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Information & Communications Technology Authority

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

8 March 2012

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

Mr. Anthony Ritch  
General Manager  
Cable and Wireless (Cayman Islands) Limited trading as LIME  
PO Box 293  
Grand Cayman KY1-1104

Dear Mr. Ritch and Mr. Corcoran,

**Re: ICT Decision 2011-3 follow-up proceeding disclosure request**

In a letter dated 17 February 2012, 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") fixed, 2G and 3G modules that were circulated to the FLLRIC distribution list pursuant to the follow-up proceeding stipulated in ICT Decision 2011-3. Digicel's letter stated that it is impractical within the timeframes of this proceeding for Digicel to obtain the information that it would require to replace the dummy data with data of its own in order to test the robustness of the models.

Digicel's letter also requested that, if full public disclosure was not given, that full disclosure be permitted at an in camera meeting.

In a letter of 24 February 2012, LIME stated its opposition to Digicel's request for full disclosure and submitted that the question of confidentiality of the FLLRIC model data

has been extensively dealt with in previous Authority determinations and that, as LIME has introduced no new confidential information into the models since March 2010, the question of disclosure should be considered to be fully and finally determined.

In its letter, LIME also objected to the proposed in camera approach and submitted that, as the portions of the modules that are redacted are so small and the dummy numbers are so close to the real numbers due to the Authority's directives on masking data, not having the confidential data is no bar to fully understanding the working of the FLLRIC model.

On 28 February 2012, Digicel submitted a further letter which it characterized as providing comments on LIME's 24 February 2012 letter.

### **Procedural issue**

The Authority notes that subsections 4 (f) and (g) of the ICTA (Confidentiality) Regulations specify a procedure whereby parties may request disclosure of information where there has been a claim of confidentiality. The procedures specify that the party requesting disclosure shall file the request with the Authority and copy the party claiming confidentiality. The party claiming confidentiality then has ten days to file a reply with the Authority and copy the party who requested disclosure.

In the Authority's view, parties should follow the procedures stipulated in the regulations as that would enable both affected parties an equal opportunity to make representations to the Authority and ensure efficient regulatory procedures by requiring parties to make full and complete submissions in a fair manner. The Authority notes that the procedures do not provide for further comments after the initial request and reply and therefore notes that Digicel's letter of 28 February 2012 is out of process. As such, the Authority places less weight on the contents of that letter. Digicel is encouraged, in any future proceedings, to comply with the procedures stipulated in the regulations.

### **Disclosure Determination**

In its 14 January 2010 determination on Digicel's 25 November 2009 disclosure request in the proceeding that led to ICT Decision 2011-3, the Authority conducted an extensive review of the FLLRIC information filed in confidence by LIME and assessed the relative weight of the specific direct harm to the party providing the confidential information against the broader public interest in disclosing such information. In its 17 February 2012 disclosure request, Digicel has repeated the request it made in 2009 for full disclosure of all details contained in the LIME models and, in the alternative, full disclosure at an in camera meeting.

In the Authority's view, these requests were fully dealt with in the Authority's 14 January 2010 disclosure determination (available at: [http://www.icta.ky/docs/FLLRIC/PhaseIII/2010\\_01\\_14\\_ICTA\\_disclosure\\_determination.pdf](http://www.icta.ky/docs/FLLRIC/PhaseIII/2010_01_14_ICTA_disclosure_determination.pdf)) and confirmed in ICT Decision 2010-2 "Decision on LIME's Application to Reconsider the FLLRIC Phase 3 disclosure request" ([http://www.icta.ky/docs/FLLRIC/PhaseIII/2010\\_02\\_26\\_ICTA\\_Decision\\_2010-2\\_Recon\\_of\\_FLLRIC\\_disclosure.pdf](http://www.icta.ky/docs/FLLRIC/PhaseIII/2010_02_26_ICTA_Decision_2010-2_Recon_of_FLLRIC_disclosure.pdf)). As summarized in paragraph 13 of ICT Decision 2010-2, "except for a limited number of identified instances, if the data is used to determine the cost of mobile termination, it should be disclosed". Therefore, the Authority denies Digicel's disclosure request and denies Digicel's request for disclosure at an in camera meeting - as these issues have already been considered and decided on by the Authority in 2010.

However, upon review of the public versions of the modules submitted by LIME in this follow-up proceeding, the Authority notes that there are a number of instances where LIME has not complied with the disclosure determinations identified above. On pages 5 and 6 of the Authority's 14 January 2010 disclosure determination, LIME was directed to paste the values of the expense factors in the 'Expense Factors' and the 'overhead\_exp' worksheets from the confidential modules into the public modules for each of the 3G, 2G, and fixed modules. The public versions of those modules submitted by LIME in this proceeding contain formulas and not the pasted values. LIME is directed to comply with the Authority's determinations by pasting the values as required.

In the previous proceeding, when submitting revised versions of the FLLRIC cost model, LIME was directed to provide all modules and all linked spreadsheets with fully functional links between them. In this proceeding, LIME's did submit the linked spreadsheets in confidence to the Authority by providing copies of the spreadsheets from the previous proceeding but did not provide the public versions of those linked spreadsheets to either the Authority or interested parties. LIME is directed to comply with the requirement to submit the linked spreadsheets with both the confidential and public versions. In addition, LIME is reminded of subsection 4 (c) of the ICTA (Confidentiality) Regulations that require, when a submitting party files information in confidence with the Authority, it must file either a redacted version of the document or a request to the Authority to file in place of a redacted version of the document a copy of a statement as to the existence and general nature of the document.

Finally, in the attachment to its 21 February 2012 letter, LIME states that information on how "planning expenses are determined is presented in the attached spreadsheet '2012 02 20 MTM Interconnect Costs\_Conf.xlsx'." The Authority has received neither a confidential nor redacted version of that spreadsheet. LIME is directed to provide the identified information and to comply with the ICTA (Confidentiality) Regulations when doing so.

## Remaining Procedures

LIME is directed to provide the above identified information by **13 March 2012**.

In paragraph 369 of ICT Decision 2011-3, the Authority stated that if there are any requests for disclosure for information submitted by LIME, the Authority would issue comment and reply comment due dates at the time it makes its determination related to any such disclosure request. Therefore, the Authority specifies the following procedure:

- 1) Parties other than LIME may provide written comments on the FLLIRC model, proposed MTR rates, and other information filed by LIME pursuant to paragraph 365 of ICT Decision 2011-3 by **28 March 2012**.
- 2) LIME may file any written reply comments by **4 April 2012**.
- 3) The Authority stresses that the parties' submissions in this follow-up process should relate solely to the changes to the model pursuant to ICT Decision 2011-3 and must not attempt to re-argue items on which the Authority has already made determinations in that or previous decisions.
- 4) Any comments or reply comments **must be copied to the FLLRIC distribution list** at the same time they are submitted to the Authority.

Yours sincerely,

[signed]

David A Archbold  
Managing Director

cc: FLLIRIC distribution list