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Information & Communications Technology Authority

Our ref: ICTA/80/105/105-11

14 January 2010

Mr. Victor Corcoran
Chief Executive Officer
Digicel Cayman Limited
PO Box 700
Grand Cayman KY1-1107

Mr. Frans Vandendries
Vice President Legal Regulatory and Corporate Affairs
Cable and Wireless (Cayman Islands) Limited t/a LIME
PO Box 293
Grand Cayman KY1-1104

Dear Mr. Vandendries and Mr. Corcoran,

Re: FLLRIC Phase 3 disclosure request

In a letter dated 25 November 2009, Digicel Cayman Limited ("Digicel") requested that the Information and Communications Technology Authority ("ICTA" or "Authority") order the public disclosure of all details contained in the Cable and Wireless (Cayman Islands) Limited ("LIME") FLLRIC models (including the fixed, 2G and 3G modules) and the information redacted by LIME in its responses to interrogatories submitted in the FLLRIC Phase 3 proceeding.

Digicel's letter also set out the reasons for its request. Digicel claimed that, without access to the un-redacted versions of the LIME FLLRIC model, it was unable to detect the errors noted by the Authority. As a consequence and going forward, Digicel would be unable to establish whether errors have been corrected or any such corrections were reasonable. Digicel submitted that it is unreasonable, especially in light of the number of errors and alleged corrections, for it to be subjected to any outputs of the LIME FLLRIC model without having the chance of unfettered scrutiny of them.

In the same letter, Digicel also requested, where full public disclosure was not given, that full disclosure be permitted at an in camera meeting.

In a letter of 18 December 2009, LIME stated its opposition to Digicel's request for full disclosure of the information it filed in confidence in response to the ICTA interrogatories and its FLLRIC model (including fixed, 2G, 3G modules).

LIME believed the underlying premise of Digicel's application to be false. LIME stated that it has provided a complete cost model, albeit with confidential information removed and substituted with "dummy data" with all formulas left intact. LIME noted that cells containing dummy data were all highlighted as blue "user input" cells. According to LIME, this means that Digicel is fully able to review all the cost modules and determine whether there are changes it would propose to the modules. In LIME's view, it is not necessary for Digicel to have access to LIME's confidential data to assess corrections to formulas.

LIME submitted that the objective of the FLLRIC proceedings is to determine the costs of a forward-looking efficient operator, not necessarily the cost of a specific operator. As such it is not necessary for Digicel to have access to LIME's confidential information.

In its letter, LIME also opposed Digicel's proposal to allow for an in camera proceeding.

Authority Analysis and Determination

In the CD 2009-1 procedures for the FLLRIC Phase 3 proceeding, the Authority identified that any disclosure requests must be made within ten calendar days of the material being filed. However, in an email dated 13 October 2009 the Authority stated that, in order to simplify the interrogatory process, any disclosure requests concerning the LIME interrogatory responses should be received within ten calendar days of the filing of the last batch of interrogatory responses.

Digicel's disclosure request was submitted before LIME provided the last batch of responses to the interrogatories, so the Authority will deal with Digicel's request as if it is related only to the interrogatory responses filed prior to 25 November 2009 (the date of Digicel's letter).

The Authority's 9 December 2009 email to the FLLRIC distribution list set out its reasons for dealing with Digicel's 25 November 2009 disclosure request. In particular, given that the Authority had not received the LIME responses that were due on 21 October 2009 and in an effort to continue developing the record of the proceeding, the Authority considered that it would be appropriate to deal with Digicel's request for disclosure of the two batches of LIME interrogatory responses already submitted.

As noted in the Authority's 9 December 2009 email, in regards to any disclosure request for the third batch of interrogatory responses and any future submissions in this proceeding, the Authority will revert back to the disclosure request procedure as identified in CD 2009-1. That is, 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, 2003 (the "Regulations").

The Regulations provide a process whereby parties can request the disclosure of information filed in confidence with the Authority. In making determinations related to disclosure of such information, the Authority gives consideration to the nature of the information and assesses the relative weight of the specific direct harm to the party providing the confidential information against the broader public interest in a full and fair public process.

The Authority notes that its determinations regarding confidentiality claims in this instance should not be taken as an indication of the manner in which such matters would be dealt with in the future and in different circumstances. The Authority evaluates disclosure requests individually and with due consideration of the particularities of each request and the purposes of the proceeding. In this particular case, the Authority notes that LIME was directed to submit, in addition to a FLLRIC model, the Mobile Termination Rate (MTR) cost studies. This will be the first time during the FLLRIC process that the Authority is considering the cost of an interconnection service. It is therefore important that the parties that may be directly affected by such an outcome are provided sufficient information on the FLLRIC model such that any outcome is well understood. Thus, in the Authority's view there is a strong public interest in disclosing the full methodology and underlying data used to determine the cost of mobile termination.

Disclosures related to cost modules

The Authority agrees with LIME that Digicel has not specifically identified each piece of information it seeks to have disclosed. However, one of the concerns of the Authority is that the public version of the FLLRIC model does not allow parties to assess precisely the extent of dummy data in each cost module. While LIME notes that inputs have been colour coded as blue "user input", no distinction is made between dummy and real input values as required by the Authority in CD2009-1: "*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.*" [Emphasis added]. Without access to both public and confidential versions of the FLLRIC model it is not currently possible to identify with certainty which cell values have been replaced with dummy data and which have not.

In each of the batches of interrogatory responses LIME has provided different versions of the 2G, 3G and fixed cost modules. In the first batch received on 15 October 2009, LIME provided the following confidential versions of the modules:

- 3G Module: 09_10_15 CYM 3G Mobile Model 20091014 1432 (confidential).xls
- 2G Module: 09_10_15 -CYM Mobile 07-04-09 (confidential).xls
- Fixed Module: 09_10_15 -CYM fixed 07-04-09 (confidential).xls

In the second batch received on 16 November 2009, LIME provided the following confidential versions of the modules:

- 3G Module: CYM Mobile 3G - updated 09_11_16 conf.xls
- 2G Module: CYM Mobile 2G - updated 09_11_16 conf.xls
- Fixed Module: CYM fixed - updated 09_11_16 Conf.xls

In the following, when the Authority makes reference to or provides directions for the confidential versions of the 3G module, 2G module or fixed module, these apply to the cost modules received on both 15 October and 16 November.

The Authority notes that LIME previously has submitted separate 2G and 3G MTR cost study modules using modified confidential versions of the 2G module that was submitted on 9 April 2009 and of the 3G module that was submitted on 21 May 2009. To the knowledge of the Authority the only modifications made are to cells M38:M44 of the 'Volume Input for TD' tab in each of the 2G and 3G modules, reflecting LIME's assumptions regarding a sustainable forward-looking competitive mobile market in the Cayman Islands. Considering that the MTR studies will rely on some version of the 2G and 3G modules submitted with the two batches of interrogatory responses the Authority will treat those modules as it would any submission of an MTR cost study.

The Authority has reviewed each FLLRIC module (fixed, 2G and 3G) for confidential information by comparing public and confidential versions.

Of the information reviewed in the 3G module (09_10_15 CYM 3G Mobile Model 20091014 1432 (confidential).xls and CYM Mobile 3G - updated 09_11_16 conf.xls) the Authority is satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure in the following instances:

- All real values in the 'FAC Input' sheet
- The number of pre-paid subscribers in cell AG 10 in the 'Volume Input for TD' sheet
- The number of post-paid subscribers in cell AG 11 in the 'Volume Input for TD' sheet.

All real values in the 'FAC Input' sheet refer to actual LIME incurred costs and the number of subscribers to actual subscribers. Hence in the above cases the Authority determines that LIME's confidentiality claim is justified and Digicel's disclosure requests are denied.

For all remaining values in the 3G module LIME is ordered to release this information subject to the following caveat. If the remaining values in the 3G module do not influence (are not a precedent for) the cost calculation of mobile termination (in cell E68 of the 'Mobile Service Costs' tab), LIME may continue to use dummy data for these inputs. Given the integrated nature of the cost calculation the Authority expects this to apply to very few input values. In addition to the above, LIME is directed to make public the expense factors in the 'Expense Factors' sheet (cells E32:E65) and the 'overhead_exp' sheet (cells E56:E95) in the confidential modules. In other words, LIME is to paste the values of the factors from the confidential modules into the public modules. To protect the confidential expense factor information contained in the 'FAC Input' sheet, any Gross Replacement Value (GRV) information (contained in row 2 of the 'Reval_Assets' sheet) should also be left as dummy data in the public version of the module subject to the conditions for masking real data as identified below). The Authority does not consider the GRV information to be confidential, but disclosure of the values would allow calculation of the absolute expense factor values in the 'FAC Input' sheet.

Of the information reviewed in the 2G module (09_10_15 -CYM Mobile 07-04-09 (confidential).xls and Mobile 2G - updated 09_11_16 conf.xls) the Authority is satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure in the following instances:

- All real values in the 'FAC Input' sheet
- The number of pre-paid subscribers in cell AG 10 in the 'Volume Input for TD' sheet
- The number of post-paid subscribers in cell AG 11 in the 'Volume Input for TD' sheet.

Hence in the above cases the Authority determines that LIME's confidentiality claim is justified and Digicel's disclosure requests are denied.

For all remaining values in the 2G module, LIME is ordered to release this information subject to the following caveat. If the remaining values in the 2G module do not influence (is not a precedent for) the cost calculation of mobile termination (in cell E43 of the 'Mobile Service Costs' tab), LIME may continue to use dummy data for these inputs. In addition to the above, and as was directed for the 3G module, LIME is directed to paste the expense factors in the 'Expense Factors' sheet (cells E32:E65) and the 'overhead_exp' sheet (cells E56:E95) from the confidential modules into the public modules and use GRV dummy data (contained in row 2 of the 'Reval_Assets' sheet) in

the public version of the module subject to the conditions for masking real data as identified below.

Of the information reviewed in the fixed module (Fixed Module: 09_10_15 -CYM fixed 07-04-09 (confidential).xls and CYM fixed - updated 09_11_16 Conf.xls) the Authority has determined that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure of all but the expense factor percentages. LIME is directed in line with directions for the 2G and 3G module to paste the expense factors in the 'Expense Factors' sheet (cells E30:E101) and the 'overhead_exp' sheet (cells E55:E94) from the confidential modules into the public modules and use GRV dummy data in the public version of the module (subject to the conditions for masking real data as identified below) to prevent calculation of the absolute expense factor information contained in the 'FAC Input' sheet.

Conditions for masking real data

In the revised public version of the modules, LIME is ordered to clearly identify dummy data with specific colour coding. For clarity, this means that "input" values should be colour coded with two colours; one colour for real data and a different colour for dummy data. In addition, all dummy data must be within plus or minus 50% of the confidential value. For example, assuming a confidential value of 2,000 the dummy value is bounded by a maximum of 3,000 and minimum of 1,000.

Disclosures related to interrogatories

The information redacted by LIME in its responses to ICTA interrogatories are contained in answers to questions 7, 94, 117, 121, 124, 125, 126, 127, 139, 141, 143, 144 and 148. In addition LIME has submitted 9 appendices to which it has claimed confidentiality and not made available redacted version for the public record. These are:

- 09_10_15 Appendix A-Transfer Pricing Model - CWJM v6_ed (confidential).xls
- 09_10_15 Appendix C- Access Network (confidential).xlsx
- 09_10_15 Appendix D- USP (confidential).ppt
- 09_10_15 Appendix E - BTS Spares (confidential).xlsx
- 09_11_16 Appendix F Contact Center - October2009 - conf [int 21].xls
- 09_11_16 Appendix IV-FAC-TD Values 07-04-09 conf_revised [int 120].xls
- 09_11_16 Appendix VIII - RF Analysis revised - CONFIDENTIAL [int 121].xls
- 09_11_16 Appendix V-TD LRIC Input 07-04-09 conf_revised [int 120].xls
- 09_11_16 Appendix XII(A) - Fibralink - confidential [int 124].xls
- 09_10_15 CYM 3G Routing Factors 20091012 (confidential).xls

The Authority has reviewed each of these items (interrogatory questions and responses, and Appendices) individually.

The information claimed confidential in question 7 consists of inputs no longer used in the FLLRIC model, while the response contains LIME's total annual pole rental cost. Hence the information in question relates in part to specific LIME cost information and information that is no longer used and will not form part of the final model. The Authority finds that disclosure of information no longer used in the FLLRIC model is not justified. For total pole rental costs the Authority is satisfied that the specific direct harm likely to result from disclosure of this information outweighs the public interest in disclosure and therefore determines that LIME's confidentiality claims are justified.

The information claimed as confidential in question 94 and its response are estimates of spares in the modelled mobile 3G network. The Authority notes that the values are the same in the public and confidential versions of the module and therefore cannot be considered to be "treated consistently in a confidential manner", as required by section 3(b) of the Regulations. Further, the values do not reflect actual LIME values. The Authority is not satisfied that the specific direct harm likely to result from disclosure of this information outweighs the public interest in disclosure and determines that LIME's confidentiality claims are not justified. Accordingly, LIME is directed to make public the full question 94 and its response.

The information in question 117 is related to weightings applied to an index value to create a smoothed average and is not specific to LIME. The Authority is not satisfied that the specific direct harm likely to result from disclosure in this case outweighs the public interest in disclosure and determines that LIME's confidentiality claims are not justified. Accordingly, LIME is directed to make public the weightings used.

Question 121 discusses routing factors used in the 2G module. The Authority notes that the specific redacted routing values are identical in the public and confidential versions of the module and therefore cannot be considered to be "treated consistently in a confidential manner", as required by section 3(b) of the Regulations. The redacted information and reasoning behind it is important for understanding the allocation of costs to mobile services and in particular to the mobile termination service. The Authority is not satisfied that the specific direct harm likely to result from disclosure of this information outweighs the public interest in disclosure and therefore determines that LIME's confidentiality claims are not justified. Accordingly, LIME is directed to make public the full question 121 and its response.

The Cayman IRU costs referred to in the answer to question 124 are only of very limited importance for determining the cost of mobile termination and reflect actual LIME budgeted amounts. The Authority is therefore satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure and therefore determines that LIME's confidentiality claim is justified and Digicel's disclosure request is denied.

The information claimed confidential in questions 125, 126, 127 and 141 is specific to LIME and not relevant to the determination of a cost of mobile termination. The Authority is therefore satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure and determines that LIME's confidentiality claim is justified and Digicel's disclosure request is denied.

In the answer to question 139 LIME provides detailed costing information from its accounts. The Authority is satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure in this particular case and determines that LIME's confidentiality claim is justified and Digicel's disclosure request is denied.

In the answer to questions 143 and 144 LIME claims as confidential an estimate of the anticipated operating efficiency of moving to an NGN network noting the difficulty in quantifying with any accuracy the operating savings. Given the uncertain nature of the value the Authority is satisfied that the specific direct harm likely to result from disclosure does not outweigh the public interest in disclosure and determines that LIME's confidentiality claim is not justified. Accordingly, LIME is directed to make public its efficiency adjustment percentage in its response to question 143 and 144.

In the answer to question 148 LIME explains how certain spares percentages are derived. These values are relevant for the determination of the cost of mobile termination. The percentage values are shown in the public versions of the model. The calculations and values underlying the percentages are not (contained in Appendix X Part 1 – values related to GSM network expansion by Nortel). For the values sourced from to Appendix X Part 1 and used to calculate the percentages, the Authority determines that the specific direct harm from disclosure outweighs the public interest in disclosure and determines that LIME's confidentiality claim is justified. However, as regards the calculated percentages the Authority is satisfied that the specific direct harm likely to result from disclosure does not outweigh the public interest in disclosure and determines that LIME's confidentiality claim is not justified. Accordingly, LIME is directed to make public all but the values sourced from to Appendix X Part 1 used to derive the percentages.

Appendix A is an Excel spreadsheet containing a transfer pricing model with recharged costs to the Cayman Business from LIME Regional for operating and maintaining its SMS and Prepaid platforms. While the Authority does not consider that the values sourced from Appendix and used in the fixed modules to be confidential, the Appendix contains assignment ratios and total actual costs across the LIME business. The Authority is satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure in this particular case and determines that LIME's confidentiality claim is justified.

Appendix C is an Excel spreadsheet containing information relating to LIME's Access network and transmission network dimensioning. It was completed by LIME's engineers based on information captured in LIME's GIS system. The majority of the information is already provided in the public version of the cost module. Any remaining information not made public or used in the fixed module is of a technical nature. The Authority is satisfied that the specific direct harm likely to result from disclosure does not outweigh the public interest in disclosure and determines that LIME's confidentiality claim is not justified. Accordingly, LIME is required to make public in full 09_10_15 Appendix C- Access Network (confidential).xlsx.

Appendix D is a Powerpoint slide representing an updated network diagram of LIME's NGN. It is specific to LIME and is not relevant to the determination of a cost of mobile termination. The Authority is therefore satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure and determines that LIME's confidentiality claim is justified and Digicel's disclosure request is denied.

Appendix E contains BTS capital costs from a production adoption agreement between another LIME regional company and a vendor of mobile equipment. The information is used to derive the percentage used to calculate the spares cost when multiplied by the total cost for a BTS. Despite the information not being Cayman specific, the Authority is satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure and determines that LIME's confidentiality claim is justified and Digicel's disclosure request is denied.

Appendix F is filed in response to interrogatory 21. It includes a calculated distribution of call center calls between DQ and Other (for the month of October 2009) used to split the operating costs of the DQ Platform and Call Centre in the fixed cost module. The Authority notes that the percentages used in the model in both the confidential and public version of the fixed model are the same and therefore cannot be considered to be "treated consistently in a confidential manner", as required by section 3(b) of the Regulations. The Authority is satisfied that the specific direct harm likely to result from disclosure does not outweigh the public interest in disclosure and determines that LIME's confidentiality claim is not justified. Accordingly, LIME is required to make public in full 09_11_16 Appendix F Contact Center - October2009 - conf [int 21].xls.

Appendix IV is an Excel spreadsheet containing detailed FAC data used to determine the expense factor values which are converted to expense factor percentages in the FLLRIC model. In line with determinations above, the Authority is satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure and determines that LIME's confidentiality claim is justified and Digicel's disclosure request is denied.

Appendix VIII is an Excel spreadsheet consisting of five tabs containing detailed call data, subscriber numbers and routing factor analysis. The tabs 'min 04_05', 'calls

04_05' contain traffic data by exchange in LIME's network. The tab 'Prepaid RF Data' contains monthly subscriber data used to calculate the split between prepaid and postpaid customers in LIME's network. The tabs 'Mobile RFs' and 'Fixed RFs' list the routing factors used in 2G and fixed modules respectively including reasoning and explanation for how they were derived. For the tabs 'min 04_05', 'calls 04_05', 'Prepaid RF Data' and 'Fixed RFs' the Authority is satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure and determines that LIME's confidentiality claim is justified and Digicel's disclosure request is denied. For the tab 'Mobile RFs' the Authority is satisfied that the specific direct harm likely to result from disclosure does not outweigh the public interest in disclosure and determines that LIME's confidentiality claim is not justified. Accordingly, LIME is required to make public in a version of 09_11_16 Appendix VIII - RF Analysis revised - CONFIDENTIAL [int 121].xls where the tabs 'min 04_05', 'calls 04_05', 'Prepaid RF Data' and 'Fixed RFs' have been redacted.

Appendix V is an Excel spreadsheet used to derive bad debt costs and retail costs used in the FLLRIC model. It contains 11 tabs. The tabs 'exp_alloc' and 'REVENUE MAPPING' contain very detailed LIME retail cost data and revenue data. For these tabs the Authority is satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure and determines that LIME's confidentiality claim is justified and Digicel's disclosure request is denied. For the remaining tabs ('GROUPS LIST (2)', 'LDA', 'drivers', 'CVR_01', 'CVR_02', 'CVR_03', 'CVR_04', 'CVR_05', 'CVR_06'), the Authority is satisfied that the specific direct harm likely to result from disclosure does not outweigh the public interest in disclosure and determines that LIME's confidentiality claim is not justified. Accordingly, LIME is required to make public in a version of 09_11_16 Appendix V-TD LRIC Input 07-04-09 conf_revised [int 120].xls where the tabs 'exp_alloc' and 'REVENUE MAPPING' have been redacted. The Authority notes that this will result in the redaction of revenue information in the tab 'drivers'.

Appendix XII(A) is a spreadsheet capturing the budgeted amount for the International TX Costs in the fixed network module. In line with the determination for disclosure of information referred to in the answer to question 124 the Authority is satisfied that the specific direct harm likely to result from disclosure outweighs the public interest in disclosure and therefore determines that LIME's confidentiality claim is justified and Digicel's disclosure request is denied.

The spreadsheet '09_10_15 CYM 3G Routing Factors 20091012 (confidential)' contains documentation outlining the justification for the routing factors in the 3G module. In line with determinations above for Appendix VIII, the Authority is satisfied that the specific direct harm likely to result from disclosure does not outweigh the public interest in disclosure and determines that LIME's confidentiality claim is not justified. Accordingly, LIME is required to make public in full 09_10_15 CYM 3G Routing Factors 20091012 (confidential).xls.

In camera proceeding

Regarding Digicel's request for an in camera proceeding, the Authority is satisfied that the level of disclosure directed above will provide interested parties with sufficient information to adequately evaluate and comment on LIME's model and mobile termination cost studies. Therefore, the Authority denies Digicel's request for an in camera proceeding.

Due Date

LIME is directed to provide the information identified above and revised public versions of the modules by 28 January 2010.

Yours sincerely,

[signed]

David A Archbold
Managing Director

cc: FLLIRIC Phase 3 distribution list