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02 June 2006

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

Dear Mr. Archbold,

**Re: ICTA Public Consultation on Costing Manual – CD (2005)-1: June 2
Responses to C&W Interrogatories**

Digicel Cayman Limited ("Digicel") hereby sends you the Digicel response to the interrogatories of Cable & Wireless Cayman Islands ("Cable & Wireless") in the ICTA Public Consultation on Costing Manual FLLRIC, addressed to Digicel as per your Authority's letter of 8 February 2006.

Digicel herewith copies all interested parties.

If you have any questions or remarks regarding the above, please do not hesitate to contact me.

Yours sincerely,

"SIGNED"

John D Buckley
Chief Executive Officer

C.C.

Timothy Adam, Chief Executive C&W
Rudy B. Ebanks, Chief Regulatory and Carrier Relations Officer
Interested Parties in CD (2005) - 1



CAYMAN LTD

**ICTA PUBLIC CONSULTATION
ON
COSTING MANUAL – CD (2005)-1:
RESPONSES TO C&W
INTERROGATORIES**

JUNE 2

**Digicel Cayman Islands Ltd. Response to
Interrogatories from Cable & Wireless (CI) Limited on
FLLRIC Costing Manual (CD-2005-1)**

Interrogatory 1

- (a) Digicel can confirm that the service volumes proposed by C&W are completely out of line with the actual volumes Digicel experiences in the Cayman Islands, with the exception of international mobile traffic. Apart from those volumes C&W's traffic forecasts significantly overstate realistic volumes.¹ Digicel is submitting its traffic volumes to the ICTA as confidential. This information is commercially sensitive. Digicel do not know if the volumes information submitted by C&W is actual C&W data or based on some assumptions. If the information C&W has submitted is assumed volumes as opposed to actual volumes then Digicel would request that C&W submit actual data to the Authority in this regard. Whether or not C&W view this information as confidential is a matter for C&W. However, whatever the final volumes that is used in the cost model must be made available to all parties given that the model is being used to derive costs for all parties.
- (b) Volumes have been provided by Digicel to the Authority in confidence.

Interrogatory 2

- (i) To the extent that Digicel is an operator in the Cayman Islands for more than 2 years it suspects that the unit costs assumed by C&W are not representative of an operator in the Cayman Islands (the volumes assumed by C&W are certainly out of line with Digicel's actual experience in the market. The costs represented by C&W are in fact representative of a company with an incentive to artificially deflate the level of mobile termination as part of its anti-competitive strategy.
- (ii) Digicel believes the unit costs represented by C&W do not equate to reasonable costs. Apart from C&W's clear incentive to misrepresent costs downwards, there may also be other factors that ensure that taking the costs as presented by C&W will always underestimate the true costs of a representative mobile operator in the Cayman Islands e.g. economies of scope as a fixed and mobile operator will ensure many of the network elements can be shared and potentially means C&W have greater purchasing power as a result of being a dual operator. Digicel will be requesting an 'off the shelf' quotation from major vendors to establish proper unit costs for mobile network elements.
- (iii) Digicel are more than happy to provide detailed information in this regard but this could not possibly be carried out in the time presented by interrogatories. Unlike C&W who has had almost 2 years to hone in on the precise costs it is seeking to impose on

¹ Digicel believe the Authority such take note of the discrepancies in measuring future market shares.

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others, Digicel has not had the same luxury. Indeed it is worth noting that C&W would have been well aware that in the timeframes provided it would not be possible for Digicel to provide answers to a number of the interrogatories without carrying out significant work. Consequently, while we are happy to carry out the work referred to, if the current timeframes are to be met, C&W, who has repeatedly missed deadlines in the course of this process, cannot to be permitted to exploit the short timeframes presented to others through 'loaded' questions at this stage in the process that they know cannot possibly be addressed in that timeframe. If the answers to the interrogatories are genuinely sought, then ample time needs to be afforded to Digicel and others to respond and due process needs to be followed. If however, the current proposed timelines are to be adhered to, which Digicel does not object to, it reserves all of its rights to refer to these matters later in the process when it can fully explore the outputs of the model including unit costs of all network elements.

Interrogatory 3

- (i) Digicel agrees with the general premise that the model will be used "develop" rates for interconnection services going forward. This point must be considered against the background that all rates currently in the market in the Cayman Islands are currently in compliance with the law. The FLLRIC model should help to inform and develop the future direction of rates but given the arbitrariness of any cost model it should not be the sole determinant. For example, of the many jurisdictions that have availed of LRIC cost models world wide, not a single jurisdiction has imposed rates solely on the basis of the output of such models although the models were used to 'develop' rates. Furthermore virtually all jurisdictions that have used such models have also provided for non-reciprocal rates, albeit with reference to the cost model as a guide in setting the rates. If rates in the Cayman Islands are therefore enforced on a non-reciprocal basis, it must obviously be based on the higher cost operators FLLRIC output.

Furthermore, a crucial element of the outcome to the process as expressed by the Authority is to ensure that C&W's retail prices are not anti-competitive. Excessive pricing is a very serious form of an abuse of dominance. Digicel believes that C&W are already earning excessive profits on fixed to mobile calls in the Cayman Islands. It is crucial therefore that in the event that the current process leads to lower mobile termination rates that every single cent reduction in mobile termination that may ensue as a result of the process, is met with at least a corresponding decrease in the retail fixed to mobile rate. The current FLLRIC process has made enormous demands on the stakeholders in terms of time and resources. Digicel at the outset suggested that a cost-benefit

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analysis should be conducted before this process was pursued. While this has not happened it would be unthinkable that clearly identifiable benefits were not passed on to the consumers in the Cayman Islands. This costly and resource intense process cannot simply have been undertaken to “line C&W’s pockets” for repatriation to a London Plc on the public record as having financial problems.

In addition, as rates in the model are calculated on a per minute basis, then if retail rates in the market are charged on a per minute, as opposed to a per second basis, it is imperative that the current market anomaly in this regard is removed to reflect best international practice as outlined by the OECD, of which Cayman Islands is a member. The OECD note:

“If retail prices are charged by the second, the interconnection charges should be charged by the second and if retail charges are charged by unit (for example charges are based on minutes), the interconnection charges need to be measured by the same units”.
Directorate for Science, Technology and Industry – Committee for information, computers and communications policy, OECD. DSTI/ICCP/TISP(2000)3/Final.

Crucially and with respect to the ICTA requirement for efficiency the following is also noted by the OECD:

“Economic theory suggests that when the downstream rival companies produce services which are close substitutes for the services of the incumbent, the relative structure of access prices and retail prices can matter a great deal. When the structure of access prices and retail prices are forced to differ, a conflict can arise between competition and efficient pricing.”
Access Pricing in Telecommunications – Policy Brief, OECD, June 2004

Digicel believe that as part of the current process it would be absolutely pointless, save for a principle to ensure C&W were the only beneficiaries of the process, that all inefficiencies, including inefficient charging mechanisms are removed.

With respect to an Access Deficit Charge, we presume that C&W understands that in the interest of non-discrimination, that if C&W is permitted to recover an Access Deficit Charge via interconnect rates then so too must Digicel and any other operator running an access deficit.

With respect to principles (ii) (iii) and (iv) that C&W has asked Digicel’s view of, Digicel would state that it understands the law and decisions of the Authority. However, it appears to be clear that with

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respect to principle 2 of the ICT decision 2004-5, it is very apparent that C&W has chosen to cherry-pick the elements of this principle, not taken as a whole but in an attempt to dramatically increase fixed interconnection rates and dramatically and artificially reduce mobile termination rates. If the principle is to be followed to its letter then

- (i) it must observe the "least cost technology" aspect
- (ii) it must be at prices of a first time operator

As highlighted by Ovum, it is very clear that C&W has chosen not to apply the least cost principle with respect to the fixed network but instead is attempting to 'gold plate' the fixed network with higher cost technology with short asset lives. Conversely, with respect to the mobile network the least cost technology principle is adhered to using a 2 G network but the fact that it is for a first time operator is ignored i.e. we suspect C&W has put forward prices that a multi-national company with significant purchasing power might be able to acquire from vendors. Again, the inconsistencies are consistent only in being cherry-picked with a single goal in mind – raising fixed termination rates above an appropriate level while attempting to reduce mobile termination rates to an anti-competitive low level. Consequently, Digicel has requested 'off-the shelf' prices from a leading international vendor for network components. These prices should be helpful at informing the process going forward.

(b) As already stated Digicel reserves its right to comment on additional changes once the final model has been put together and would urge the Authority to be wary of C&W's cynical attempts to seek to 'rubber stamp' various aspects of the process through these interrogatories. Given the complexities of cost modelling and the inherent nature of the arbitrariness of modelling, it is imperative the results of the modelling exercise are 'sanity checked' against real world experience. For example if the final output of the model indicates that fixed interconnect rates are significantly higher than LRIC modelling results of fixed interconnect regimes elsewhere, while at the same time mobile interconnect rates are below rates elsewhere, there is an obvious disconnect that needs to be investigated and in particular given C&W's clear incentive to ensure this is precisely the outcome of the exercise.

Interrogatory 4

Digicel's comment was based on the information supplied by C&W, in particular the asset lives on the public record for fixed networks (paragraph 41 of the Background document) compared with the asset lived assumed by C&W for NGN components (paragraph 43 of the Background document). It is Digicel's view that these tables clearly indicate that NGNs are more expensive than PSTN technology at least using the assumptions made by C&W.

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For example, two asset categories that are essentially the same within a PSTN and an NGN are ducts and cables. As C&W points out ducts on the public record have a lifetime of 38-40 years, whereas C&W has assumed 20 years for ducts in an NGN. Similarly cable infrastructure on the public record has a lifetime of 20-23 years whereas C&W has assumed 15 years for ducts in an NGN.

The use of NGN components also results in C&W cutting the lifetimes of switches (10-11 years on the public record) down to 5 years for the equivalent NGN components. Digicel does not disagree that NGN components may have shorter asset lives, but such components are essential and certainly not “least cost” for today's services nor has any evidence been provided by C&W that they are actually deploying such components ubiquitously. In Digicel's view it is quite possible to offer today's services over PSTN infrastructure and, since the PSTN appears to offer lower costs², C&W is obliged to use PSTN infrastructure in its cost model.

Interrogatory 5

Digicel submit that the Authority has the relevant evidence that C&W are looking for in this regard. C&W has no right to commercially sensitive information including other operators plans, as part of this process. Irrespective of whether or not 3G technology is currently employed or prospectively employed in the Cayman Islands, 3G technology is not the ‘least cost’ solution for providing mobile voice termination for any “first time operator”. However, if C&W are permitted to use higher cost technology in the form of IP technology for the fixed network a parallel assumption of 3G technology must be used in the mobile model and in particular if this technology is about to be employed in the Cayman Islands.

Interrogatory 7

Capital costs are the annualised costs of all assets and associated capitalised items (e.g. site preparation and equipment installation) in an operator's network. In contrast operating expenditure comprises annual non-recurring cost items (e.g. equipment maintenance).

Interrogatory 8

² As noted in Digicel's original submission, the costs of NGN assets assumed by C&W have been obscured on grounds of confidentiality. However, purely on the basis of the asset lives, it is highly likely the annualised costs of the PSTN are significantly lower than those assumed by C&W for an NGN.

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Digicel believe it is clear from earlier correspondence that the WACC of a mobile operator is higher than that of a fixed operator – C&W has not disputed this point. The WACC of a first time entrant and not C&W should be used if the principles already determined is to be adhered to. Therefore it is not the WACC of C&W, but the WACC of a first time entrant that needs to be used in the mobile model.

Interrogatory 9

The WACC figures quoted by Digicel all concern the incumbent fixed network operator or the major mobile network operator in the countries listed, and all derive from regulatory determinations of termination rates over the past three years.

Interrogatory 10

Cell sites post Cingular	61
Cell sites pre Cingular	36
Total	61

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ANNEX 1

REDACTED

Volume - Minutes(Annual)

900-MOBILE INTERNATIONAL INCOMING	XXXXXXXXXX
900-MOBILE INTERNATIONAL OUTGOING	XXXXXXXXXX
900-MOBILE ON NET CALL	XXXXXXXXXX
900-Mobile Subscriber	
900-MOBILE TO FIXED	XXXXXXXXXX
900-MOBILE TO OTHER MOBILE	XXXXXXXXXX
900-MOBILE VOICEMAIL RETAIL	XXXXXXXXXX
900-SMS	
900-MOBILE TERMINATION	XXXXXXXXXX
900-INBOUND ROAMING	
	XXXXXXXXXX