



ICT 2023 (3) Consultation: Revision of the Fees for Mobile (Cellular) and Fixed Wireless Licences Spectrum

Prepared For:

UTILITY REGULATION AND COMPETITION OFFICE

THE CAYMAN ISLANDS

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01 Responses to ICT 2023 (3) Consultation: Revision of the Fees for Mobile (Cellular) and Fixed Wireless Licences Spectrum

Question 1: Do you have any comments regarding the proposed changes to fees for mobile (cellular) and fixed wireless access spectrum?

Response:

Firstly, Digicel asks the following questions after careful consideration of the Office's position as set out in C12 and D27 highlighted below:

C12 *Further, the current charging principles require that the total amount collected in each Regulated Financial Year for Authorised Frequency Fees from all Licensees shall not exceed the Office's annual estimated cost of electromagnetic spectrum management and other related activities.*

- Would this requirement as articulated in C12 change because of the implementation of the revised spectrum fee structure?

D27 *OfReg currently aims to recover solely the cost of managing the spectrum from licensees and as such, no positive pricing exists. Only in the case that it becomes apparent that there is scarcity or excess demand would it therefore be appropriate to consider any form of positive spectrum pricing.*

- Would the Office publish annually the estimated cost of electromagnetic spectrum management and other related activities as well as methodology used to determine said cost for regulatory certainty?
- How often would the spectrum fee formula be reviewed (i.e., annually, every 5 years etc).

Secondly, Digicel notes and welcomes the Office's efforts towards the implementation of a formula-based approach to setting spectrum fees in the Cayman Islands jurisdiction.

Upon review of the Office's approach to spectrum fee pricing, it can be observed that the Office utilizes an administrative mechanism to recover the costs of electromagnetic spectrum management and other related activities. This mechanism may include administrative incentive pricing (AIP) and spectrum fee formulas that recover the Office's cost of spectrum management (cost-based).

However, there are some issues that need to be considered to ensure that the stated spectrum objectives and principles¹ of said approach are realized. They are as follows:

According to the GSMA (2017), "Spectrum prices should promote, and not undermine, the optimal use of spectrum for the benefit of society". Reference is made to the Office's statement in D45 highlighted below:

D45 *SU is the spectrum unit of pricing. This will be set at CI\$75 for the year beginning 2024 and will then be index-linked, based on the CPI published by the Cayman Islands ESO for each ensuing year.*

Footnote: If, for example, ESO determines the CPI for 2024 to be 4%, the SU in 2025 would rise to CI\$78. This helps ensure that the fees collected keep track with the Office's costs.

Upon review of the footnote, it could be inferred that the price per unit of spectrum could potentially increase in 2024 due to observed variations in inflation by the Economics and Statistics Office (ESO). Digicel brings to the attention of the Office that upon preliminary calculation of its spectrum fee commitments using the proposed spectrum fee formula at SU CI\$75 there is already a significant increment in spectrum fees (i.e., almost double the current spectrum fees defrayed by Digicel at present). Coupled with the SU being indexed to inflation as well as the implementation of the new spectrum fee pricing formula this would ultimately lead to a pronounced increase in operating expenditure for Digicel in the nearest future.

Section 45 also indicates that the formula for the pricing structure includes BW - the bandwidth factor - This will be based on the number of multiples of a 200 kHz channel which are licensed in a particular band.

For duplex (FDD) assignments, both uplink and downlink frequencies will be charged. A duplex assignment will count as two channels. This means the formula takes into consideration both uplink (UL) and downlink (DL). This will effectively double the fees for a slice of spectrum where the UL cannot be utilized without the DL. (I.e., This is like apportioning a cost for each shoe when

¹ See ITU 2016. Guidelines for the review of spectrum pricing methodologies and the preparation of spectrum fee schedules.

paying for a pair of shoes). Since one cannot be used without the other, it is pointless to charge independently for each. Digicel holds the position that a solitary charge be apportioned to both DL/UL rather than a separate charge for DL and UL respectively. We believe this should be charged as one.

Digicel posits that high spectrum prices may impact Operator investment and pricing decisions, considering that the incentive for network investment may diminish leading to underinvestment by domestic and foreign investors. High spectrum prices may also require debt financing, which has a direct impact on the competitive behaviour of Operators and their pricing strategies. Then again, Operators may try to recover these high costs via upwardly revised tariffs on end-users of telecommunication services. Considering that costly spectrum licence fees may act as a signal for Operators to set higher prices.

The International Telecommunications Union (ITU) (2016) states from a fiscal perspective that ... *“Spectrum fees set too high combined with income taxes, VAT, excise, regulatory fees, and other charges can negatively impact growth opportunities and attractiveness, sector valuations, investment levels, and compliance with authorizations”*.

According to the GSMA (2018²), the repercussions of high spectrum prices on consumers and business alike are poor network coverage, slower speeds, and expensive services. It should also be noted that high spectrum prices have a significant impact on network rollouts and speeds. For example, in developing countries, high spectrum costs slowed the rollout of 3G and 4G networks and drove long-term reductions in overall network quality (GSMA 2023³).

The Office should also consider the current regulatory and market imbalances prevalent in the internet ecosystem where operators undertake significant network investment to convey OTT generated traffic at cost. In layman terms, Operators are caught between an ever increasing demand for data-intensive OTT services on the retail side to which they cannot respond with higher retail service prices (because of the competitive and regulated nature of the market as well as declining ARPU), while OTT providers are not subject to any regulatory oversight or constraints (i.e., concession/licence fees, spectrum fees, taxes) despite participating in the same internet ecosystem (Axon 2022⁴).

Lastly, Notwithstanding the above, Digicel inquires as to whether the Office undertook or plans to undertake any assessment/analysis on the potential impacts of the adoption of revised spectrum fees in the fixed and mobile markets on market participants/stakeholders in the Cayman Island jurisdiction.

² GSMA 2018. Spectrum pricing in developing countries Evidence to support better and more affordable mobile services. July 2018.

³ GSMA 2023. Spectrum Policy Trends 2023. February 2023.

⁴ Impact of OTTs on Caribbean networks and implications of their fair share contribution to countries' development, Axon Partners Group, September 2022.

Digicel brings to the attention of the Office, that in 2015, the UK Regulator (OfCom), experienced some challenges (i.e., potential bill shock to mobile consumers, concerted opposition by mobile operators) when introducing revised spectrum fees into their telecommunications market⁵. It was also observed that they undertook a phased approach (i.e., revised spectrum fees were introduced after two phases in 2016) to implementing said revised spectrum fees.

Hence, Digicel finds it prudent to request that the Office consider a measured approach to implementing the revised spectrum fee (formula-based) pricing structure in the Cayman Island jurisdiction. As opposed to a one-time implementation of the revised spectrum fees for mobile and fixed spectrum. Specifically, Digicel requests that a step wise implementation be adopted using a glide path for a two-to-three-year period at most. This approach would enable Digicel plan accordingly from a commercial standpoint for the spectrum fee increments and formulate strategies to ensure that their consumer services remain competitively priced.

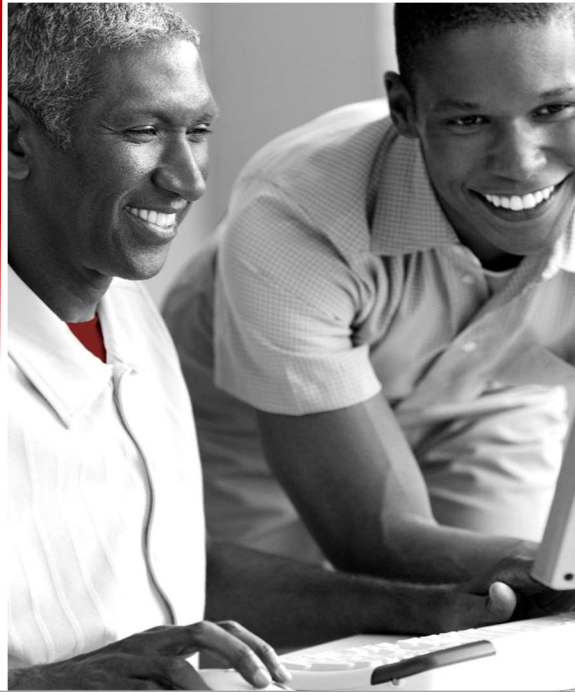
⁵ Jon Yeomans. Telegraph Article dated 24th September 2015.

<https://www.telegraph.co.uk/finance/newsbysector/mediatechnologyandtelecoms/telecoms/11887187/Mobile-phone-customers-facing-bill-shock-as-Ofcom-triples-spectrum-charges-for-operators.html>

02 Appendix

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