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Information & Communications Technology Authority

ICTA/80/138

8th November 2004

To: Distribution List

Draft Procedural Rules

Over the past several months it has become clear that there is no uniform practice for the manner in which pertinent information is made available amongst Licensees. Such information includes complaints by Licensees against other Licensees; service filings and notifications by Cable & Wireless; public consultation comments from Licensees; reply comments from Licensees; interrogatory responses from Licensees; requests for disclosure of information claimed in confidence from Licensees and replies to such requests from Licensees. Further, claims of confidentiality appear to be generic, unnecessarily broad and, in some instances, it appears that redacted copies do not reach all interested parties. This has led both to confusion amongst the Licensees and unnecessary commitment of the Authority's time and resources.

The Authority is minded to issue Procedural Rules in order to have a more transparent, efficient and uniform regulatory process. In order to ensure that parties have an opportunity to make their views known and that the appropriate procedures are arrived at, the Authority requests that all Major Network Licensees file their comments on the attached draft Procedural Rules no later than 15 December 2004. In the interim the Authority encourages the Licensees to follow the draft Procedural Rules.

Yours sincerely,

[Signed]

David Archbold
Managing Director

Attachment

cc All Major Network Licensees

Mr. Rudy Ebanks, Cable & Wireless, rudyebanks@cwcy.cwplc.com

Mr. Raul Nicholson-Coe, Wireless Ventures, Raul.Nicholson-Coe@attws.ky

Mr. John D. Buckley, Digicel, john.buckley@digicelgroup.com

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Mr. Errol Kellyman, United Communications, avcomgcm@candw.ky

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Mr. Paul Simon, Foster Cayman, p_gillaw@candw.ky

Mr. Herbert Huddleston, West Indian Technologies, henry@engineer.com

Mr. Richard Corbin, WestStar, rcorbin@weststartv.com

Draft Procedural Rules

All timeframes are in calendar days, except where specifically noted.

C&W Tariffs

1. Paragraphs 3 through to 34 of Annex 5 to Cable & Wireless' ("C&W") Licence describe six Categories of retail services while paragraphs 64 to 70 address Wholesale services.
2. Pursuant to paragraphs 5, 13, 20.1, 26 and 28 of Annex 5 to its Licence C&W has a requirement to publish its tariffs for Categories 1, 2, 3A, 4 and 5.
3. As a condition of its Licence granted July 2003, C&W is required to develop, in conjunction with the Authority, comprehensive and accurate descriptions, terms and conditions, and rates for all of its services in Categories 1, 2, 3A, 4 and 5. With respect to Wholesale services, Cable and Wireless currently files service descriptions in the agreement format, including the service terms and conditions and rates. The descriptions for both retail and wholesale services are referred to as "tariffs" in these Procedural Rules.
4. Initial draft tariffs were developed by C&W beginning in September 2003 and were posted on its website¹ in February 2004. However, neither changes made to these tariffs as a result of discussions between C&W and the Authority since February 2004 nor revised rates such as the mobile rate reductions that occurred in March 2004 are reflected in the drafts.
5. In order that the general public and Licensees not be disadvantaged by the lack of current information, C&W is to post the most recent version of its retail and wholesale tariffs on its website within fourteen days of the date that the Procedural Rules are finalised. The tariffs would reflect any changes implemented by C&W or approved by the Authority since the initial draft tariffs were posted on the company's website.
6. Thereafter, as changes are made to C&W's services, C&W is to post the revised tariffs no later than three business days before the date they are to be effective.

Service Filings

7. Annex 5 of the C&W Licence addresses various Categories of services. In general, Category 1 contains monopoly or near monopoly retail services; Category 2 contains emerging competitive retail services; and Category 3 contains more

¹ <http://www.cwinternet.ky/internet/products/retail-tariffs/index.php>

competitive retail services. Categories 4 and 5 contain bundles of services; and Category 6 is for the temporary categorisation of new services until the Authority determines in which of Categories 1 through 5 they should be classified.

8. Interested Parties are directed to paragraphs 3 through to 34 of Annex 5 of the C&W Licence for a more detailed description of the various Categories and services.
9. C&W has a requirement to notify the Authority and, in certain instances, to obtain prior approval from the Authority for proposed introduction of services, proposed withdrawal of services, and proposed changes to services. These are referred to as "service filings" in these Procedural Rules.
10. Such service filings include: rate decreases, rate increases, changes to terms and conditions of service, rate restructuring, service restructuring, introduction of services, introduction of service elements, withdrawal of services and promotions and trials.
11. The Authority, in ensuring that interested parties have an opportunity to comment on C&W's proposals and in determining whether such service filings are in the public interest, seeks to ensure that the relevant parties are notified in a meaningful and timely fashion. Accordingly, the following procedures are to be implemented.
12. The Authority will set up a distribution list for those Major ICT Network Licensees that are interested in receiving notification of service filings ("Interested Parties Service Filings List" or "Service Filings List"). Such list will be published on the Authority's website and will be updated by the Authority from time to time. In order to streamline the notification process, the onus will be on parties to ensure that their contact information, e-mail address and company address on the Service Filings List is current at all times.
13. C&W is to file its service filing with the Authority in electronic format², copying parties on the Service Filings List. The latest date by which C&W sends the redacted version to parties on the Service Filings List is guided by Annex 5 to C&W's Licence and, in general, depends on the Category of the service. At the same time that C&W copies parties on the Service Filings List, it is to publish the filing on its website in an apparent and easily accessible location for reference by the general public.
14. With respect to service filings which require the Authority's prior approval, the onus is on C&W to demonstrate that such service filings are in the public interest. Although C&W is entitled to submit a claim of confidentiality, with full rationale, in accordance with the Confidentiality Regulations, at the very least, service names,

² For text documents, preferably in PDF format that is legible or failing that, in Word format; for draft tariff pages, preferably in Word format; and for spreadsheets, preferably in unlocked Excel format, with clearly marked headings and tabbed sheets.

descriptions and proposed rates or rate structures are to be disclosed in order to have a meaningful comment process.

15. Interested Parties seeking to make comments are to file them with the Authority, copying C&W and other parties on the Service Filings List within fourteen days of receipt of service filing. C&W will have right of reply, with reply comments to be filed no later than seven days of receipt of comments.

Interested Party Proceedings

16. Licensees are to file comments or reply comments, as the case may be, with the Authority in electronic format², copying all other interested parties:
 - in all proceedings where parties are joined in interest on a particular issue; and
 - in instances where the Authority has issued a Consultative Document.
17. In instances where submissions are made subject to a confidentiality claim, a redacted copy is to be copied to other interested parties at the same time as the confidential version is provided to the Authority.
18. The Authority will set up a distribution list for those Major ICT Network Licensees that are interested in receiving copies of other parties' submissions dealing with proceedings where parties are joined in interest on a particular issue or where the Authority has issued a Consultative Document. ("Interested Parties Proceedings List" or "Proceedings List"). As with the Service Filings List, the Proceedings List will be published on the Authority's website and will be updated by the Authority from time to time. The onus will be on parties to ensure that their contact information, e-mail address and company address on the Proceedings Filings List is current at all times.
19. In instances where the Authority has issued interrogatories, the party responding is to file the response with the Authority in electronic format², copying all other Licensees on the Proceedings List. In instances where submissions are made subject to a confidentiality claim, a redacted copy is to be copied to other Licensees on the Proceedings List at the same time as the confidential version is provided to the Authority.
20. In instances where a Licensee submits a complaint with respect to another Licensee, such other Licensee is to be copied with the complaint. The response is to be similarly copied to the Licensee who originated the complaint. Where the Authority considers that other Licensees on the Proceedings List may have similar interests in the resolution of the complaint, the Authority may copy one or more other Licensees on the Proceedings List.
21. In all other instances not covered above, a Licensee should direct itself as to whether other Licensees should be copied by giving consideration to the principles of transparency and efficiency.

Confidentiality Claims

22. A claim of confidentiality in accordance with the Confidentiality Regulations should be specific to the particular filing in issue. Licensees are to avoid repeating generic claims which are overly broad and not focused upon a particular filing.
23. Licensees are to review those matters which are claimed in confidence prior to filing to ensure that they are matters properly supportable under a claim of confidentiality.
24. All confidential filings are to be accompanied with a redacted version which is to be copied to other Licensees. For C&W service filings, the latest date by which C&W sends the redacted version to parties on the Service Filings List is guided by Annex 5 to C&W's Licence. For all other matters, a redacted version of the filing is to be copied to other Licensees at the time the confidential version is submitted to the Authority, unless otherwise directed by the Authority.
25. If a Licensee submits a claim of confidentiality pertaining to certain information and thereafter makes this information known to any of its customer(s), potential customers or members of the general public, the Authority shall deem the information to be in the public domain and may make it available to other interested parties.
26. Improper claims of confidentiality may result in the Authority rejecting the claim as a whole. This includes instances where the Licensee omits filing the redacted version when clearly there should be one or mislabels the confidential version as being "redacted." At its discretion, the Authority may make the information available to other interested parties.