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LIME

Our ref: GRCCR/GR 15.4
06 March 2009

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

Dear Mr. Archbold:

Re: Amendment to Table 1 of Annex 5

Cable and Wireless (Cayman Islands) Limited, now doing business as LIME ("**LIME**") hereby applies to the Authority for an amendment to Annex 5 of the Licence issued on July 10, 2003 (the "**Licence**").

LIME is currently required, under Annex 5 of its License, to use imputation test measures of "interconnect plus retail costs" to determine the floor prices for "Fixed to Mobile" and "Fixed to Fixed" calls. While this imputation test methodology might seem reasonable, it fails to protect the public interest, and specifically harms the licensee, where the "interconnect" charge is not cost-based – as is the case with the mobile termination rate. We respectfully submit that it is inappropriate and unreasonable for LIME to impute as its costs for on-net traffic an interconnection terminating rate which has no relation whatsoever to the real cost of terminating calls. This negatively impacts our ability to compete with other operators who are permitted to base their prices on their real costs (only) of providing services. For example, Digicel is offering customers prices for Fixed-to-Mobile calling as low as \$0.15 per minute, for calls from Digicel's fixed service to their mobile service. It is immediately apparent that this price is less than the mobile termination rate of \$0.1845 per minute. While LIME would like to respond by adjusting its own price for Fixed-to-Mobile calling, and while a cost-based imputation test might well support a rate of \$0.15, LIME cannot lower its price because of the imputation test being based on a non-cost-based interconnection price¹ As such, LIME hereby requests

¹ Digicel's price also raises the secondary question of whether Digicel is discriminating against other operators, by effectively charging its fixed operations a lower mobile termination rate than it charges to other network operators.

that the Authority exercises its regulatory consideration to remove the “interconnection” component from Table 1 of Annex 5 listing the imputation test measures used to determine Fixed calling, and replace it with “cost”.

Indeed, in this vibrant and competitive environment, the imposition of special price and other regulations on LIME is no longer warranted as LIME no longer controls “market power” or the “dominant position” that it could exercise - let alone exercise to the detriment of consumers or competitors.

Incidentally, for the past several months, our competition has been successfully convincing our customers to take their services with significantly better rates. These lower rates are exactly what customers are looking for as they too try to be fiscally prudent during these tough economic times. To be clear, this is normal in a fair and competitive market, and LIME certainly supports it. However, the market is in fact not fair because LIME is prevented from responding with lower prices of its own.

If the intent of LIME’s Annex 5 was to protect new entrants and consumers from LIME’s presumed then-dominance, we submit that this has by now been achieved. We believe that LIME is now the victim of regulatory discrimination (as indicated above) and that Annex 5 as it currently stands puts LIME at a competitive disadvantage.

In light of this we respectfully submit and hereby request further that the Authority consider an amendment of LIME’s Annex 5 in its entirety to bring it in line with Other Licensed Operators.

We look forward to your response.

Sincerely,

‘Signed’

Darrel Rankine
Vice President Regulatory Affairs

c.c. Hon. V. Arden McLean, Minister for Communications, Works & Infrastructure
Mr. Samuel Jackson, Chairman ICTA Board of Directors
Anthony Ritch, Country Manager (Cayman), LIME
Donald Austin, EVP Legal Regulatory and Corporate Affairs, LIME
Camile Facey, Vice President Legal, Regulatory and Corporate Affairs OFC, LIME
Frans Vandendries, Vice President Legal, Regulatory and Corporate Affairs Central, LIME
Deborah Mangan, Legal Advisor, LIME