



The Bigger, Better Network.

Cayman Financial Centre
36A Dr. Roys Drive
PO Box 700 GT
Grand Cayman, Cayman Islands
Tel: + 1 345 623 3444
Fax: + 1 345 623 3329

BY E-MAIL & COURIER

Mr. David Archbold
Managing Director
Information and Communications Technology Authority
PO Box 2502
3rd Floor, Alissta Towers
85 North Sound Road
Grand Cayman KY1-1104
CAYMAN ISLANDS

22 August 2008

Dear Mr. Archbold

Re: Decision 2008-2 dated 31 July 2008

We refer to the Authority's Decision 2008-2 published on 31 July 2008 relating to the Authority's Costing Manual Consultation (CV 2005-1) ("the Decision") and in particular to paragraphs 447 and 448 thereof (full text set out below).

"447. By 22 August 2008, C&W is directed to identify the date by which it will file a complete FLLRIC cost model reflecting the Authority's determinations in this decision and the two MTR proposed rates and supporting cost studies. By 22 August 2008, any other party that intends to make submissions in the Phase 3 process is to identify the number of calendar days it anticipates it will need in order to review C&W's submission and file any proposed changes to C&W's models and MTR filings along with any supporting rationale.

448. By 1 September 2008, parties may provide comments on the time-frames suggested by other parties in the 22 August 2008 submissions. Subsequently, the Authority will issue procedures and milestones for the Phase 3 proceeding".

First of all, Digicel does not accept that the Phase 2 process has completed. As such, Digicel does not accept that what is envisaged by paras 447 and 448 should properly be described as the phase 3 process (or even part thereof). Indeed in the Overview section of the Decision the Authority states:

"...In addition, the Authority requires additional information, supporting Documentation and rationale from C&W for a number of its assumptions..."

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

It is clear from the Decision when read as a whole that the Authority has not completed the process that it itself identified as the “phase 2 process”. In fact, this phase 2 process is manifestly ongoing.

We would also remind the Authority of Digicel’s application for a reconsideration of certain aspects of certain matters addressed in the Decision. As you will be aware, the Authority has notified the relevant parties of this application and has established a procedural framework within which this application is to be addressed (culminating with a Decision to be delivered by the Authority in respect of that application no later than 11 September 2008).

As such, whilst it is certainly Digicel’s intention to make submissions as part of the phase 3 process, it is clear that a completion of the phase 2 process will necessarily be required in advance. We do not believe that it would be good practice for the Authority to begin any aspect of phase 3 whilst phase 2 remains incomplete. Such an approach could only serve to undermine the entire FLLRIC process.

Quite apart from this fundamental point, the approach adopted by the Authority in para 447 is somewhat irrational. The Authority is asking Digicel to identify how many days will be required in order to review “...C&W’s submission and file any proposed changes to C&W’s models and MTR filings along with any supporting rationale..” . What is somewhat irrational is that the procedure as contemplated expects Digicel to identify how many days will be required to review a submission that we will not have seen? In effect, we’re being asked to make this judgment on the blind. We do not understand why the ICTA could not have allowed a period (however short) for Digicel to review C & W’s submission before indicating how many days would be required as per para 447.

However, whilst reserving Digicel’s position in respect of the matters raised above, we would make the following general observations about C & W’s pending submission (these are not necessarily exhaustive):

- As the Authority will be aware, the matters that will most likely be raised in C & W’s submission will be complicated and may well be quite contentious. Indeed, we believe that Digicel will be required to instruct an independent expert to review C & W’s pending submission and provide independent expert views in respect thereof. Seeking to procure such independent expert on such a submission in a compressed period (and indeed particularly where the content and scope of the submission remains at present unclear) is clearly unsatisfactory.
- It is also possible that Digicel may wish to submit detailed data that could be inputted into the model. Such a submission is likely to take a lengthy period to prepare. Again our ability to estimate how long is hindered by the procedure that has been adopted by the Authority.

Taking all of the above into account, Digicel believes that a period of not less than 90 calendar days is likely to be a sufficient time period in which to review, assess and provide responses in respect of C & W’s (as yet unseen) submission. However, the Authority will recognize that such a period might well not be adequate. This of course depends on the nature of the submission made and information provided by C & W.



The Bigger, Better Network.

As such, whilst Digicel anticipates that a period of not less than 90 days should suffice, we must reserve all of our rights in this regard pending receipt of the C & W submission to be delivered today, 22 August 2008.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Sean Latty".

Sean Latty
Assistant General Manager
Digicel (Cayman) Limited