



The Bigger, Better Network.

Regatta Office Park, Leeward One
1158A West Bay Road
P.O. Box 700
Grand Cayman KY1-1107
Cayman Islands

February 14, 2012

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

Dear Mr. Archbold

Determination Request with Respect to Access to LIME Unbundled Local Loops

Digicel (Cayman) Ltd ("Digicel") [address] hereby notifies the Authority of a Determination request from Digicel brought under section 5 of the Information and Communications Technology Authority (Dispute Resolution) Regulations, 2003 against Cable & Wireless (Cayman Islands) Ltd ("LIME"), 1 Technology Square, P.O. Box 293, Grand Cayman KY1-1104.

Issues

Digicel requested the provision of unbundled local loops from LIME on 17th June 2011. LIME is obliged to provide these under the Interconnection and Infrastructure Sharing Regulations ("Regulations"). LIME responded on 6th July 2011 requesting additional information, Digicel sent a response with the complete technical explanation of its requirements on 19th October 2011. In spite of this LIME told us on 28th November 2011 that it will not provide unbundled local loops.

Digicel seeks a determination that LIME must immediately provide us with an offer for unbundled local loops, as well as providing us with associated information that we have requested.

Background and Discussion

The Regulations state that:

"Infrastructure sharing" means the provision to licensees of access to tangibles used in connection with a public ICT network or intangibles facilitating the utilization of a public ICT network; and for the avoidance of doubt –

- (a) Tangibles include lines, cables, or wires (whether fibre optic or other), equipment, apparatus, towers, masts, tunnels, ducts, risers, holes, pits, poles, landing stations, huts, lands, buildings or facilities; and*
- (b) Intangibles include agreements, arrangements, licensees, franchises, rights of way, easements and other such interests."*

Thus the term includes the ability to access all components currently within the LIME network needed in the provision of local loops: the main distribution frame, the copper lines to customer premises and any other conceivable tangible component within the LIME network that may be

Directors: Denis O'Brien (Chairman), Michael Alberga, Leslie Buckley, Conor O'Dea

required. The term also covers any 'intangibles' such as agreements necessary between the parties that may be necessary to enable Digicel to be able to provide services over those accessed tangible components.

Section 8(1) of the Regulations states that:

"Licensees shall have a right and, when requested by other licensees, an obligation to negotiate interconnection and infrastructure sharing services in order to ensure the provision and interoperability of services throughout the Islands."

Consequently, LIME is under an obligation to negotiate infrastructure sharing services with Digicel as a result of our request for unbundled local loops.

The timeframes for responding to Digicel's request were:

Section 8(5) – acknowledge receipt within 3 days.

Section 8 (6) – LIME had to request any further information required within 14 days.

Section 8(7) – LIME had to provide a quotation within 30 days after receipt of a complete and accurate request.

Section 8(8) – alternatively, if LIME wished to deny a request it had 20 days to do so within receipt of the complete and accurate request.

As indicated, Digicel submitted further information which met the requirement for a complete and accurate request on 19th October 2011. It can be seen therefore that all deadlines have expired.

On 28th November (well after the deadline required for any objection) LIME stated that it was refusing to provide local loops. LIME stated as the basis for its refusal that

"....there is no public policy basis for LIME to be required to expend the time and resources needed to develop this service and the related facilities."

We note that Section 4 of the Regulations states that an infrastructure sharing arrangement shall not be entered in to where it is

"contrary to.....the public interest"

However, LIME provides no basis for its assertion that Digicel's request is contrary to public policy/interest. To the contrary it merely states that the issue for LIME is the time and resources that LIME alone would devote to providing the access requested. LIME has made no attempt to establish or to argue whether and how Digicel's request is contrary to the wider interests of the Cayman Islands which, it seems to us would provide the public interest test.

Further, under section 6 it states:

"Each licensee has an obligation to treat requests, to negotiate interconnection and infrastructure sharing agreements and to provide interconnection and infrastructure sharing services in good faith."

We do not feel that it was indicative of good faith to refuse Digicel's request 40 days (19th October to 28th November) after the completed request was made, instead of as stipulated in the Regulations, being required to issue any refusal only 20 days. That has delayed the process by approximately 3 weeks.

Further, in our letter of 19th October to LIME we stated:

"Digicel will need to connect its DSLAM (Digital Subscriber Line Access Multiplexor) or MSAN (Multi-Service Access Node) to the LIME access network via Digicel's HDF at LIME's MDF at One Technology Square on Shedden Road initially, and to other LIME sites as Digicel expands to other areas. In this light we request information about feasible points for connection with LIME other than at One Technology Square which are available now or that will be available in the near future."

Under section 13 of the Regulations it states:

"A responder shall provide, on request, information reasonably required by requestors in order to facilitate any agreements for interconnection or infrastructure sharing including information required to give effect to any agreement."

We believe that the information Digicel has requested falls in to the bracket of information "reasonably required". However, none of this information has been provided by LIME.

Reliefs Sought

That LIME should:

1. immediately provide Digicel with a quotation for fully unbundled local loops including all rates, terms and conditions as required under section 8(9) of the Regulations with a minimum of:
 - date of availability;
 - installation intervals;
 - applicable rates;
 - request development and processing costs;
 - other such necessary terms and conditions required to effect interconnection or infrastructure sharing.

Mr. David Archbold
February 14, 2012
Page 4 of 4



The Bigger, Better Network.

2. provide information about feasible points for connection with LIME (for the purpose of local loop unbundling) other than at One Technology Square which are available now or that will be available in the near future.
3. pay any costs that Digicel may incur as a result of being forced to take this matter to dispute.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Victor Corcoran", followed by a long horizontal line.

Victor Corcoran
Chief Executive Officer

cc: Anthony Ritch, CEO, LIME Cayman Islands

Encs.

DISPUTE BEFORE THE INFORMATION & COMMUNICATIONS TECHNOLOGY
AUTHORITY

**IN THE MATTER OF THE MAKING
AVAILABLE BY LIME OF UNBUNDLED
LOCAL LOOPS AND INFORMATION ABOUT
HOW TO ACCESS LIME UNBUNDLED LOCAL
LOOPS**

AND **IN THE MATTER** of the Information and
Communications Technology Authority Law, 2006, as
revised

BETWEEN	DIGICEL (CAYMAN ISLANDS) LIMITED	PLAINTIFF
AND	CABLE & WIRELESS (CAYMAN ISLANDS) LIMITED	DEFENDANT

AFFIDAVIT OF VICTOR CORCORAN

I, VICTOR CORCORAN, of 69 Parkway Close, George Town, Grand Cayman, MAKE
OATH and say as follows:

I am the Chief Executive Officer of Digicel Cayman Limited ("Digicel"), a company
incorporated in the Cayman Islands with its registered office at Harbour Place, 2nd Floor, 103
South Church Street, P.O. Box 472, George Town, Grand Cayman KY1-1106, Cayman
Islands. I have been authorized by Digicel to make this affidavit on its behalf.

I attest that the matters set out in the attached documents are in my knowledge and both true
and accurate.



I enclose a \$850 processing fee.

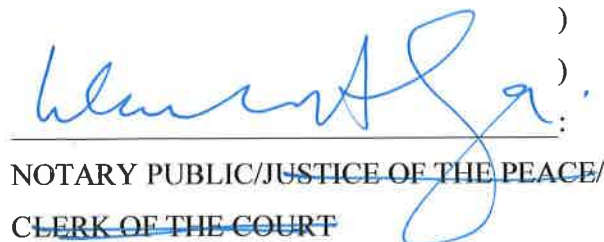
Digicel hereby provides an undertaking as to any and all costs which may arise as a result of this dispute in the event that the Authority determines that Digicel should pay any part of such costs.

SWORN at George Town, Grand Cayman)


this day of February 13, 2012)


Victor Corcoran

before me:-)


NOTARY PUBLIC/JUSTICE OF THE PEACE/
~~CLERK OF THE COURT~~

MICHAEL L. ALBERGA
NOTARY PUBLIC in and for
the Cayman Islands
My Commission Expires 31st Jan 2013.


THIS AFFIDAVITT was filed by Messrs. Myers Alberga, Attorneys-at Law for the Third Party Intervenor whose address for service and correspondence is P.O. Box 472GT, One Regis Place, Fort Street, Grand Cayman, Cayman Islands, B.W.I.



CI\$ 850,00	CI\$ 850,00	CI\$ 0,00	CI\$ 0,00	CI\$ 850,00
-------------	-------------	-----------	-----------	-------------



060969

Butterfield Bank (Cayman) Limited
P.O. Box 705, Grand Cayman KY1-1107, Cayman Islands

IN THE
AMOUNT OF

PAYEE ICT Authority



Сауыт

Esquivellano
AUTHORISED SIGNATURE

Adilummi
AUTHORISED SIGNATURE

||060969|| :000000||250|| 02101035565||