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24 February 2012

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

Dear Mr. Archbold,

Re: ICT Decision 2011-3 - Digicel Disclosure Request

Cable and Wireless (Cayman Islands) Limited, trading as LIME (“LIME”) acknowledges receipt of the 17 February 2012 letter from Digicel Cayman Limited (“Digicel”), requesting disclosure of all confidential information in the fixed, 2G and 3G modules of the Forward-Looking Long-Run Incremental Cost (“FLLRIC”) model circulated by LIME on 7 February 2012. Disclosure of the confidential information is ostensibly required to allow Digicel to “test the robustness or otherwise of the models”, and because Digicel claims not to have enough time to “obtain the information that it would require to replace the dummy data with data of its own.”

LIME submits that the Authority ought to deny Digicel’s request.

Background

LIME notes that the question of confidentiality has been the subject of many applications and disputes throughout the FLLRIC model development process. The most recent, and certainly the most detailed determination on the question was the Authority’s 14 January 2010 letter in response to Digicel’s 25 November 2009 request for disclosure of confidential information, including exactly the same information as is being requested here (the “Disclosure Order”). In that Disclosure Order, the Authority painstakingly examined each of LIME’s confidentiality claims and Digicel’s disclosure requests, balanced the public interest in disclosure and the harm to LIME that would flow from disclosure, and set out specifically what information could remain redacted. However, to further assist interested parties in understanding the FLLRIC model, the Authority established additional rules regarding how “dummy data” could be generated and how it had to be presented.

The Authority subsequently upheld its determinations, in ICT Decision 2010-2, following a request by LIME that the Authority reconsider its Disclosure Order. In ICT Decision 2010-2, the Authority provided further details on how it arrived at the Disclosure Order.

Following ICT Decision 2010-2, LIME redacted the FLLRIC model in accordance with the Authority's directives, and has carefully followed them since then. In its 31 March 2010 filings, and in others, only the specific cells identified by the Authority as confidential, were redacted. Further, as directed, those cells were highlighted in red, and the dummy numbers in them are within plus or minus 50% of the confidential value.

Res Judicata

Notwithstanding the Disclosure Order, Digicel has again requested disclosure of LIME's confidential information in the FLLRIC models. However, the Authority has already ruled on the confidentiality of that very data, and LIME has introduced no new confidential information into the models since March 2010. By all reasonable interpretations, this particular question must be considered to be fully and finally determined.

Given the foregoing, LIME submits that Digicel's latest disclosure request is in fact a weakly disguised request that the Authority reconsider its 14 January 2010 Disclosure Order. However, Digicel has provided no justification for why the Authority should exercise its power to reconsider the Disclosure Order. LIME submits that, given the absence of a fundamental flaw to the procedural or substantive approach adopted by the Authority in the proceedings that led to the Disclosure Orders, the Authority should decline Digicel's request.

Substitute Data

Digicel claims that it does not have enough time to obtain the information that it would require to replace the dummy data with data of its own. LIME rejects this assertion. Digicel has known the information that was redacted since March 2010, and that information remains redacted (and identified as such) in exactly the same way as in March 2010. In other words, Digicel has had ample time over the last almost-two-years to find its own alternative data for use in testing the models. It is unacceptable to LIME that the confidentiality of its data should in any way be compromised because of Digicel's failure to use the last two years wisely.

Testing the Models

Digicel also claims that it needs access to LIME's confidential information in order to test the robustness of the models. This is simply not the case. Digicel has full access to all workings of the models, and has enjoyed this access for some time. Digicel is also already aware that the "dummy" numbers fall within a narrow range of the "real" numbers. Seeing LIME's confidential data will not give them any evidence of the robustness of the models. That can only come from Digicel substituting its own data for the confidential data, something that it could (and should) have been doing over the last two years.

In Camera Proceeding

LIME must also object to the proposed *in-camera* approach. Such a proceeding is wholly unnecessary, as all interested parties have had unfettered access to all modules of the FLLRIC model at every stage of the proceeding since March 2010, if not earlier. The portions of the modules that are redacted (which is with few exceptions the same information in each module) are so small, and the dummy numbers are so close to the real numbers (due to the Authority's directives on masking data), that not having the confidential data is absolutely no bar to fully understanding the working of the FLLRIC model. Viewing LIME's confidential information in an

in-camera setting would not give Digicel or any interested party any better understanding of the model than they can get today on their own. As such, an *in-camera* proceeding would be a waste of time.

Nor is LIME confident that an *in-camera* hearing would in fact protect LIME's confidential information from disclosure or inappropriate use. As the Authority is aware from LIME's prior submissions, LIME believes Digicel has already breached the Authority's 2004 Protective Order, in proceedings in Jamaica in 2004 and in Barbados in 2005, and in an ICC Arbitration involving LIME in 2007. LIME does not believe Digicel would accord any greater respect to any new Protective Order from the Authority.

LIME, therefore, remains firmly opposed to the disclosure of its confidential information to Digicel, even in an *in-camera* proceeding.

Unfair Competition

LIME submits that the real purpose of the latest Digicel disclosure request is not a greater understanding of the FLLRIC models, as they already have all the information they would need for that purpose. Digicel's disclosure request is a desperate attempt to once again forestall the conclusion of this 8-year proceeding and the implementation of significantly lower mobile termination rates. Furthermore, Digicel is seeking LIME's confidential information in order to obtain competitively sensitive cost and demand information, something it could not normally do. This is an inappropriate use of a regulatory proceeding that would give Digicel an unfair competitive advantage, at the expense of consumer welfare and fair competition.

Conclusion

LIME requests that the Authority deny Digicel's 17 February 2012 disclosure requests. The information has already been the subject of a confidentiality ruling, and circumstances have not changed since that ruling. Further delay to accommodate Digicel's apparent inadequate planning is unwarranted, as Digicel has already had a couple of years to obtain its own alternative data to the "dummy data" and has had full access to all parts of the FLLRIC model. Finally, disclosure of the information would cause LIME harm, for the very same reasons as previously discussed in the proceeding leading to the Disclosure Order.

Please do not hesitate to contact the undersigned if you should have any questions.

Sincerely yours
Cable and Wireless (Cayman Islands) Limited, trading as LIME

'Signed'

Anthony Ritch
General Manager

c.c. Victor Corcoran, CEO, Digicel Cayman Ltd.
Frans Vandendries, VP Legal & Regulatory, LIME