



CABLE & WIRELESS

Cable & Wireless
(Cayman Islands) Limited

P.O. Box 293
Grand Cayman KY1-1104
Cayman Islands

www.cw.ky

Telephone +1 (345) 949-7800
Fax +1 (345) 949 7962

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27 June 2008

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: Public Consultation on Local Number Portability – (CD 2008-1)

The attached document represents the submission of Cable and Wireless (Cayman Islands) Limited ("**C&W**") in response to the Public Consultation on Local Number Portability issued on 21 April 2008.

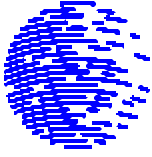
The original closing date of 30 May was extended to 27 June as a result of an extension request by Digicel (Cayman) Ltd.

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

"Signed"

Rudy B. Ebanks
Chief Regulatory and Carrier Relations Officer

cc: Timothy Adam, Chief Executive C&W
Ian Tibbetts, Chief Operating Officer C&W
Frans Vandendries, Vice President Legal and Regulatory Affairs C&W



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**Cable & Wireless
(Cayman Islands) Limited**

**Submission to the Information and
Communications Technology Authority**

**on Local Number Portability
(CD 2008-1)**

27 June 2008

Public Consultation on Local Number Portability
(CD 2008-1)

Submission by Cable and Wireless (Cayman Islands) Limited

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1. INTRODUCTION

1.1 Cable and Wireless (Cayman Islands) Limited (“**C&W**”) submits the following in accordance with the procedure set out at section 6.0 of consultation document CD 2008-1 initiating a public consultation on Local Number Portability (“**CD 2008-1**”). At section 5.0, the Authority requested comments, in particular in relation to three “key questions”.

The Authority invites comments from all parties on the proposals detailed above. In particular, it seeks views on the following key questions:

- a. Given the maximum cost recoveries detailed above, are you in favour of number portability being mandated in the Cayman Islands? (It should be noted that whilst the Authority can specify the maximum amount that can be directly attributable to LNP on monthly telephone bills, licensees could choose to recover their costs in other ways e.g. by not reducing their calling charges as quickly as they otherwise might.)
- b. Are the maximum monthly charges acceptable?
- c. Is the one-time porting charge acceptable?

1.2 Local number portability, or “**LNP**”, is a complex issue that merits careful consideration. LNP is generally considered to be seen to enhance customer choice and competition. However, there are financial and other costs involved and any regulatory process that ignores or glosses over these matters does a disservice to the industry and to consumers.

2. A FLAWED CONSULTATION PROCESS

2.1 In 2005, the Authority determined that, generally, local number portability had benefits,¹ although the Authority acknowledged that it could not determine those benefits, and weigh them against the costs, until the specific form of LNP had been determined,² and asserted that “mak[ing] meaningful financial estimates of ...

¹ ICT Decision 2005-1, “Interim Decision and Further Process for Local Number Portability Public Consultation (CD (2004) 3)”, 29 March 2005.

² ICT Decision 2005-1, at paragraph 115.

indirect (non-monetary) costs, or direct and indirect benefits would be an exercise in futility.”³ In ICT Decision 2005-1, the Authority established a so-called LNP Consortium (the ‘LNPC’) to advise the Authority on the appropriate method for implementing LNP in the Cayman Islands. The group did so, advising the Authority that a database method would be most appropriate and providing the Authority with some of the direct costs involved.

- 2.2 By the Authority’s own admission, the process of determining the benefits of LNP is incomplete because in 2005 the appropriate method of implementing LNP was unknown and the costs and benefits of LNP depend greatly on the method chosen. C&W was expecting the next step in the process to be “a weighing of the likely costs and benefits” in light of the chosen method of implementing LNP, as required by the *Information and Communications Technology Authority Law* (the ‘Law’).
- 2.3 The Authority issued CD 2008-1 instead.
- 2.4 That Consultation Document only asked the public if the so-called “maximum cost recoveries” were acceptable. It presented the estimated costs as if they were settled, complete and final. It presented the cost-recovery methodology as a *fait accompli*. It did not consider whether the cost-recovery methodology would in fact recover the costs it claimed it would. It did not re-examine the benefits in light of the costs, as the Authority acknowledged in ICT Decision 2005-1 it needed to do. It did not address any of the other matters that need to be determined as part of implementing LNP.
- 2.5 Further, by focusing on a narrow issue, issuing a press release, and establishing a process that involves only one round of comments, the Authority has clearly created the expectation that LNP will be implemented shortly. Unfortunately, much remains to be determined before LNP can be implemented in the Cayman Islands. The Authority has been less than forthright with the public in this respect.

³ ICT Decision 2005-1, at paragraph 91.

- 2.6 Finally, the process established by the Authority does not appear to satisfy basic administrative law requirements or objectives. Not only has the Authority misrepresented incomplete information as if it were final, and downplayed the negative or uncertain aspects of LNP, thereby depriving the public of an opportunity to understand the issues and comment in a fully informed manner, the Authority has also requested only one round of comments. This forecloses the opportunity normally granted to the public to comment on each other's comments, and thereby create a more complete record.
- 2.7 C&W does not deny that there are positive elements to the introduction of LNP in the Cayman Islands. However, there are also negative aspects, and an informed decision on whether or not to introduce LNP requires a full consideration of all aspects, both positive and negative. C&W will address some of these in the next sections of this submission.

3. CENTRAL CLEARINGHOUSE COSTS

- 3.1 The Authority represented in CD 2008-1 that the costs associated with the central clearinghouse “would be in the order of CI\$300,000 annually.” These costs would be “shared equitably amongst all telecommunications licensees” on the basis of “working telephone numbers,” and would amount to CI\$0.20 per working number per month.
- 3.2 C&W notes that this appears to be based on the quote provided by one specific vendor to the Authority and the LNPC. However, the LNPC received a different quote from this same vendor, as well as several quotes from other vendors, which applied very different pricing models. These other quotations could be more or less expensive, depending upon the various assumptions applied. It is not at all obvious, therefore, that the annual costs associated with the central clearinghouse would in fact be CI\$300,000 annually or that CI\$0.20 per working number per month would in fact be sufficient to recover the clearinghouse costs.

- 3.3 Further, the so-called “maximum” LNP Recurrent Costs charge of CI\$0.20 per working number per month depends heavily on the number of working numbers. If that number were to decrease, for example, CI\$0.20 would be insufficient to recover the costs of the central clearinghouse. The Authority has not said in CD 2008-1 how it suggests to make up the shortfall, but a central clearinghouse is unlikely to provide services without getting paid.
- 3.4 Finally, CI\$0.20 would not in fact be available to pay for the central clearinghouse costs. The gross revenues of telecommunications licensees are taxed at a rate of just under 7%. This means only CI\$0.186 would actually be available to fund the central clearinghouse. Given that the Authority did not disclose to the public its methodology for determining the per-working number charge, it is not clear whether this will be sufficient, even if there is no change to the number of working numbers in this country.
- 3.5 The Authority’s decision not to present these facts to the public in CD 2008-1 has in effect prevented the public from providing their comments in light of all of the relevant facts.

4. INTERNAL LNP COSTS

- 4.1 The Authority also stated that the telecommunications industry would incur LNP “start-up costs of no more than CI\$ 2.2 million and ongoing costs of no more than CI\$380,000 per annum.” It is not clear how the Authority determined these estimates, although C&W recognizes that confidentiality concerns would restrict the Authority from publishing too much detail. However, given that the Authority did not provide sufficient high level information to indicate what variables and cost elements were inputs into the derivation of these figures, C&W is concerned that they may not accurately represent the true cost of implementation.
- 4.2 Further, the statements made by the Authority are unclear as to whether all licensees supplied cost information. This fact (whether all licensees had supplied information) could not possibly be considered confidential. Its omission from CD

2008-1 raises the very strong inference that there are licensees who have in fact not responded to the Authority and that the Authority therefore does not have a complete picture of the estimated costs of implementing LNP in the Cayman Islands.

- 4.3 In addition, C&W was explicit in its submission to the Authority that its estimate of costs did not include any costs for the connection of the C&W network to the central clearinghouse platform. It should be noted that these connection costs are not included in the estimated central clearinghouse costs either. Unfortunately, these connection costs cannot be known until the specific LNP platform and vendor is selected, and neither the LNP Consortium nor the Authority have done this. One thing is clear, however: the Authority's estimates of the costs of implementing LNP, as described in CD 2008-1, are necessarily incomplete and understate to some degree the true cost of implementing LNP in the Cayman Islands.
- 4.4 Further, even assuming the above figures were complete, the Authority has deliberately chosen not to disclose to the public how it determined its so-called "maximum" LNP Internal Cost Recovery amount of CI\$0.65 per working number per month. Over what period were the one-time costs amortised? What interest rate was applied to recognize the time-value of money? There can be nothing confidential about the methodology it applied in converting one-time and annual costs into monthly charges, yet the Authority did not disclose it. It is very difficult to see how the public can comment in a fully-informed manner on the costs to the public of implementing LNP, when the Authority withholds fundamental information from the public.
- 4.5 Finally, as ought to be obvious, the Authority's proposed start-up cost methodology suffers from the same "working number" issue as was described above. If the number of working numbers changes, the amounts recovered will necessarily also change, leading to potential under-recovery. This is an issue that the Authority should have placed squarely on the table for parties to comment on.

5. NON-MONETARY COSTS

- 5.1 In CD 2008-1, the Authority only presented the direct financial costs to licensees of implementing LNP in the Cayman Islands. The assumption in CD 2008-1, and previously in ICT Decision 2005-1, is that there are only benefits (which cannot be quantified) to consumers from LNP, against which one would compare the direct costs of LNP. In fact, this assumption is not entirely correct, and the Authority should have made this clear to the public so that the public could make fully informed submissions to the Authority.
- 5.2 We see potential costs to consumers in terms of (1) customer confusion, (2) higher bills, (3) impaired features and (4) loss of incoming calls.
- 5.3 We expect the introduction of LNP will increase customer confusion in terms of the price of calls. Today, i.e. in the absence of LNP, cost conscious customers can identify in advance whether calls would be “on-net” or “offnet”, and to fixed lines or to mobiles, just by knowing the first three digits of the telephone number (i.e. the NXX prefix). Knowing only the number, customers can today easily ascertain the type of pricing that will apply to each call, so for example today mobile customers can easily know whether the type of call being made will be included in the “package” they have bought.
- 5.4 With LNP, however, that knowledge and customer decision capability will be lost. With intermodal LNP, customers will not know whether they are calling a mobile or a fixed line telephone. Even if intermodal LNP is not implemented, customers could never be quite sure what a local call will cost, because they will not be able to assess in advance whether a call is “on-net” or “off-net”. Even if they were aware that a specific number was “on-net”, they could never rely on that knowledge because it could become “off-net” the next day.⁴

⁴ It is not only locally-based customers that will face this uncertainty. Overseas carriers delivering calls to the Cayman Islands will also be unable to know whether they are terminating on fixed or mobile networks. Operators here may face increased disputes with international carriers, who are likely to dispute having to pay higher settlement fees when telephone numbers change from fixed to mobile services overnight.

- 5.5 The “price” consumers will pay for LNP, therefore, will be significant uncertainty. For example, for a post-paid mobile customer, the actual incremental cost of making a three-minute local call could vary from **zero** (if the customer is on a package in which they do not exceed their allowed minutes) to **over \$1.05**. This is relevant information that the Authority should have disclosed to the public in order to make fully informed submissions.
- 5.6 We also expect LNP to result in higher bills for some customers in some circumstances. Many commercial customers such as hotels, tourist condominiums, law firms, and other professional services, have their own Call Accounting systems so that they can track the cost of each call and bill their clients accordingly. Presently these systems can distinguish between prices to be charged by analyzing the prefix of the number called. With LNP, number prefix analysis will not discriminate between local call types, so to avoid losses such firms will likely program their Call Accounting systems to charge clients according to the highest possible price of local call types e.g. fixed to off-net mobile. Their clients (or guests) will therefore end up paying more for local calls under LNP. It is not clear whether this issue was taken into account by the Authority before CD 2008-1 was published.
- 5.7 It is highly likely that LNP would have other adverse impacts to the development and provision of telecommunication services in the Cayman Islands. For example, LNP would impair the operation or development of value-added store-and-forward services, like text messaging, photo messaging and mobile mail (and eventually fixed-line SMS). LNP is designed to enable portability of ten-digit telephone numbers associated with voice services only, something which is specifically acknowledged and placed on the public record for discussion by other regulators.⁵ “Store-and-forward” services do not support LNP and so would not send messages to the customer that has switched to a different carrier, nor will these services advise the sender of undeliverable messages.

⁵ Telecom Decision CRTC 2006-28, “Regulatory Issues Related to the Implementation of Wireless Number Portability – Follow-up to Public Notice 2006-3,” paragraph 78.

- 5.8 This will seriously impair the usefulness of such services. Further, customer uncertainty about whether a message was received would inhibit customer reliance on such means of communication and hence create unwillingness to use the value-added store-and-forward services. This, in turn, will erode carriers' incentives to invest in developing or enhancing such services. These are issues that should have been brought to the attention of the public by the Authority when asking the public if the "costs" of LNP were acceptable.
- 5.9 Finally, C&W believes customers will experience a significantly higher risk of not receiving calls from overseas carriers, once LNP is implemented. The most overseas carriers will analyse, when determining to which carrier in the Cayman Islands that they will send their traffic, is the central office code of the dialled number.⁶ Carriers in the Cayman Islands, however, do not necessarily accept international traffic destined to all other operators in the Cayman Islands. This is perfectly legitimate, and can be due to a number of reasonable factors such as insufficient international capacity or a decision to focus on other business opportunities. However, if the dialled number has been ported away from the original assignee of the central office code, and if that carrier does not accept international traffic destined to the recipient network, the end result will be that the call will not be completed.
- 5.10 Unfortunately, the Authority's ability to address this risk will be limited. All the parties in this scenario (the calling customer, the overseas carrier, the carrier bringing traffic into the country, the terminating carrier and the called customer who ported his/her number) would have made perfectly rational and reasonable business or personal decisions, but the calls would have been lost because of the implementation of LNP. In C&W's view, this information is clearly relevant when determining the "costs" of LNP.

⁶ Many will not even do that much. They look only at the area code, and send traffic to a selected carrier in this country, irrespective of which domestic carriers will ultimately be terminating the calls.

6. CONCLUSION

- 6.1 As this short submission shows, the prospect of LNP in the Cayman Islands brings many opportunities, as well as many pitfalls. C&W has approached the question of whether to implement LNP from a straightforward perspective: if it is worth doing, it is worth doing right. Unfortunately, the record suggests the Authority does not share that perspective.
- 6.2 Despite acknowledging in 2005 what it needed to do, the Authority is to date ignoring the first question of whether it is worth doing. Assuming something is worth doing is not the same thing as determining that it is worth doing. The Authority has also established a consultation process that seems designed not to achieve the second goal of “doing it right”. LNP is a complex process and establishing it properly is even more so. The myopic, piecemeal public consultation process being employed by the Authority suggests that the Authority has failed to grasp that fundamental issue, and has failed to establish a comprehensive approach to the issue.