

PO Box 11890 APO
George Town
Grand Cayman

August 30th, 2004

Elaine Leung
Head of Economics & Regulation
Information & Communications Technology Authority,
P.O. 2502GT,
Grand Cayman, Cayman Islands

Re: Indirect Access Public Consultation (Ref: CD (2003) 7) - Interrogatories

Dear Elaine,

Thank you for the opportunity to respond to interrogatory 3D. Please find Blue Bison Communications position on the requested topics outlined below.

Please note that we are only responding to interrogatory 3 at this time, we will submit the remainder of our response in due course.

C&W's draft retail tariffs contain a number of restrictions on use which prevent a subscriber from accessing "international ICT services provided by another Licensee, through the ICT network and ICT services of the Licensee with whom the Subscriber is directly and physically connected." For example, in C&W's Draft General Tariff, Item 600 (General), at page 6.2, it is indicated that:

The Customer shall not allow the Internet Service to be used, modified or adapted to transmit voice Services on the PSTN.
The Customer shall not connect to the PSTN at either the local or distant end.

In Item 603 (Asymmetric Digital Subscriber Line), at page 6.16, it is indicated that "transmission of Voice over IP is not permitted from any ADSL Internet Access connection."

Similarly, in Item 502 (Domestic Private Leased Circuits), at pages 5.8 and 5.9, the customer is required to undertake not to, among other things, use or "allow the DPLCs to connect voice conversations to the

fixed public telecommunications system, mobile public telecommunications system or the Internet.”

See also Items 503 (Integrated Services Digital Network), page 5.11; Item 601 (Dialup Internet Access), page 6.8; and Item 602 (ISDN Internet Access), page 6.11. There are similar restrictions in a new service filing that C&W has filed with the Authority on a confidential basis.

Such restraints are also present in certain wholesale arrangements. In the Service Schedule applying to provision of DPLCs for resale, the licensee-customer and the end-customer are not permitted to use or allow anyone else to use the service:

- to resell part or all of any portion of the capacity provided by the service (paragraph 2.3.3); or
- to connect to the Public Switched Telephone Network at either the local or distant end (paragraph 2.3.7).

The service schedule pertaining to ADSL resale service requires, at paragraph 5.5, the customer to undertake that “it shall not use or cause the ADSL Resale Service to be used for the conveyance of any form of Voice Service.”¹

- A) **[C&W only]** Provide a list of all countries of which C&W is aware which prevent the use of incumbent-provided Internet accesses for purposes of voice communications on the PSTN.
- B) **[C&W only]** Provide the rationale for the restrictions on use noted above and any other similar restrictions, set out in C&W’s retail tariffs and wholesale tariffs/agreements/arrangements.
- C) **[C&W only]** Describe in detail all methods used by C&W to investigate potential violations of and enforce the restrictions referred to in part B).
- D) **[All Respondents]** Provide your company’s views, with justification, as to whether restrictions of this nature are:
 - i) inconsistent with the requirement, under the ICTA Law (2004 Revision), that the Authority “promote competition in the provision of ICT services and ICT networks where it is reasonable or necessary to do so” (subsection 9(3)(a)) and “promote and maintain an efficient, economic and harmonised utilisation of ICT infrastructure” (subsection 9(3)(h));
 - ii) represent either an abuse of dominant position or an anti-competitive practice, contrary to the provisions of the

¹ C&W’s draft retail tariffs can be found at: <http://www.cwinternet.ky/internet/products/retail-tariffs/index.php>. C&W’s carrier services can be found at: <http://www.cwinternet.ky/internet/products/carrier-services/>.

ICTA Law (2004 Revision) and C&W's Licence, by, for example, "limiting production, markets or technical development to the prejudice of consumers" or "imposing ... unfair trading conditions." (Condition 15.2 of C&W's Licence).

Blue Bison Communications Response:

1. It is our opinion that the restrictions are inconsistent with the requirement, under the ICTA Law (2004 Revision), that the Authority "Promote competition". The restriction limits the ability of technology providers in the Cayman Islands to develop and encourage the use of a groundbreaking technology such as VOIP. It is incumbent upon the ICTA to ensure that the country is in a position to keep pace with other jurisdictions such as the UK and USA, and in doing so consumers will be in a position to benefit from the lower costs and flexibility of services such as VOIP. The global marketplace is currently witnessing a gradual shift from PSTN based systems to VOIP based systems, and it would be a disservice to our consumers to prohibit the use of such services. In fact many telecom providers are already utilizing the technology internally, but are not passing the savings and other benefits on to their customers. VOIP also provides many other benefits, such as the ability to integrate with many CRM and billing systems, and as research and development continues, many local enterprises will be able to further streamline and enhance their services if they are allowed to take advantage of VOIP without restrictions.
2. To uphold the restrictions would be a disservice to the new entrants to the telecom market. All new providers will face a huge uphill battle to compete with the incumbent and larger telecom providers, many of whom are already making use of VOIP to lower their operating costs. It is our opinion that no regulation of provider of VOIP services is needed and free competition should be allowed. The economics of providing such a service will allow the market to become self-regulatory as only the most competent, competitive and customer centric providers will survive in the long run. We also maintain that non-facilities based providers such as Blue Bison, should be allowed to provide VOIP services without restrictions as they have identified niche markets where value added services can be offered around VOIP, allowing the consumers of the service to also enhance their revenue. Blue Bison also maintains that priority should be given to locally owned providers such as Blue Bison, who must compete with multinational providers who have the financial and support structure in place to capture a larger portion of the VOIP market from the outset.

Sincerely Yours,

Alva Suckoo
Director
Blue Bison Communications Limited