), 11(c) and (d)) with a view to concluding as quickly as possible (section 5) and provide a cost oriented rate (subsection 6(h)). There is no certainty as to any decision which may issue from Cabinet and it is likely that the process will be delayed indefinitely. Certainly, the delay to date has exceeded the process timelines anticipated by the Regulations.

Regrettably, Government has failed to provide any formal and unequivocal response to the above issues and these matters remain outstanding. Accordingly, TeleCayman has no alternative but to seek relief from the Authority and requests that the Authority issue Orders mandating infrastructure sharing of the duct space, setting the appropriate cost oriented rate and providing the appropriate technical specifications concerning "meet me" boxes. This request is made in the context of TeleCayman's Application for a Determination Request.

SUBSTANTIVE ISSUES

1 Sharing of Infrastructure

TeleCayman repeats, and incorporates by reference, its comments made in the Application for Determination dated 4 April 2008.

The Government's reluctance to share infrastructure is contrary to the Law, the Regulations and the clear terms of its Licence. From an administrative law perspective the Government should not be permitted to choose to be subject to the existing law for some purposes and then choose not to be bound by the laws, regulations and license for purposes of avoiding the obligation to share telecommunications infrastructure.

TeleCayman submits that the laws and regulations on infrastructure sharing are designed for the benefit of the people of the Cayman Islands with a view to avoiding multiplicity of telecommunications infrastructure. TeleCayman submits that the laws and regulations are also designed to avoid licensees incurring unnecessary capital costs. If Government was permitted to avoid its infrastructure sharing obligation, TeleCayman would be obligated to incur significant capital costs and to trench the downtown core. Such extensive work would necessitate Government approval. Avoiding its infrastructure obligations and refusal to approve capital works to the downtown core would result in complete frustration of a fiber ring and ensuing services to business customers.

2 Cost oriented Rate

Government has requested a rate of 30 cents per foot per month. TeleCayman submits that this rate is exorbitant, unreasonable and at odds with the regulatory principles that rates be transparent and cost oriented (subsections 6 (d) and (h) of the Infrastructure Regulations). TeleCayman is of the view that an appropriate cost oriented rate would not be in excess of 7 cents per linear foot per month.

A 30 cent rate for 12 miles is approximately \$19,000 per month or \$228,000 per year. Government has indicated their duct system is depreciated over 50 years. The prices proposed by Government suggest that the cost of the duct system is \$22.8 million dollars (\$228,000 x 2 licensees x 50 years). TeleCayman submits that such amount bears no relationship with the actual costs incurred by Government and is in direct contravention of the spirit of the cost oriented approach mandated by the Law and the regulations.

TeleCayman has received a quote from Cable & Wireless for their segment of duct between the Harquail Bypass and Esterly Tibbets Highway which works out to approximately 10.4 cents per foot per month. TeleCayman makes this submission without prejudice to its right to also challenge the Cable & Wireless rate. However, the Cable & Wireless quote reflects a rate which is 1/3 the amount requested by Government.

Further, TeleCayman has requested a rate from ABC Trenching Ltd, the contractor utilized by both Government and Cable & Wireless. The rate to trench and install 2" duct over a 12 mile distance in and around Georgetown would cost \$832,000. When this cost is shared between two parties and then amortized over the expected life of the conduits this cost translates to 3 cents per linear foot. Attached is the quote from ABC Trenching Ltd, financial model and assumptions which form the basis for the rate per linear foot.

TeleCayman recognizes that there is a degree of subjectivity in the assumptions and is prepared to accept a cost oriented rate in the order of 7 cents per foot, or less.

3 "Meet me Boxes"

TeleCayman wishes to install "meet me" boxes at every location where it will be necessary to splice the cable in order to access a commercial building. Government is of the position that a "meet me" box should be installed at every Government manhole. TeleCayman submits that there is no technical reason to have a "meet me" box at every Government manhole and that such a requirement will result in substantial unnecessary costs and the digging required will occasion significant inconvenience to the downtown core. TeleCayman's proposal to install "meet me" boxes in instances where the cable is spliced is in keeping with the objective of minimizing environmental impact as stated in subsection 6 (j) (ii) of the Infrastructure Sharing Regulations. TeleCayman is not aware of any sound reason requiring "meet me" boxes at every Government manhole.

Relief Sought

TeleCayman respectfully requests that the Authority issue an Order requiring the Government to make duct space available, at the cost oriented rate of 7 cents per foot per month (or less), and requiring the installation of “meet me” boxes by TeleCayman at only those locations where it is necessary to splice a the fiber cable in order to enter into a commercial building.

Sincerely,

Philip Brazeau
Consultant to TeleCayman Limited

Cc Mr. Gilbert McLaughlin
Director,
Computer Services Department
Government Administration Building
Grand Cayman, Cayman Islands

P.O. Box 64
Grand Cayman KY1-1102
CAYMAN ISLANDS

A•B•C•TRENCHING LTD

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Cell: 916 2353
Fax: 945 1456



April 25, 2008

Andy Tybell
Business solutions Manager
TeleCayman
Grand Cayman

Dear Andy,

Re: Trenching and Duct Laying

Thank you for inviting ABC Trenching Ltd. to provide a tender for future works.

Lay 2x2" PVC conduits in roadway @ 18" of cover inclusive of excavation, pipe laying, backfill and making good hot mix surface	\$ 16.00 per linear foot
Lay 2x2" PVC conduits in roadway @ 18" of cover inclusive of excavation, pipe laying, backfill and making good road verge	\$ 11.70 per linear foot
Lay 2x2' PVC conduits in roadway @ 18" of cover Using Trenchless Technology	\$ 23.00 per linear foot
Build pull box in roadway inclusive of excavation, chamber construction and making good surrounding area	\$900.00 per chamber

P.O. Box 64.
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Conduit Cost – Trenchless Technology	\$ 2.50 per linear foot
Conduit Cost	\$ 17.00 per 20ft length
Frame & Cover Cost	\$350.00 each

Please note that the prices may vary depending on material increases.

If you have any questions regarding this quotation, please do not hesitate to contact me and we can discuss it further.

Yours sincerely,

Alvin Bruce Cayasso (Larry)
Director

TeleCayman Limited
 Cost Oriented leasing price
 for Government Duct space
 (all figures in KYD)

Assumptions

Mileage of ducts		12 Miles
# of feet per mile		5,280 Feet per mile
Total distance in feet		63,360 Feet
% of the distance requiring restauration with hot mix		75%

Calculations

Distance requiring hot mix	75%	47,520 Feet
Distance over road verge	25%	15,840 Feet

Pricing

Labour

Labour for conduit laying with restauration with hot mix	\$	16.00 Per Linear foot
Labour for conduit laying with restauration with road verge	\$	11.70 Per Linear foot
Estimated Quantity discount		20%

Materials

Conduit cost	\$	1.70 per linear foot
Estimated Quantity discount		30%

Total Costs

Labour with restauration with hot mix	\$	608,256
Labour with restauration with road verge		148,262
		<u>756,518</u>
Conduit costs		75,398
	\$	<u><u>831,917</u></u>

Monthly Lease Cost

Total Cost per above	\$	831,917
Less: Portion utilized by Government		50%
= Capital Cost to be amortized	\$	<u>415,958</u>

Financing Assumptions

Government cost of borrowing		5%
Period of amortization		50

Lease required over term by linear foot \$0.03 KYD per linear foot