



The Bigger, Better Network.

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January 15, 2010

**Attention: Mr. David Archbold**

The Managing Director  
The Information Communications and Technology Authority  
P.O. Box 2502  
Grand Cayman, KY1-1104  
CAYMAN ISLANDS

Dear Sirs:

Thank you for forwarding to us the LIME letter of January 11<sup>th</sup> 2010 which is part of LIME's response to our Determination Request. In particular we wish to respond to LIME's claim of confidentiality over the redacted data in paragraphs 32 and 33 of its response to our Determination Request.

The claim for confidentiality refer to omitted data relating to the total minutes and In-payment under the heading of **Reduced In Payment to LIME** for calls from Digicel to LIME and **Reduced Out-Payment from LIME** for calls from LIME fixed to Digicel Mobile and LIME mobile to Digicel mobile.

The regulations define what information can be considered confidential. It also obliges the party making the claim of confidentiality to specifically elect to argue one or more of the recognized bases for confidentiality as set out in regulation 3(a) – (d). LIME has advised that the omitted data is confidential on the basis 'that such information is commercially sensitive, as it relates to interconnect traffic volumes and corresponding financial information.' Without more, it appears to us that LIME is seeking to clear that by virtue of regulation 3(b), 'the information is financial commercial, scientific or technical information that is treated consistently in a confidential manner by the submitting party and the information is not otherwise publicly available.'

We must point out the obvious to the Authority. All the redacted information is data which contains minutes and payments from Digicel to LIME or from LIME to Digicel. The redacted information is therefore available to LIME as it is to Digicel. In fact, if LIME were to seek to disclose this information to a third party without Digicel's prior approval, Digicel as part owner and creator of this information could itself claim confidentiality against that third party. It is commercial and financial information that other than being made generally available to BOTH Digicel and LIME by each other, is treated consistently in a confidential manner as against the public and other third parties. It is preposterous to claim that information SHARED and in the joint knowledge of BOTH is confidential as against either. Clearly we would know how much in payments we make

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

to LIME and how much they make to us. The same goes for minutes between our networks. This information, we would submit, is confidential financial commercial and technical information which if disclosed by EITHER party to WestTel and TeleCayman could reasonably be expected to cause financial loss or gain to us, significantly prejudice our competitive position and expose the disclosing party to action by us. We believe either LIME or Digicel could claim that the data is confidential under regulation 3(a) and (d) but clearly it is not a claim that we could sustain against each other.

We therefore are of the view that the data ought to be maintained as confidential as against any THIRD PARTY, (WestTel and TeleCayman included) but ought to be disclosed to us. If, as we know, the information is information which we ALSO have and are entitled to have, being information legitimately processed internally under our interconnection arrangement, then we are entitled to the assurance that the information as presented to the Authority is a true and accurate statement of the facts. This is important especially as the redacted information is a critical part of LIME's case that the absence of a Glide Path has little or no financial impact on either party.

This objection to the claim for confidentiality is not a case that the information is for the public record. We do maintain that it is confidential consistent with our argument that the conditions of offer to us by LIME for direct M2M is confidential and ought not to be published to the world without LIME's consent. (We clearly could not argue that in any of our submissions, LIME's offer to us was not to be published to LIME **itself**.) It simply could not be published to others. We now argue that the material data is not for the public record, and ought to be shared with us so we can clarify or verify same. In addition to the submissions above, we also make the case that the disclosure of the information to the public (WestTel and TeleCayman included) is a disclosure of sensitive commercial information concerning DIGICEL's operations and would cause us loss, and in the hands of our competitors, WestTel and TeleCayman, could put us at a competitive disadvantage. It is certainly not information which we consistently share with them or other members of the public.

Further, to force an operator to disclose to its competitors, the payments made to with any party under with which there is an interconnect arrangement, is not in the public interest and makes an alarming statement to operators, incumbents and new entrants, customers and business partners, that the privacy of such financial dealings can be easily destroyed and that confidential information between parties is not protected. The specific direct harm to either party and to the practice of commerce in the island does justify our claim that the information is confidential as against the public interest.

Similar arguments as above could be made in relation to LIME's decision to redact the information in Exhibits 3 and 4. This information seems to be email correspondence

**Mr. David Archbold**  
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between Digicel and LIME, and as such Digicel should be entitled to see the same in order to verify the same.

Consequently, the Authority ought to deny the claim for confidentiality against Digicel and make an order that the information redacted in paragraphs 32 and 33 and Exhibits 3 and 4 of LIME's Response to Digicel Determination Request of January 11<sup>th</sup> 2010 (corrected January 12<sup>th</sup> 2010) be disclosed to Digicel however, pursuant to Regulation 5(2)(a) the information not be placed on the public record.

Yours sincerely,  
**Digicel (Cayman) Limited**

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

Victor Corcoran  
Chief Executive Officer