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

4 April 2012

Dear Mr. Archbold,

**Re: Reply to Digicel Comments on FLLRIC Model and Related Data**

Cable and Wireless (Cayman Islands) Limited, trading as LIME (“**LIME**”) acknowledges receipt of the two 29 March 2012 letters from Digicel Cayman Limited (“**Digicel**”) submitted as set out in the Authority’s letter of 8 March 2012. The following represents LIME’s reply to those comments. Failure to address a specific point or comment raised by Digicel does not necessarily represent agreement with that point or comment.

Digicel’s Submissions

Digicel’s comments in the first letter consist of objections to the process by which the Forward-Looking Long-Run Incremental Cost (“**FLLRIC**”) Model (“**the Model**”) has been developed during the last eight years of public consultations, and assertions that they have been denied an opportunity to comment meaningfully on the Model because some information was redacted.

Digicel also states that the demand figures used in the Model do not represent the current market reality in the Cayman Islands, and that Digicel would be in breach of the *Information and Communications Technology Law* (the “**Law**”) if they were to agree to a Mobile Termination Rate (“**MTR**”) based on the Model.

Digicel concludes by providing its own view of the demand profile, and of the impact on the MTR. All information is redacted, including the final conclusion of the impact on the MTR.

In the second letter, Digicel claims confidential treatment of its information and conclusion is necessary because Digicel’s information could give other persons a competitive advantage and might not be used by the Authority. In contrast, according to Digicel, LIME’s confidential information must be disclosed because it could impact Digicel’s business.

### Reply to Digicel Comments

The Further Process outlined in the ICTA's Decision 2011-3 sets clear parameters for comments on and responses to LIME's submissions in respect of the directions in the Decision. In particular, in paragraph 368, the Authority "stresses that the parties' submissions in the follow-up process should relate solely to the changes to the model pursuant to this decision and must not attempt to re-argue items on which the Authority has already made determinations in this or previous decisions". The Authority repeated this very same instruction in its 8 March 2012 letter rejecting Digicel's most recent disclosure request. Contrary to the express terms of this directive, Digicel's comments for the most part seek to re-argue issues on which the Authority has already reached a determination, and do not address changes to the model pursuant to Decision 2011-3. Digicel's submission is, therefore, outside the scope of this follow-up process. Accordingly, LIME submits that the Authority ought not to entertain Digicel's attempts to further delay the process, and should reject Digicel's submission. In the event, however, that the Authority chooses to give further consideration to Digicel's re-arguments, LIME provides the following comments:

LIME strongly disagrees that the process used to develop the Model is flawed. The fact that Digicel might not like the output of the Model (i.e. the MTR) does not invalidate the Model or the process used to develop it. As the Authority and Digicel are aware, the Model was constructed through a rigorous and detailed process, starting with the first elaboration of guiding principles all the way through to the final publication of the completed Model. Further, the process of development of the Model has been extremely transparent, the Authority has granted Digicel unprecedented access to LIME's confidential data, and Digicel has been privy to and a participant in every stage of the proceeding. It is therefore not true that Digicel has not been able to comment meaningfully on the Model.

The suggestion that Digicel would be in breach of the Law if it were to agree to an MTR based on the Model is incorrect. Section 10(1)(f) of the *Information and Communications Technology Authority (Interconnection and Infrastructure Sharing) Regulations 2003* (the "**Regulations**") is explicit that charges for interconnection services, such as MTRs, are to be "based on a forward-looking long-run incremental cost methodology once it is established by the Authority following a public consultative process." The MTR proposed by LIME is consistent with the Model. If the Authority approves the Model, which has undeniably been developed through a public consultative process, that MTR would satisfy the criteria in the Regulations for use by licensees in their Interconnection Agreements. It would then be absurd to argue that a rate that is consistent with the requirements of the Regulations could be considered as having "...as [its] object or effect the prevention, restriction or distortion of competition relating to any ICT service or ICT network...".

LIME notes that Digicel bases its claim that the MTR generated by the Model is inappropriate, on the "demand profile" used in the Model, and proposes an alternative "demand profile". Subsequent to the Authority's January 2010 disclosure determination, LIME has produced a public version of the mobile module with a complete set of unredacted volumes. Hence, for over two years, Digicel has had complete visibility of volume assumptions in the mobile module, but has chosen to withhold all comment on these assumptions. Only now, at this final stage of the proceeding, and outside of the scope of the remaining process, has Digicel chosen to express an objection to these assumptions. Because all the "demand profile" information and the conclusions drawn from this information are redacted from Digicel's submission, LIME cannot comment on them.

### Disclosure Request

In light of the foregoing, LIME requests, pursuant to section 4(1)(f) of the *Information and Communications Technology Authority (Confidentiality) Regulations*, that the Authority disclose the information redacted by Digicel in its 29 March 2012 letter. This information is potentially relevant in the finalisation of the Model, and a public consultation process requires that the public have a meaningful opportunity to comment on the information that the Authority will be considering during that public consultation process. As Digicel has redacted all of the information in its letter, including the conclusion of its analysis, LIME cannot have any such meaningful opportunity to comment, if the Authority does not require disclosure.

LIME recommends, though, that the Authority require Digicel to apply to the information in the table in its 29 March 2012 letter the "masking" methodology set out on page 6 of the Authority's 14 January 2010 letter on disclosure and redaction of Model-related information. This would strike the appropriate balance between disclosure of information necessary for parties to meaningfully comment on Digicel's submissions, and protection of Digicel's commercial interests in the information. LIME submits that there is no basis for redacting the conclusion in paragraph 6 of Digicel's 29 March 2012 letter, and requests full disclosure of that information.

### Conclusion

LIME submits that Digicel's non-redacted comments have not identified any fundamental issues with either the Model or the data used to populate that Model, and therefore continues to believe the Authority ought to approve it. However, LIME requests disclosure, subject to the Authority's masking rules, of the information that was redacted by Digicel, so that LIME can have a meaningful opportunity to assess it and provide the Authority with comments.

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'

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Daniel Tathum  
Acting General Manager

c.c. Rod Kirwan, Group General Counsel, LIME  
FLLRIC Distribution List