Digicel
The Bigger, Better Network.

Cayman Financial Centre
36A Dr. Roys Drive
PO Box 700 GT
Grand Cayman, Cayman Islands
Tel: + 1 345 623 3444
Fax: + 1 345 623 3329

BY E-MAIL & COURIER

29 August 2008

Mr. David Archbold
Managing Director
Information and Communications Technology Authority
PO Box 2502
3rd Floor, Alissta Towers
85 North Sound Road
Grand Cayman KY1-1104
CAYMAN ISLANDS

Dear Mr. Archbold

Re: Digicel Request for Reconsideration of Decision 2008-2

We refer to the letter as sent by Cable and Wireless (Cayman Islands) Limited ("C & W") to the Authority in the above entitled matter dated 25 August 2008.

C & W's letter was sent in response to our letter dated 14 August 2008 and pursuant to an e-mail circulated to the interested parties by Mr. Mark Connors of the Authority dated 15 August 2008. As set out in Mr. Connor's e-mail of 15 August, Digicel is entitled to respond to any such communication by today, 29 August 2008. As Digicel has not received any such correspondence from any other interested party, we are proceeding on the basis that we are only required to respond to C & W's letter dated 25 August 2008.

At the outset, Digicel must take serious issue with the opening remarks made by C & W to the effect that *"…it is in Digicel's interest to delay or derail this proceeding…"*. These remarks are simply unwarranted, unhelpful and emphatically denied. Digicel's interest is simply in ensuring that the FLLRIC process in which all parties are presently engaged in is conducted properly, fairly, and fully in accordance with the legislative framework that exists. In short, this process must be done properly, thoroughly and in a transparent manner. This remains the case even if this does not accord with C & W's interests.

C & W's letter continues in this derogatory vein and manifestly betrays a willingness and desire on their part to simply cast aspersions at Digicel rather than deal in any real sense with the fundamental and substantive points raised by us in our letter (with enclosure) of 14 August 2008. To this end, Digicel would note that many similarly intemperate and inflammatory remarks were made by C & W throughout the course of the recent Judicial Review proceedings taken by C &

W against the ICTA (the dispute which was commonly referred to as the "MTR dispute"). Indeed similarly inflammatory and baseless accusations were also levelled at the Authority (unfairly it must be said) throughout the course of those proceedings. As the Authority will be aware, C & W's position was emphatically rejected by both the Grand Court of the Cayman Islands and the Cayman Islands Court of Appeal. It is somewhat disappointing that C & W deems it appropriate to continue to make statements of this nature. However, such remarks are equally as unhelpful (and indeed equally as unimpressive) now as they were when made previously. To borrow the language employed by C & W, Digicel is "not surprised". Disappointed perhaps, but "not surprised".

C & W goes further and suggests that Digicel has "*…pitched all its submissions in the proceeding as a lead up to judicial review or other court challenges…"*. Digicel has identified what it believes to be serious fundamental flaws in the approach adopted by the Authority and which are evident in certain elements of Decision 2008-2. Digicel engaged an independent expert consultant (Dr. Chris Doyle) to give his expert opinion on these identified elements. Dr. Doyle's views in respect of these matters identified by Digicel were forwarded to the Authority. In engaging with the Authority with a view to having those fundamental flaws reconsidered and addressed, we believe that we are conducting ourselves as any reasonable and responsible operator should.

We believe (as stated in our letter of 14 August) that we are under a duty to exhaust all available remedies available to us. We are confident that the Authority will not be swayed by such tendentious and self serving language as that employed by C & W in its letter of 25 August. We would also point out (as a matter of record) that Digicel (Cayman) Limited has never once sought to Judicially Review a decision of the ICTA. C & W's history in this regard is considerably more chequered. Taking all of this into account, it ill behoves C & W to make crude submissions of this nature to the Authority.

It is noteworthy that C & W's submission is almost exclusively devoted towards opposing Digicel's request for a reconsideration on procedural grounds. It is regrettable (although quite telling) that C & W have completely declined to address the substantive matters raised by Digicel. C & W attempts to address this by saying that it *"…has had no proper opportunity to provide a point by point response to the matters raised in Digicel's request and in Dr. Doyle's report…"* but seeks to reserve its position in this regard. This is plainly wrong and pointedly absurd.

C & W have had since 15 August (some ten days) in which to provide such a response. Indeed, this is just short of the period within which Digicel had to provide its own submission (supported by Dr. Doyle's report) to the ICTA. Digicel would submit that C & W ought to have properly engaged in this respect; as clearly invited to by the ICTA in Mr. Connor's e-mail of 15 August 2008. That C & W simply declined to respond substantively is a matter that ought to be considered by the Authority. When one considers the period of time in which C & W has been working on this model (albeit to its own ends) it is simply extraordinary that they would decline the Authority's express invitation to effectively defend same. Such a reluctance to engage on these issues speaks volumes and should alert the Authority to the significance of these issues.

For the record, Digicel has no objection if C & W wishes to (belatedly it must be said) provide such a *"point by point"* response. However, C & W ought to have done so already in accordance with the Authority's clear invitation in this regard. We would submit that C & W's failure to do so does impact their *bona fides* in respect of this entire process. It is a pity that C & W saw fit to

expend all its energies in making disparaging remarks against Digicel rather than dealing with the matters raised on their merits in an open and transparent manner.

Digicel must, naturally, reserve its rights in respect of any response that may be required to any such submissions made on behalf of C & W. The fact that C & W having to date declined to engage substantively on Digicel's submissions may result in an attendant delay (albeit very minor it must be said) is not something that ought to be visited on Digicel.

We note C & W's primary point that our application for a reconsideration should be rejected. This position is not supported by the ICTA Law; nor is it supported by the stated approach and procedure as previously set down by the Authority.

C & W's letter helpfully sets out Section 78(1) of the ICTA Law. Section 78(1) clearly states that the right to apply for a reconsideration applies to *"…any such other Decision as may have been prescribed in accordance with the Law…"*. Obviously, Decision 2008-2 falls into this defined category. Surely neither C & W nor the Authority would argue that Decision 2008-2 was not prescribed *"…in accordance with the Law…"?* As such, Digicel's request for a reconsideration is manifestly a valid one pursuant to section 78(1) and should be dealt with on that basis.

C & W then goes on to seek support for its (already untenable) position by seeking to rely on paragraph 23 of ICT Decision 2006-2. Digicel's position in this regard is clearly set out in our letter of 14 August 2008. Digicel has not *"seized"* upon anything as suggested by C & W. Paragraph 23 speaks for itself in plain and simple language. C & W's attempts to construe the ICTA's own expressed views as something other than what they clearly portray are completely disingenuous.

In summary, Digicel has a statutory right to a reconsideration under Section 78 (1) of the Law. However, even if the ICTA were to find that this was not the case (which itself would be fundamentally unsound) Digicel would in any event be entitled to a reconsideration on the basis that a *"….a fundamental flaw to the procedural or substantive approach adopted by the Authority…."* has been raised. The section of the Decision dealing with deprecation is but one of many examples of where Dr. Doyle strenuously views the Authority as having made a fundamental flaw. Whilst C & W would seek to move on from these issues with the minimum of scrutiny, the Authority should not.

Paragraph 23 of ICT Decision 2006-2 contains the Authority's own views expressed in its own words. Digicel is wholly confident that the Authority will act in a manner consistent with its own established and settled procedure.

In any event, C & W's response does beg the obvious question. What is C & W afraid of? Why is C & W so vehemently opposed to the Authority seeking to reconsider the matters raise in our letter of 14 August 2008? Why is C & W so obviously concerned with the prospect of these matters being exposed to any additional scrutiny? We would remind the Authority of C & W's previous conduct during this process in respect of the deliberate redaction of vital information. As the Authority will be aware, Digicel has very serious concerns regarding the transparency of the present FLLRIC process and C & W's bona fides in this regard. C & W's latest response and general attitude to the prospect of a reconsideration only serves to further fuel these very serious concerns.

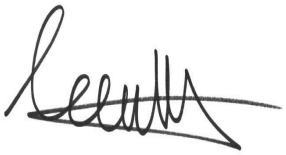
Digicel
Expect More. Get More.

We forwarded C & W's response to Dr. Chris Doyle for his comment. Dr. Doyle has helpfully set out his response in writing in a letter to the Authority dated 27 August. A copy of same is enclosed herewith. We would strongly urge the Authority to give Dr. Doyle's views (as expressed in his report and in the attached letter) the detailed consideration that they deserve. As you will see Dr. Doyle makes the very valid point that C & W is quite willing to reject his expert views out of hand after just (by C & W's own express admission) merely glancing through his work. They see no reason to give his views even limited consideration and/or response. That C & W would readily admit to this should, in and of itself, give the ICTA serious cause for concern. The alarm bells should be ringing loud and clear.

The matters raised by Digicel in our letter of 14 August 2008 are not mere trifling matters or points of minor detail. These are all absolutely fundamental points which go to the very heart of the process in which the ICTA and the parties are presently engaged. Digicel has raised very serious and significant issues which ought to be properly considered and addressed. Whilst it may suit C & W to avoid exposing these issues to the appropriate scrutiny, this is not a good enough reason for the Authority to decline to act in accordance with its mandate. Digicel is entirely confident that the Authority will not shirk its responsibilities.

We trust therefore that the Authority will proceed to reconsider certain aspects of Decision 2008-2 in the manner as requested in our letter of 14 August 2008.

Yours sincerely



Sean Latty
Assistant General Manager (Cayman)

c.c. *Interested Parties in CD 2008-02*

D R . C H R I S D O Y L E
C O N S U L T A N T E C O N O M I S T

27 August 2008

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

Dear Mr. Archbold,

Re: C&W letter responding to Digicel's request for Reconsideration of Decision 2008-2

Mr. Ebanks of C&W has claimed in a letter sent to you dated 25 August that I have pointed to "nothing which could be considered a fundamental flaw in the substantive approach adopted by the Authority". This opinion is expressed despite Mr. Ebanks stating that C&W "and the other interested parties have had no proper opportunity to consider and respond to any new submission which is contained in the report of Dr Doyle".

It appears that Mr. Ebanks has formed a prior view to the contents of my report before undertaking proper consideration.

As I remarked in my report submitted on behalf of Digicel:

"I comment on some aspects of the ICTA Decision 2008-2 ("the Decision") on the costing manual consultation. I highlight several areas of weakness in the Decision and raise a number of concerns. The reasoning provided by the Authority (ICTA) is often weak and too brief. In particular I find the directions provided with regard to the treatment of depreciation and the cost of capital to have many shortcomings."

I stand by this opinion and provided you with my reasons in my report. In this letter I should like to counter the claim made by Mr. Ebanks that my report does not reveal any "*substantive flaws* in the approach adopted by the Authority".

As noted by Mr. Ebanks in his letter, despite not undertaking proper consideration of my report he asserts that my report does not possess substance; in other words have practical importance, value, or effect (using the Dictionary.com definition of substantive).

I disagree with the opinion expressed by Mr. Ebanks on behalf of C&W. The failure by the Authority to abide by its principles is a substantive flaw, and the lack of reasoning provided in the Decision calls into doubt the validity of the conclusions.

The conclusions in the Decision have considerable practical importance and value for all interested parties involved: the Authority, operators and end-users. This is evidenced by the resources that have been expended to date on resolving the issues at hand.

It should be noted that what may appear to some to be small variations in key parameters in the cost model can have substantial effects on operators and end-users. It is important therefore that the process to determine costs should be conducted in a manner consistent with the Authority's principles. Only then will all interested parties have the confidence to take on merit the cost model developed to determine the appropriate and correct prices for mobile and fixed call termination.

Yours sincerely,

Dr. Chris Doyle
Consultant Economist

ASSOCIATE WARWICK BUSINESS SCHOOL
T: +44 7970 458809 F: +44 1926 328673
CHRIS.DOYLE@CDOYLE.COM
WWW.CDOYLE.COM