



CABLE & WIRELESS

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

**Reply Comments to the Information and
Communications Technology Authority**

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

08 September 2008

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

Reply Comments by Cable and Wireless (Cayman Islands) Limited

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1. INTRODUCTION

- 1.1 Cable and Wireless (Cayman Islands) Limited (“**C&W**”) is pleased to submit the following reply comments in accordance with the procedure set out in the Authority’s email of 23 July 2008 issued in the public proceeding commenced by the 21 April 2008 consultation document CD 2008-1 (“*Public Consultation on Local Number Portability* (Ref: CD 2008-1)”) (“**CD 2008-1**”).
- 1.2 We have had the opportunity to read the comments filed by the following parties to the proceeding: Digicel Cayman Limited (“**Digicel**”), Blue Sky Wireless Ltd. (“**Blue Sky**”), TeleCayman Ltd. (“**TeleCayman**”), Century 21 Thompson Realty / Kel Thompson, Neil and Mary Anne Cox, Darren Enns, Fortis Bank (Cayman) Limited / Chuck Thompson, Hurleys / Randy Merren, and The Ritz-Carlton / Carey Snider. Please note that failure to address any specific point made by another party should not necessarily be construed as agreement with that point.

2. SUMMARY OF C&W’S COMMENTS

- 2.1 In its 27 June 2008 comments in this proceeding, C&W submitted that, generally, CD 2008-1 was premature and misleading. The Authority still needed to make a proper determination under section 71(3) of the *Information and Communications Technology Authority Law* (2006 Revision) (the “**Law**”), not merely an assumption. In C&W’s view, too many costs had been ignored or were potentially understated for the Authority to make that determination at this time, or for the Authority to be reasonably able to set “maximum” prices to consumers.

3. COMMENTS REGARDING “COSTS”

- 3.1 A number of the parties noted that Local Number Portability (“LNP”)¹ would be desirable and expressed their support for LNP. Virtually all of the parties, other than Digicel, commented that the proposed “costs” were acceptable.
- 3.2 Unfortunately, all of these comments assume that the Authority’s estimate of costs in CD 2008-1 is accurate and that the Authority’s methodology for setting retail LNP “prices” would permit recovery of those costs. As C&W has repeatedly tried to advise the Authority, both of these assumptions may well be wrong. Because CD 2008-1 did not state that these assumptions could be wrong, C&W submits that the public was not properly informed and that their comments might have been different had they been properly and completely informed about the issues. To repeat our statement at paragraph 3.5 of our 27 June 2008 submission, “[t]he 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.” The Authority should be very careful, then, in basing any determination on those comments.
- 3.3 C&W is particularly disappointed by the comments filed by TeleCayman and Blue Sky. While the other parties who filed comments (other than Digicel) are not telecommunications network operators and have not been involved in the LNP Consortium or the public consultation process prior to now, and therefore might not be fully knowledgeable regarding all of the issues, TeleCayman in particular has been involved in the LNP Consortium and, as an operator, should be fully aware of both the monetary and the “non-monetary” costs that both C&W and Digicel highlighted in their submissions.

¹ C&W will use the term “LNP” to include both fixed and mobile number portability, and the term “MNP” to refer to mobile number portability specifically. We note that other parties have used “LNP” to refer to fixed number portability and to “NP” to refer to both types of portability.

4. DIGICEL'S COMMENTS ON COSTS

- 4.1 Digicel submitted detailed comments regarding the likely costs of implementing number portability, although they chose to focus on mobile number portability (“MNP”). Nevertheless, C&W agrees with Digicel’s statement at the bottom of page 5 of their 27 June 2008 submission to the effect that the Authority needs to figure out the cost of implementing LNP before it can reasonably start to address the question of the recovery of that cost, let alone the maximum prices that can be charged to customers for that cost-recovery.
- 4.2 C&W also considers quite disturbing the evidence filed by Digicel on the difference between the predicted and actual cost of implementing MNP in Hong Kong, Ireland, the Netherlands and the U.K. It appears costs were underestimated by 50 to 200% for the latter three countries – data for Hong Kong was incomplete and a comparison could not be made. It is not clear to C&W whether the comments of other parties would have been as supportive of the Authority’s proposed “maximum” prices if they knew they could be subject to increases of a similar magnitude or if they understood that the recovery of the costs of implementing LNP could face such a shortfall (and have to be recovered in other, less transparent ways).
- 4.3 Similarly disturbing is the admission of the authors of the relevant cost-benefit studies, set out at page 7 of the Digicel submission, that “they considerably over-valued the benefits, understated the costs and did not fully recognise the technical difficulties of introducing MNP.” If consultancies such as OVUM and NERA admit errors in their estimations of the costs of MNP, the Authority should consider itself fully informed of the possibility of errors in its own estimates.

5. DIGICEL COMMENTS ON COST RECOVERY METHODOLOGY

- 5.1 Digicel makes a number of comments on the Authority’s proposed working telephone number (“WTN”) based methodology for setting the prices to be charged to consumers for LNP services. In particular, Digicel suggests that, if the

Authority's methodology is adopted, "fixed line users will invariably contribute a disproportionately low amount towards the cost of implementation, while mobile users will make a disproportionately high contribution." C&W is not convinced this is necessarily the case. In particular, it is not necessarily the case that businesses will have one telephone number used by potentially hundreds of employees. A business that is that large will more than likely have direct inward dial ("DID") numbers assigned to individual employees, and each of these DIDs will count as a WTN.²

5.2 C&W submits that what is required is a methodology that fairly apportions the central clearinghouse and other "common" industry costs to all operators. Otherwise, the Authority would not have satisfied the criterion in paragraph 71(3)(b) of the Law that "the requirement will not impose an unfair burden on any licensee." It is not a given that a WTN-based approach will be unfair to any licensee or set of licensees, although C&W agrees with Digicel that the Authority must consider actual patterns of number usage carefully when designing a WTN-based price setting mechanism. C&W also notes that its concern with the WTN-based approach was not that it was necessarily unfair, but that it appears poorly suited to recovering all LNP-related costs and that it did not have any mechanism to address the inevitable shortfalls.

6. OTHER DIGICEL COMMENTS

6.1 Digicel raised as additional concerns the network resilience and data protection risks involved in establishing an off-shore LNP database solution. C&W agrees that these are issues that the Authority must very carefully consider. In particular, C&W questions the wisdom of placing overseas something as critical to the basic functioning, let alone the proper functioning, of the voice telecommunications network in the Cayman Islands. Any occurrence of submarine capacity outage, data corruption, or interference by outside parties in the database would have serious

² Or, ought to count as a WTN. Unfortunately, the Authority provided no details on its WTN methodology, not even the total number of working telephone numbers.

consequences for the entire country. However, the Authority's ability to control or prevent those occurrences would be reduced by virtue of its distance from the database. On the other hand, there were indications that placing the database on-shore could affect the cost of the LNP solution, which would affect the outcome of any eventual cost-benefit analysis.

7. CONCLUSION

7.1 While a number of parties answered in the affirmative the Authority's questions regarding the appropriateness of the proposed "maximum" prices to consumers for recovery of LNP costs, C&W submits that those parties were for the most part starting from the false assumption that the costs of LNP were known and settled. Further, the two largest voice network operators in the Cayman Islands have both pointed out to the Authority not only that the costs are not known and in fact are subject to considerable uncertainty, but also that a number of key issues still need to be addressed before the Authority can be considered to have properly discharged its obligations under the Law to conduct a cost-benefit analysis. C&W strongly urges the Authority to consider these issues. Otherwise, C&W is concerned that consumers, such as Mr. Kel Thompson who are concerned "that LNP works well and does not affect service", will be disappointed.