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Reply to: Jamal D. Young Esq.
Email: jamal.young@goldfieldcayman.com

September 25th, 2009

BY POST & FACSIMILE – 945-8284

Information & Communications Technology Authority
P.O. Box 2502
George Town, Grand Cayman
Cayman Islands

Attention: David Archbold

Dear Mr. Archbold,

Re: ICTA Decision 2008-4

We acknowledge receipt of your letter dated the 23rd of September 2009.

We are surprised to note that the “application” made by DMS Broadcasting is merely a request for further extension by way of letter from their attorneys and further that same was made on the 14th of September 2009, one day before the purported deadline of the 15th of September 2009.

We are astounded that the ICTA is even considering DMS’ application for an extension given the content of the Authority’s decision of the 10th of October 2008 wherein it was decreed that the Cayrock transmitter should re-locate on or before the 15th of July 2009. Notwithstanding this decision, Cayrock continued to broadcast beyond this date and it is apparent that the ICTA did nothing to enforce the Order. Indeed the Board did not act at all until after it had received a letter from this firm dated the 7th of August asking why Cayrock had been allowed to continue broadcasting in blatant disregard of the Board’s Authority. As an apparent reaction to our correspondence, the ICTA wrote a letter addressed to Mr. Don Seymour, Managing Director of DMS on the 14th of August 2009. This letter clearly states that there is no legal basis to re-consider ICT Decision 2008-4. It notes that DMS was given more than a year to implement the decision and further that DMS failed to commence negotiations with tower owners in a timely fashion. It states that the Authority had determined to give DMS “one last chance” to comply with ICT Decision 2008-4. It explicitly states that it would extend DMS’ existing license to the 15th of September 2009, “but no longer”. The letter goes on to state that the Authority would take whatever measures it considers necessary to ensure compliance with the ICTA Law and its decisions.

We fail to see how DMS’ “application” could have had any impact whatsoever on the position of the Authority as outlined above. In your most recent letter you have asked our Client to furnish you with evidence substantiating his assertion that his radio station is experiencing blanketing interference. The ICTA engaged the services of an independent technical consultant to carry out an assessment on the specific causes

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of interference in the FM band in the George Town area over four years ago. This assessment proved that transmission by the Cayrock transmitter from its current location was causing blanketing interference. We fail to see why then you now require further proof from our client that he continues to experience blanketing interference when an independent assessment commissioned by you led to this very conclusion. Our Client should not have to prove anything given that you have led all parties to believe that you would be enforcing your decision to compel DMS to relocate. We feel that this request is a further delaying tactic by the Authority.

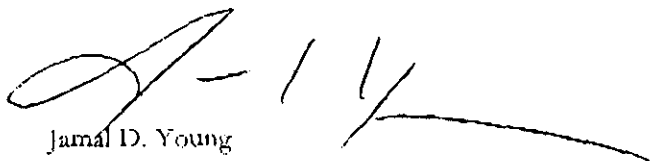
Notwithstanding this, our Client arranged for frequency testing to be carried out again last week using Spectrum Analyzer equipment. The test results clearly show that Cayrock has the highest level readings within the George Town area. The Spectrum Analyzer illustrates that all other broadcasters who have re-located out of the area are all at a lower/similar signal level. Cayrock's frequency is 96.5 FM. There is a frequency error of + 0.40K Hz and a deviation (+/- k Hz) of 8.5. This large frequency error/over-modulation is having an adverse effect on our Client's frequency signal and is causing substantial blanketing interference. We fail to understand how your own technicians have not picked up on this.

The fact that DMS continues to broadcast is evidence of the preferential treatment afforded to DMS by the ICTA. It is inconceivable to us that you have allowed them to continue broadcasting from their current location despite what is stated in your letter of the 14th of August wherein the Authority specifically stated that Cayrock would not be allowed to broadcast beyond the 15th of September 2009. It is obvious that you have afforded them more than the "one last chance" threatened in that letter.

Kindly note that we intend to bring proceedings for Judicial Review against the ICTA and further civil proceedings for damages as against DMS and the Authority. We shall be serving both parties with such proceedings early next week.

Yours truly,

GOLDFIELD CAYMAN ATTORNEYS-AT-LAW


Jamal D. Young

cc Leader of Government Business
Attention: McCeeva Bush

Minister for Communication
Attention: Julianna O'Connor

Chairman ICTA
Attention: Samuel Jackson