



CABLE & WIRELESS

Cable and Wireless (Cayman Islands) Limited
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Our Ref: GRCR/COMP 8.7
28 August 2006

Mr Greg van Koughnett
General Counsel and
Head of Licensing & Compliance
Information and Communications Technology Authority
P.O. Box 2502
3rd Floor Alissta Towers
George Town
Grand Cayman

Dear Mr. van Koughnett,

Re: TeleCayman Determination Request MPLS/CJFS

Cable & Wireless (Cayman Islands) Limited (C&W) acknowledges receipt of your e-mail dated Wednesday 23 August, 2006 addressed to both Mr. Philip Brazeau of TeleCayman Limited (TCL) and to the writer. C&W notes that in the e-mail the Authority requests C&W to file with the Authority and to serve on TCL by 5 September, 2006:

- (a) “copies of the relevant RFPs issued by Maples and Calder and Appleby’s”, and
- (b) “the C&W responses to these RFPs and copies of all contracts that have been entered into between C&W and these terms which flow from these RFPs.”

The e-mail refers at the caption to “TeleCayman Determination Request” and makes reference to a “proceeding”. The e-mail provides no explanation as to the powers under the Information and Communications Technology Authority Law (2006 Revision) (the Law) or any of the regulations made thereunder pursuant to which the Authority seeks to make the request referred to above. Neither does the e-mail provide any information sufficiently to describe the precise nature of “the proceeding” being undertaken by the Authority.

C&W, as always, will comply with all lawful directions of the Authority. In this case C&W views the specific request of the Authority to be extraordinary. The Authority requires the provision to the Authority and to a competitor documents which may contain information

which would be confidential not only to C&W but also to third parties. C&W is therefore entitled to be satisfied that the request is lawful in all respects and accordingly requests that the Authority advise of the following:

1. the precise nature of the proceedings being undertaken by the Authority;
2. the precise power under the Law or any applicable regulations pursuant to which the proceedings have been undertaken by the Authority; and
3. the basis on which the Authority has arrived at the conclusion that the documents requested are relevant to or necessary to the proceedings being undertaken by the Authority.
4. the basis on which the Authority has arrived at the conclusion that it is necessary and proper to release to our competitor the documents requested in whole or in part.

No Valid Determination Request

C&W has seen and responded to the letters of TCL dated 11 July, 2006 and 18 July, 2006. C&W has also seen but has not responded to TCL's letter dated 7 August, 2006. C&W provided its response dated 31 July, 2006 in a good faith attempt to provide as much assistance to the Authority in responding to the correspondence from TCL. C&W's response cannot be taken as a waiver by C&W (if indeed such a waiver is possible) of its right to insist that the Authority, or any person or entity who seeks to invoke the powers of the Authority, complies strictly with the requirements of the Law.

C&W notes that the correspondence from TCL, as does the referenced e-mail from the Authority, refers to a "Determination Request" by TCL. None of the procedures set out in the Information and Communications Technology Authority (Dispute Resolution) Regulations, 2003 (the Dispute Resolution Regulations) as being necessary prerequisites to the making of a determination request as defined under the Dispute Resolution Regulations have been complied with. Specifically, C&W received from TCL no written notice under regulation 3(1) of the Dispute Resolution Regulations informing C&W Cayman of the grievance and specifying:

- (a) the nature and circumstances relating to the grievance; and
- (b) the nature of any action which TCL required C&W to perform or refrain from performing.

There was also no attempt by TCL, as is required by regulation 3(3) of the Dispute Resolution Regulations, to make good faith attempts to resolve the alleged grievance with C&W prior to submitting a determination request.

That being the case, it is the position of C&W that no proper determination request within the meaning of the Dispute Resolution Regulations has in fact been made. This position is taken not merely to insist on procedural detail. C&W notes that the correspondence from TCL to the Authority contains references to issues which could not be deemed to be the subject of any grievance which could ever properly have been raised by TCL with C&W. As such, it may well be that if TCL ever chooses to follow the procedures under the Dispute Resolution Regulations some of the issues referred to may well be disposed of summarily by

the parties or, if not, by the Authority, pursuant to regulation 8 of the Dispute Resolution Regulations.

If in fact the Authority's request to C&W for the production of the documents was not made pursuant to the Dispute Resolution Regulations, then C&W Cayman is entitled to know the precise legal basis on which the request is made and the basis on which the Authority is satisfied that the documents requested are necessary to any proceedings being undertaken by the Authority and the basis on which the Authority has determined that it is proper, fair and necessary for the documents (or part of them) to be released to TCL. This is critical to the ability of C&W to formulate its position as to whether the documents requested are relevant to the proceedings in respect of which they have been requested.

We look forward to receiving the Authority's response well before 5 September so that C&W may have time to formulate its position before the deadline imposed by the Authority for the provision of the documents.

Yours sincerely,
Cable & Wireless (Cayman Islands) Ltd.

"Signed"

Rudy B. Ebanks
Chief Regulatory & Carrier Relations Officer

Cc: Mr. Timothy Adam, Chief Executive, Cable & Wireless (Cayman Islands) Ltd.
Mr. Ian Tibbetts, Chief Operating Officer, Cable & Wireless (Cayman Islands) Ltd.
Mr. Frans Vandendries, Vice President, Regulatory Affairs, Cable & Wireless
Mrs. Lisle Alden, Senior Regulatory Advisor, Cable & Wireless
Mr. David Archbold, Managing Director, Information Communications Technology
Authority
Mr. Philip Brazeau, TeleCayman Ltd. Cayman Corporate Center, Grand Cayman