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7 August 2006

Mr. David Archbold
Managing Director
Information and Communications Technology Authority
PO Box 2502 GT
Grand Cayman

Dear Mr. Archbold,

**Re: TeleCayman's Determination Request of 11 July
2006/MPLS/CJFS Cable System**

TCL is filing portions of this submission and the e-mail attachments in confidence with the Authority. Much of this information relates directly to quotations and other dealings between TCL and C&W on a carrier to carrier basis and it is protected by the terms of a Non Disclosure Agreement. Other information relates to dealings with potential customers.

TeleCayman (TCL) is in receipt of Cable & Wireless Cayman (C&W) Answer dated 31 July 2006 to the above referenced Determination Request.

At the outset TCL wishes to note, as will become apparent from the following submissions, that although the sequence of events on pricing is somewhat clearer C&W's Answer raises more questions than answers. Accordingly, TCL respectfully requests that the Authority issue specific interrogatories to C&W to clarify and inform all parties on matters raised both in the Determination Request and C&W's Answer. To assist the Authority in this regard TCL will outline a number of interrogatories it may deem advisable to be directed to C&W. These

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interrogatories will assist in clarifying the various inconsistencies raised in C&W's Answer.

Categorization of MPLS Service

At paragraph 4 of its Answer C&W states that TCL has made a fundamental error in stating that "MPLS is a private IP enabled network service and not an Internet Service". C&W, at paragraph 5 goes on to state that MPLS is a technology, not a service. At paragraph 8, C&W states that "in this particular case, C&W Cayman has joined with its affiliates in the Caribbean region to deploy MPLS technology in order to support and enhance its existing IP-VPN service...C&W Cayman's IP-VPN service allows customers to easily create their own private networks over the public Internet..."

In response TCL submits that C&W's statements on MPLS service are, at best, extremely confusing. Whether MPLS is properly referenced as a technology or a service is academic. The attached Products and Services bulletin from C&W plc's web site describes MPLS as a "high-speed wide area networking service with advanced customer reporting via a web portal. It runs over a secure, dedicated, multi-protocol label switching (MPLS) backbone" (emphasis added). Clearly, C&W plc views MPLS as a dedicated service and it is misleading to view the service as being provided "over the public Internet".

The following diagram depicts MPLS service and is illustrative of the RFP at issue. A critical component was off Island redundancy.

Diagram 1

The following schematic diagram depicts TeleCayman's MPLS solution to the RFP in question. The diagram illustrates the diverse capacity solution using Maya 1 and CJFS, with the CJFS component being an integral part of the solution. The schematic is provided to the Authority to emphasize the importance of the CJFS capacity in meeting the requirement of the RFP.

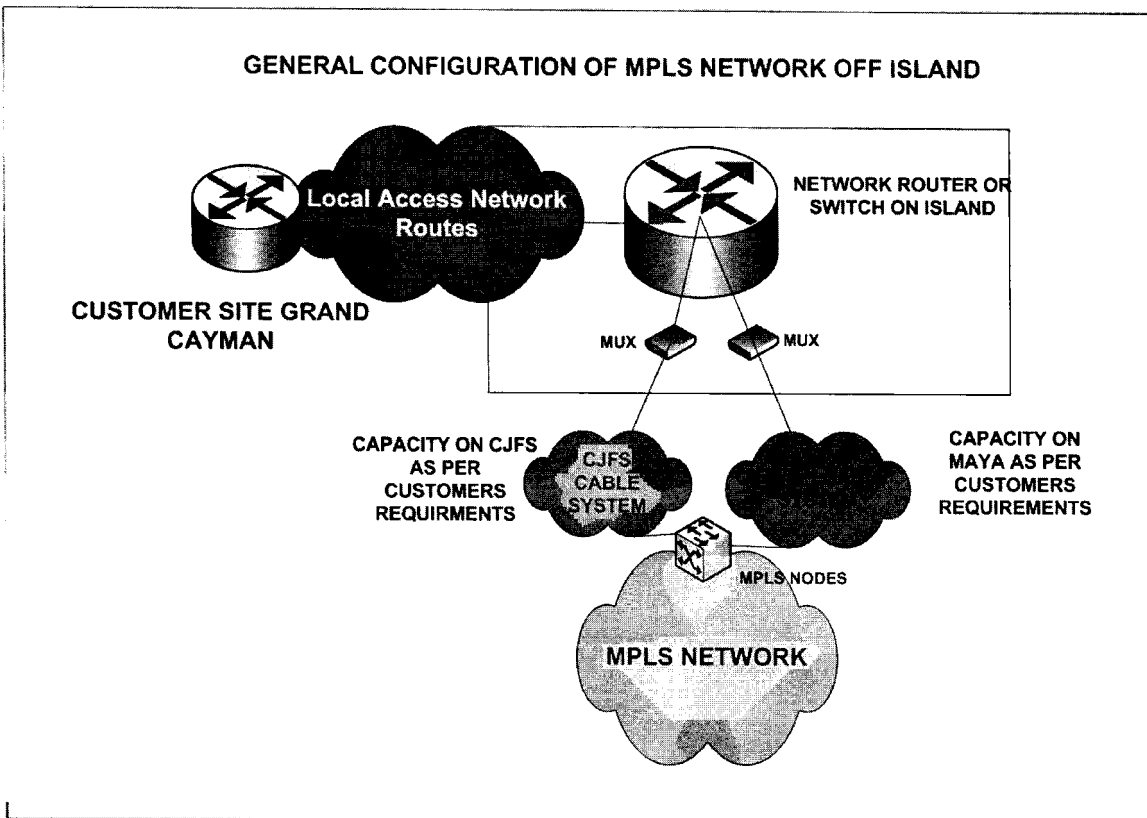


Diagram 2

C&W seems to suggest, at paragraph 10, that MPLS should be viewed as a Category 3 "Value Added Service". TCL takes issue with this categorization. AT&T describes its MPLS service as an IP Enabled Frame Relay/ATM service. As noted in the attached product brochure, AT&T states "AT&T IP Enabled Frame Relay/ATM Service is an efficient, scalable way for businesses to incorporate critical applications into their current networks. MPLS allows the employment of any-to-any connectivity...This service addresses the growing importance of IP-based networking and the distributed communication needs of enterprises, yet builds upon the demonstrated performance and security levels of frame relay and ATM technologies".

Having had the benefit of C&W's Answer and research TCL is now of the view that MPLS should be a Category 1 service. TCL submits that MPLS service is more akin to Frame Relay service but provided over the IP network and should be categorized as a Category 1 Service with a requirement to publish tariffs. In this regard TCL notes that C&W, in paragraph 14, states that it is offering AS&H Frame Relay pending the introduction of MPLS. Another critical reason for concluding that MPLS should be a Category 1 service is that there does not exist any competition. TCL is not aware of any C&W competitor with MPLS customers. Section 32 of Part 5 of the Licence provides the Authority with the latitude to

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make such a determination if there is not sufficient competition. TCL respectfully submits that the Authority should exercise its discretion and view MPLS as a Category 1 service until such time as there is sufficient competition.

If the Authority cannot be persuaded to view MPLS as a Category 1 Service then it should be viewed as a Category 3A service and C&W should be required to publish all of its rates, terms and conditions. Further, given the anticipated competitive nature of MPLS service, the "reasonable time frame" stipulated in section 20.1a of Part 5 of the Licence for providing the Authority notice of customer specific arrangements should be before any bid response is submitted.

TCL has no information as to whether C&W has submitted MPLS service for categorization by the Authority pursuant to sections 29 or 31 of Part 5 of its Licence. TCL respectfully submits that if C&W has not submitted MPLS for such categorization it should not be responding to bids and offering the MPLS service to the market place. Further, TCL submits that the Authority should adopt, as a general principle, that whenever C&W joins with affiliates in responding to specific service bids it should first have that full service response to the bid categorized by the Authority. Increasingly corporate customer requirements are global in nature and that C&W should not be entitled to avoid regulatory scrutiny of the entire solution being offered a customer residing in the Cayman Islands and other jurisdictions.

Confusingly, at paragraph 9, C&W states that at the present time it is not providing MPLS services to customers. It states that it intends to do so in the near future, once the necessary regulatory requirements and technical and back-office arrangements have been completed. As noted above, Diagram 1 is illustrative of the bids at issue. TCL is hard pressed to understand what C&W provided to the customer for the Cayman Islands portion of the bids.

In light of the above TCL respectfully submits that C&W needs to provide further information for resolution of the Determination Request. In this regard TCL respectfully asks that the following interrogatories be directed to C&W:

- 1 Would C&W advise if a request has been made to the Authority pursuant to section 29 of Annex 5 for a service category determination for MPLS?
- 2 If not, why not.
- 3 AT&T has referred to MPLS as IP enabled Frame Relay. C&W states that it is offering Frame Relay for its portion of the bid response to

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AS&H. Explain why MPLS service should not be viewed as Frame Relay or an IPLC which are Category 1 Services.

- 4 Explain why MPLS should not be viewed as a Category 3A service with the requirement that C&W publish its rates prior to submitting terms and conditions to a customer.
- 5 At paragraph 9 of its Response C&W states that it is not providing MPLS but will do so once the regulatory requirements have been completed. To what specific regulatory requirements is C&W referring to?
- 6 In what time frame does C&W anticipate meeting the regulatory requirements?
- 7 At paragraph 8 C&W appears to confuse the Internet with an IP Virtual Private Network. Clearly, as suggested in the attached articles, there is an enormous distinction for carriers and customers. What exactly did C&W sell to #####?
- 8 Did C&W sell the customer an IP-VPN over the public internet or dedicated bandwidth into an affiliate MPLS or Frame Relay node?

Pricing

C&W makes a number of submissions both on pricing specifically to TCL and its bid response pricing in paragraphs 24 through to 32. In its Determination Request TCL has expressed concern with CJFS Cable System pricing to TCL and the prices C&W may have offered in the two bid responses.

The conduct C&W has outlined in paragraph 24 is reprehensible, anti competitive and deserving of a penalty in accordance with the Law. TCL had been requesting pricing and querying price reductions from C&W on the CJFS Cable System since at least January of 2006. C&W was well aware of the competitive disadvantage of not being able to provide reasonably priced redundancy to corporate customers. Whether this was for responses to bids or internal requirements is moot. TCL submits that Carrier Relations should have advised all carriers of price reductions on the CJFS cable system at the time they happened and were submitted to the Authority for tariff approval as this was of extreme significance to the carriers and known to C&W. Instead C&W reduces the prices, fails to advise TCL and then uses these reduced prices to respond to the #####. TCL notes that C&W and TCL submitted their bid responses to ##### after the CJFS cable system price reductions but well before the price reductions were communicated to TCL. This course of events

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is anti competitive and contrary to subsection 36 (2) (d) of the Law as C&W applied dissimilar conditions (pricing favorable to itself) to equivalent transactions (capacity on the CJFS Cable System) thereby placing TCL at a competitive disadvantage on the Maples and Calder bid. TCL respectfully submits that the Authority could conclude that an investigation pursuant to section 41 of the Law is warranted.

Further, at paragraph 28 C&W states "unequivocally that at no time did TCL advise, suggest or hint there was a connection of any kind between the various requests for quotations and any specific retail activities by TCL. In reply TCL notes that C&W was well aware of quotations and retail activity requirements by TeleCayman. In support TCL references the numerous e-mails attached from Andy Tybell to C&W and in particular the e-mail of 23 March 2006 from Mr. Tybell to Scott Graham.

Telecayman respectfully requests that the Authority issue a determination that Carrier Relations in C&W has an obligation to advise carriers of price reductions in the facilities and services required by carriers at the time they take place or when C&W's retail department is advised.

TCL submits that C&W is not at all clear in its Answer as to the pricing provided in response to both bids and whether similar pricing with a 20% reduction was, at all time, known to be available to TCL. Additionally, paragraph 30 is confusing as C&W states that 'DPLC's, IPLC's and DIA's are not included as carriage on CJFS as a contractual term of service...' Is C&W suggesting that there are other capacity contracts it offers its own customers which are not offered to carrier customers. If so, TCL respectfully requests that the Authority issue a written direction to C&W in accordance with section 64 of Part 5 of the C&W Licence that C&W offer all of its services to Licensees on a wholesale basis. It may well be that C&W offered CJFS cable system redundancy, to connect to its affiliate, in the bid responses at, say 4 Mbps, and takes the view that it has no obligation to offer carriers the contractual services it makes available to its own customers. TCL respectfully requests that a section 64 direction issue in any event. Further, it is unclear as to whether C&W imputed the cost of the capacity in the retail pricing provided to the customer.

TCL does not have any information as to when C&W submitted its new CJFS cable system E 1's tariffs for approval to the Authority nor when they were published on C&W's web site.

In light of the above TCL respectfully submits that C&W needs to provide further information for resolution of the Determination Request. In this regard TCL respectfully asks that the following interrogatories be directed to C&W:

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- 9 What capacity, and at what rate was such capacity provided, in the ##### bids for the CJFS and Maya 1 cable portion of the RFP?
- 10 What was the specific breakdown for each of the Maya 1 and the CJFS portions? In its response C&W should identify whether the service provided was Frame Relay or MPLS.
- 11 At the time the bids were submitted, what was the rate then in existence as formally provided to TeleCayman from C&W?
- 12 When did C&W advise its retail department of its new rates on the JCFS cable system?
- 13 When did C&W publish its new CJFS cable system E 1 rates on its web site?
- 14 When did C&W advise TCL of the new rates?
- 15 Does C&W provide capacity on the CJFS cable system to its customers that it does not make available to carriers?
- 16 Does C&W provide capacity on the CJFS cable system to customers through to the United States? Does it do so for carriers?
- 17 Can C&W provide E 1/IPLC capacity on the CJFS cable system through to the United States to carriers?
- 18 If so, at what price?
- 19 Can C&W provide E 1/IPLC capacity on the CJFS cable system through to the United States to its customers?
- 20 If so, at what price?
- 21 If C&W cannot provide E 1/IPLC capacity on the CJFS cable system through to the United States to its customers or to carriers, when did this occur?
- 22 Does C&W provide Frame Relay service or capacity to an affiliates frame relay node on the CJFS cable system?
- 23 Does C&W provide Frame Relay service or capacity to an affiliates frame relay node on Maya 1?
- 24 Does C&W provide MPLS service or capacity to an affiliates MPLS node on the CJFS cable system?

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- 25 Does C&W provide MPLS service or capacity to an affiliates MPLS node on Maya 1?
- 26 Does C&W have Frame Relay connectivity to Bermuda, Hong Kong, Ireland and London? At what price?
- 27 Does C&W have MPLS connectivity to Bermuda, Hong Kong, Ireland and London? At what price?
- 28 Is C&W suggesting at paragraph 30 of its Response that C&W customers can obtain a contractual term and/or rate for a service that is not available to carriers?
- 29 Are there services C&W makes available to its customers which are not made available to carriers.

Tied Sales

At paragraph 13 of its Answer C&W states that it is open to any service provider to offer to any customer more than they requested, i.e. to “up sell” the customer. TCL does not take issue with “up selling” a customer. Its issue is whether the incumbent and dominant provider engaged in a discussion with a potential customer that it would reduce its price to a competitive bid on condition that the potential customer takes other services. This latter situation is far different from simply offering a customer additional services.

Further, if C&W participated with other affiliates in the Caribbean, and bundled services TCL is not convinced that C&W abided with the bundling rules contained in Annex 5. TCL submits that whenever C&W participates with other affiliates in making services available to customers, if such affiliates offer Category 1, 2 or 3 services then C&W must abide by the bundling rules for such services as if it itself was offering the totality of the services. This is most important if MPLS is determined to constitute a Category 1 service.

In the #### response C&W admits to providing Frame Relay services which are Category 1. If it additionally sold voice and internet services the Authority should satisfy itself that the bundling rules for price caps and imputation tests were followed. It should make no difference that C&W chose to separate the various services in separate contracts.

In light of the above TCL respectfully submits that C&W needs to provide further information for resolution of the Determination Request. In this regard TCL respectfully asks that the following interrogatories be directed to C&W:

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30 From a competitive perspective, it may be appropriate to distinguish “up-selling” activity as opposed to an offer by a dominant carrier to reduce its price in response to a competitive RFP if the potential customer subscribes to additional services. Please provide the details of the up-selling or “tying” activity undertaken by C&W in terms of the discussions leading to new contracts for MPLS, voice and data.

31 To what extent were other bidders excluded or involved in the activity?

32 Were the bundling rules contained in Annex 5 of its Licence followed by C&W?

Telecayman submits that C&W’s Answer raises a number of significant regulatory issues. Respectfully, TCL submits that further investigation is warranted by the Authority and that the suggested interrogatories, and perhaps others as deemed appropriate by the Authority, should be directed to C&W.

Yours sincerely,

“signed”

Raul Nicholson-Coe
President and Chief Operating Officer

Cc Mr. Rudy Ebanks, Chief Regulatory Officer, Cable & Wireless



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Products & services

Cable & Wireless Carrier MPLS

List of services

3GRX

Active Voice

Anti-Distributed Denial of Service

ATM

Bandwidth

Carrier MPLS

Carrier Voice

Contact Centre

Contact Recording

Content Security

Contact Speech Recognition

Criminal Justice Extranet

Customer Training Services

Directory services

Email virus protection

Frame Relay

Global VoIP Interconnect

Global VoIP Interconnect

Government

Telecommunications Network

Government Secure Communities

IP Access

Intelligent Working

Internet Dial

Internet VPN

VoIP – Intelligent Voice

IP-VPN QoS

LAN Services

Managed Application Hosting

Managed Authentication

Managed Firewall Services

Managed Hosting

Managed Storage Services

National VPN

Network integration

Professional Services

Real Time Nostro

Carrier MPLS provides carriers with instant global reach by interconnecting them with Cable & Wireless, enabling them to deliver IP-VPN services over our global IP-VPN QoS network.

It is a high-speed wide area networking service with advanced customer reporting via a web portal. It runs over a secure, dedicated, multi-protocol label switching (MPLS) backbone.

Carrier MPLS can carry any type of traffic in IP format, and offers Class of Service mapping, so that time-sensitive or business-critical prioritisation can be maintained across the Cable & Wireless network.





[Home](#) > Enterprise

IP Enabled Frame Relay/ATM

[Overview](#)

[Description/Diagram](#)

[Features and Options](#)

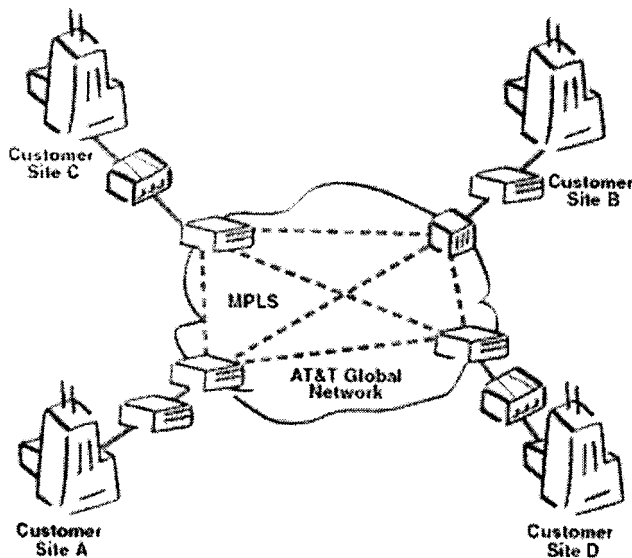
[Benefits](#)

Overview

AT&T IP Enabled Frame Relay/ATM Service is an efficient, scalable way for businesses to incorporate critical applications into their current networks. Multiprotocol Label Switching (MPLS) allows the employment of any-to-any connectivity and provides four classes of service (CoS) for specific data and voice needs. This service addresses the growing importance of IP-based networking and the distributed communications needs of enterprises, yet builds upon the demonstrated performance and security levels of frame relay and ATM technologies.

Description/Diagram

AT&T IP Enabled Frame Relay/ATM Service is a network-based IP VPN solution provided via MPLS standards, an advanced IP routing technology, over the AT&T Global Network. The service provides scalable, reliable and secure local area network to wide area network (LAN-to-WAN) interconnections.



[\(Enlarge Network Diagram\)](#)

Features and Options

- Global Reach
- Customer care and network support - 24x7x365
- Inherent security - MPLS-based security
- Agnostic networking - transport and access independent
- Distributed communications - any-to-any connectivity

- Traffic prioritization - 4 classes of services
- Load Balancing
- IP-based Disaster Recovery through Border Gateway Protocol (BGP)
- Service Level Agreements (SLAs)
- Web-based reporting

Benefits

- Flexible, robust network architecture. Unified communications among all locations with MPLS providing any-to-any connectivity
- Optional Management Capabilities. Managed and unmanaged options available providing you with the level of strategic control you require
- Service Level Agreements, guaranteeing your mission critical traffic
- Four data classes of service (CoS). Optimization of all types of applications for traffic prioritization
- Load distribution and diversity. Load balancing capability balances traffic across multiple links going to the same autonomous system. Multi-homing for diversity
- Automatic disaster recovery. Efficient disaster recovery plan for hub site(s) by automatically re-directing the entire IP VPN traffic at layer 3 via BGP
- Web-based reporting. Optimization of network performance and utilization ensuring service level agreements

Network-Based VPN Services

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- [MPLS Private Network Transport Services](#)
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