



Information & Communications Technology Authority

**Public Consultation
on**

FLLRIC Implementation

(Ref: CD 2009-1)

Launch Date: 15 January 2009

1 INTRODUCTION

In this public consultation document, the Information and Communications Technology Authority (the "ICTA" or the "Authority") seeks comment from all interested parties on the revised Forward-looking Long-run Incremental Costs ("FLLRIC") model and the Mobile Termination Rate ("MTR") cost studies that will be developed by Cable and Wireless (Cayman Islands) Ltd. ("LIME").

This public consultation is a continuation of the FLLRIC development process.

The first phase of that process was initiated by a public consultation on 24 May 2004 entitled "Forward-looking Long-run Incremental Costing (CD (2004) 1)" and concluded by an Authority decision on 22 July 2005 entitled "ICT Decision 2005-4 - Decision for the Forward-looking Long-run Incremental Costing Consultation (CD (2004) 1)".

The second phase was initiated by a public consultation on 25 October 2005 entitled "Costing Manual (CD (2005) 1)" and concluded by an Authority decision on 31 July 2008 entitled "ICT Decision 2008-2 – Decision for the Costing Manual Consultation (CD (2005) 1)" ("Decision 2008-2" or the "Decision").

2 BACKGROUND

In Decision 2008-2, the Authority directed LIME to make a number of revisions to its proposed FLLRIC methodology and to provide additional documentation and modelling. Paragraph 447 of Decision 2008-2 directed LIME to identify the date by which it would be able to file a complete FLLRIC cost model and MTR cost studies reflecting the Authority's determination in the Decision. In that same paragraph, the Authority directed any other party that intended to participate in the FLLRIC Phase 3 proceeding to identify the number of calendar days it would need in order to review LIME's submission and file any proposed changes and supporting rationale.

On 14 August 2008, Digicel Cayman Limited ("Digicel") requested that the Authority reconsider certain elements of Decision 2008-2 arguing that many aspects of the Decision were fundamentally flawed in terms of the substantive approach adopted by the Authority.

By letter dated 22 August 2008, LIME noted the filing of Digicel's request for reconsideration and indicated that it would be in a position to file the required information within six months or within seven months from the date of confirmation by the Authority of the Decision. LIME provided two time periods because, in its view, the interpretation of one particular revision required by the Decision would significantly influence the completion date. Specifically, LIME queried the interpretation of the term "current investment" as either requiring asset revaluation or not. LIME identified that if

no asset revaluation was necessary for the purpose of calculating expense ratios, then it would require six months. If asset revaluation was required, then it would require seven months.

By letter dated 22 August 2008, amongst other items, Digicel indicated that a period of not less than ninety calendar days would likely be required for it to review, assess and provide responses to LIME's FLLRIC Phase 3 submission.

By email dated 22 August 2008, TeleCayman indicated that it would need three months in order to review and comment on LIME's FLLRIC Phase 3 submission.

In accordance with the directions provided in paragraph 448 of Decision 2008-2, on 1 September 2008, Digicel provided comments on the timeframe suggested by LIME. Digicel stated that it was not convinced that the necessary work could be done within the six or seven months as suggested by LIME.

On 5 September 2008, after a call for comments on Digicel's 14 August 2008 application for reconsideration, the filing of comments and reply comments by parties, and due consideration, the Authority denied Digicel's request for reconsideration.

On 5 September 2008, the Authority identified to LIME that the "current investment" term was specified in footnote 85 of the Decision to mean "using physical quantities and current unit prices for the same or equivalent assets as in the C&W FAC model." The Authority notes that using current unit prices requires asset revaluation.

The Authority considers that each of the parties is in the best position to estimate how much time is needed to develop its own submissions. In setting the dates for this proceeding, the Authority has given consideration to the requests of the parties. For the revised model and supporting documentation submission by LIME, the Authority notes that the calculation of current investment requires asset revaluation and therefore, LIME's submission would require seven months. As LIME indicated that the seven months would start from the date of confirmation by the Authority of the Decision and the Authority's denial of Digicel's reconsideration request was issued on 5 September 2008, the procedures will allow LIME seven months from that date. As requested by the other parties, the procedures will allow those parties three months from the date of LIME's submission to provide their responses.

3 RELATED MATTER

In addition to the items specified in Decision 2008-2, the Authority seeks comments from interested parties on the following FLLRIC implementation topic.

Annual adjustments to a FLLRIC based MTR

As identified in Decision 2008-2, one of the outcomes of this proceeding will be a FLLRIC based MTR. The Authority welcomes the views of interested parties on what, if any annual adjustments would be appropriate to a FLLRIC based MTR. For example, should the rate be adjusted to reflect inflation and/or productivity improvements and if so, on what basis should any such adjustments be made.

4 PROCESS

The Authority concludes that the following procedure should be used in this proceeding:

- by **6 April 2009**, LIME is required to file with the Authority and copy all parties its proposed revised FLLRIC model and MTR studies along with the required supporting documentation and explanations. LIME is directed to provide interested parties with a full working copy of the FLLRIC model with any confidential information noted and replaced with dummy data. All formulas and calculations are to be left intact;
- by **7 July 2009**, parties other than LIME are requested to file with the Authority and copy all parties any proposed changes to LIME's revised FLLRIC model and MTR cost studies along with supporting documentation, rationale and explanations;
- by **7 July 2009**, all parties including LIME are requested to file with the Authority and copy all parties on their submissions related to any proposed annual adjustments to a FLLRIC based MTR along with supporting documentation, rationale and explanations;
- by **6 August 2009**, parties may address interrogatories to any party that has filed a submission pursuant to the above directions (parties should file the interrogatories with the Authority and copy all other parties);
- by **7 September 2009**, parties are required to file responses to any interrogatories with the Authority and to copy all other parties;

The Authority may also address interrogatories to the parties. While the Authority may use more than one round of interrogatories for its questions, parties are to address all of their interrogatories at the same time. When the Authority has completed any interrogatories it intends to address, it will set dates by which parties can file Final Comments and Reply Comments addressing the full record of the proceeding.

For greater certainty, the Authority identifies that this process will not be an iterative process whereby LIME will be provided an opportunity to change its proposed costing information and models throughout the proceeding. LIME is encouraged to file

complete and accurate information at the start of the proceeding and any interested party who intends to participate should file complete and accurate information in its submission.

The Authority requires that any disclosure requests be made within ten calendar days of the material being filed. Responses to disclosure requests and the determinations regarding such requests will be in accordance with the ICTA Confidentiality Regulations.

The Authority stresses that the parties' submissions in this process should relate to the finalization of the unresolved issues identified in ICT Decision 2008-2 and the related matter identified above and must not attempt to re-argue items on which the Authority has already made determinations in previous decisions.

5 PROCESS GUIDELINES

All submissions should be filed with the Authority at the addresses provided below. In addition, all submissions should be copied to all parties at the same time they are filed with the Authority.

By e-mail to:

consultations@icta.ky

Or by post:

Information and Communications Technology Authority
P.O. Box 2502
Grand Cayman KY1-1104
CAYMAN ISLANDS

Or by courier:

Information and Communications Technology Authority
3rd Floor, Alissta Towers
85 North Sound Road
Grand Cayman
CAYMAN ISLANDS

Or by fax to:

(345) 945-8284