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Information & Communications Technology Authority

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30 July 2009

Mr. Charles Douglas
Regulatory Advisor
Legal, Regulatory & Corporate Affairs (Regional)
Cable and Wireless (Cayman Islands) Limited
PO Box 293
Grand Cayman KY1-1104
CAYMAN ISLANDS

***** Redacted *****

Dear Mr Douglas,

Re: Changes to LIME NetSpeak Service

In a letter dated 13 November 2008, Cable and Wireless (Cayman Islands) Limited ("LIME") applied to the Information and Communications Technology Authority ("ICTA" or "Authority") for authorization to restructure and re-price its NetSpeak Service. In particular LIME proposed to replace the current single Basic Unlimited Plan (US/Canada) offering with three Basic Unlimited Plan (US/Canada, UK/Western Europe, and LIME Caribbean) options. LIME also proposed a revised out-of-plan international calling rate structure.

Process

In a letter dated 12 December 2008, the Authority requested information from LIME regarding its application. The information requested was in the form of twenty-five questions on various aspects of LIME's submission addressing such items as misleading customer numbers submitted to the Authority but not used in the imputation test, mislabelling of key tables causing confusion in the understanding of calculations,

inclusion of revenue in contradiction of the unlimited nature of the proposed plans, and exclusion of certain costs.

LIME replied to the ICTA questions on 16 March 2009 providing revised pages of proposed General Tariff Item 603 and revised imputation tests correcting identified errors. Further, based on the Authority's questioning of key inputs, LIME took the opportunity to update several values in their response.

After reviewing LIME's 16 March 2009 responses the Authority, in letter dated 6 May 2009, requested further information in the form of nine interrogatories on LIME's responses and its amended imputation tests. These included a clarification of a previous Authority question where LIME had failed to correct a mathematical error in the calculation of revenue for out-of-plan toll free minutes which resulted in doubling of the associated revenue. Other questions included topics such as the continued mislabelling of cost items, a fundamental revision of the percentage of customers requiring additional DIDs, failure to use the cost per minute for certain plans which LIME itself had corrected in the imputation tests submitted following the first set of interrogatories, and use of costs that were inconsistent with the imputation test requirements in Annex 5 of LIME's licence.

In letter dated 1 July 2009 but received by the Authority on 2 July 2009, LIME provided further revised imputation tests and responses acknowledging errors in the imputation tests that were discovered as a result of ICTA inquiries. In addition, LIME used the opportunity in this third submission of the imputation tests to revise certain costs estimates based on the FLLRIC model.

LIME's responses and imputation test assumptions raise a number of issues that are discussed in the following.

Imputation test

LIME provided separate imputation tests for the three market segments, namely the three groups of customers who take one of the three Basic Unlimited Plans, either as their Basic Plan or as an "add-on" to another Basic Plan. The Authority agrees with this approach.

Take-up of new plans

Since the proposed new Basic Plans are not offered in the Cayman Islands, LIME uses take-up data from another LIME market where the plans have been offered since March 2007. The Authority is concerned with the reliance on data from another operating

territory as LIME has provided no details on the derivation of those estimates or information that justifies their application to the Cayman Islands market. However, as the distribution of customers to each basic plan appears reasonable, the Authority accepts LIME's distribution estimate. While the Authority accepts LIME's distribution estimate, it has concerns with how LIME has mixed the assumed distribution data with actual usage data in the Cayman Islands market to determine assumed average usage volumes. These concerns are addressed in a later section.

Use of results from FLLRIC model

In its 2 July 2009 revision of the imputation tests, LIME includes the retail and common cost of its VOIP service as calculated in its recently submitted FLLRIC model. The Authority notes that LIME's submissions in the FLLRIC proceeding remain untested and indeed, await input from interested parties and subsequent determinations by the Authority. Considering this, the Authority concludes that it is premature for LIME to use outputs of the FLLRIC model for imputation tests inputs at this time. The Authority therefore rejects LIME's revisions in this regard.

In previous filings of the imputation tests, LIME used a value of # # as an estimate for the common cost contribution (as a percentage of total cost) and CI\$ # # per customer per month as an estimate of retail costs. In the Authority's 11 January 2007 determination regarding a residential NetSpeak service filing, it noted that:

...upon review of the other common cost factor information provided by C&W, the Authority determines that the common cost factor of # # that C&W used in the second revised imputation test (the imputation test that was filed 28 September 2006) and applied to total operating costs including terminating costs is appropriate for the NetSpeak Service.

The Authority directs that, pending the Authority's determination on the FLLRIC model, the NetSpeak Service imputation test should continue to use the common cost percent and retail costs estimate from other recent service filings and not the estimates from the untested FLLRIC model filing.

Cost of accessing voicemail messages

In its 16 March 2009 response to Authority interrogatory no. 4, LIME stated that calls made on the LIME network to the voicemail platform to retrieve voicemail are free and that the imputation tests did not include any costs for use of the voicemail platform. LIME considered that such costs could "reasonably be considered as common costs" as

it was of the view that the voicemail platform is a shared facility used by all LIME fixed line customers.

The Authority notes that at paragraph 49 of Decision 2005-4 when addressing "common costs" the Authority stated, "[s]ome of these costs are common to only a subset of the elements or services provided by C&W. Such costs shall be allocated to that subset, and should then be allocated among the individual elements or services in that subset, to the greatest possible extent."

The Authority disagrees that the voicemail platform costs are common to all fixed line customers. In the Authority's view, consistent with the Authority's determination in Decision 2005-4, the costs of accessing voicemail to retrieve messages and the costs of the voicemail platform should be allocated to the voicemail products.

Usage Levels and traffic profiles

LIME estimated its assumed minutes of usage by calculating the average usage and average number of lines over a ten month period and then increasing both the average usage and the average number of lines by the same percentage increase. This results in the average usage per NetSpeak customer remaining the same both before and after the introduction of the new service definitions.

When estimating the average monthly usage per customer for each of the proposed Basic Unlimited Plans, LIME divided the assumed usage as calculated above by the assumed number of customers who would subscribe to that plan. The result is the following average monthly traffic per customer for the following plans:

Unlimited calling to US/Canada – # # minutes
Unlimited calling UK/Western Europe – # # minutes

LIME's methodology for deriving the unlimited traffic for unlimited calling to US/Canada and UK/Western Europe relies on the customer distribution from another LIME market. Such an approach results in unreliable average usage data because it creates a disconnect between the distribution of the customer counts used to track the usage data and the distribution of the customer counts used in calculating the assumed average usage. Accordingly, it is an erroneous approach.

In response to Authority interrogatory no. 1(c) of 2 July 2009, LIME provided a table showing month end in service demand and revenue from November 2008 to April 2009 (also shown in the revised imputation test sheet "Demand_Revenue"). Using those customer counts by plan and the 2008 usage data provided by LIME, the Authority has calculated the average actual monthly traffic per customer for each of the unlimited

US/Canada and UK/Western Europe calling plans for the purposes of assessing the reasonableness of LIME's assumed usage.

For US/Canada, the actual usage is below the level assumed by LIME in the imputation tests. However, with the transition from a mandatory unlimited US/Canada subscription to one that is an optional selection, it is reasonable to expect the average usage to increase since customers who had no choice but to subscribe to that option in order to get the NetSpeak service could now choose another more relevant unlimited option instead. Accordingly, the Authority considers LIME's assumed usage for the US/Canada unlimited plan is reasonable.

For UK/Western Europe, the 2008 actual monthly average usage is above the level assumed by LIME in the imputation tests. The Authority considers this unreasonable and cannot accept an estimate of average usage per customer that is lower than the current average monthly usage for this service option.

In evaluating LIME's estimated average monthly usage for the LIME Caribbean option of # # minutes per customer, the Authority compared it to that of the other two unlimited options. The Authority notes that both the actual and assumed average monthly usage per customer for the US/Canada option is substantially higher than the actual and assumed average monthly usage per customer for the UK/Western Europe option.

In the Authority's view, given the strong ties between the Cayman Islands and the Caribbean, the average usage of a Caribbean unlimited plan would likely be similar to that of the average usage of a US/Canada plan.

In estimating the monthly usage for the Unlimited LIME Caribbean option, LIME relied on comparisons to another LIME market. The Authority is of the view that such market comparisons do not accurately estimate the probable usage of an unlimited plan in the Cayman Islands. For example, LIME provided no disaggregated information to demonstrate that the market segments and market characteristics of that other jurisdiction are appropriate comparisons for the Cayman Islands, nor did LIME provide any details on the supporting data or calculations for that number.

In the 11 January 2007 determination regarding a previous NetSpeak application, the Authority wrote:

In the Authority's view, when customers purchase unlimited calling plans, they have little or no incentive to curtail usage - no matter how much they use, there is no increased cost to them. Such plans also provide customers with incentives to dramatically change their calling patterns whereby they will initiate calls to other parties instead of other parties calling them. Unlimited usage plans would

also likely be attractive to already high volume users or those who anticipate a high volume of usage.

The Authority remains of this view and determines that LIME's estimated usage for Unlimited LIME Caribbean option is unreasonably low.

In the Authority's 11 January 2007 determination it was willing to accept an assumed average usage of # # minutes per month for an imputation test for customers that subscribe to an unlimited LIME Caribbean Plan. The Authority remains of the view that this is a reasonable estimate.

For the UK/Western Europe option, the Authority determines that the imputation test should use the actual monthly average minutes for that option from the 2008 data.

Authority Determination

The Authority has adjusted the 2 July 2009 revised imputation tests provided by LIME using common cost and retail cost assumptions previously submitted by LIME and increased the number of unlimited minutes for the LIME Caribbean and UK/Western Europe Plan as identified above. As the LIME Caribbean and US/Canada unlimited options fail the imputation tests, the Authority denies the application.

While the UK/Western Europe Plan does pass the imputation test, the Authority notes that the imputation test for that option also includes costs and revenues associated with the other unlimited plan options. If LIME intends to implement a service change based on that option, a revised service filing and imputation test should be submitted for the Authority's approval.

Authority's suggestion

In its 13 November 2008 letter, LIME stated that it disagreed with the Authority's 11 January 2007 assessment of the estimated usage of an unlimited LIME Caribbean calling plan. The Authority has, in the past, provided a suggestion for how LIME may choose to develop an actual usage study for the Cayman Islands market for this option.

In a 1 March 2007 letter in response to a C&W letter regarding the proposed introduction of an unlimited Caribbean calling option to NetSpeak, the Authority wrote:

The Authority notes that C&W identified in its 29 January 2007 letter that it was disappointed in the Authority's determination. The Authority suggests that one approach C&W could use to assess usage levels of the unlimited option in the Cayman Islands market would be to introduce the option at a rate that passes the imputation test using the 11 January 2007 determination assumed usage level. It could subsequently monitor and report customer and usage statistics to the Authority over a sufficient period. The Authority appreciates that the number of customers who would select the unlimited option under this scenario may be different from the number of customers who would select the option under C&W's original proposed rate, however, the take rate may be sufficient to produce an actual usage study for this unlimited option.

This option remains open to LIME as one approach to establishing a good estimate of the usage of an unlimited Caribbean calling option.

LIME is required to file NetSpeak changes for Authority approval

In the third paragraph of its 13 November 2008 letter, LIME identified that it planned to further change the NetSpeak service after the 13 November 2008 proposed revision had been approved. LIME indicated that, after issues with its billing systems had been resolved, it would implement the change and "provide the Authority with an updated tariff page." The Authority notes that LIME's licence requires that changes to the rates, terms, or conditions of Category 1 Services need the prior written consent of the Authority and, depending on the change, an ex ante imputation test. As NetSpeak Service filings must follow the Category 1 rules, LIME's suggested approach of providing the Authority with an updated tariff page in order to implement a change is not sufficient. LIME is directed to comply with the terms of its license for changes to its services.

Yours sincerely,

[signed by]

David A Archbold
Managing Director

Note: "#" indicates information provided in confidence to LIME.