

Annex 5

TARIFF REGULATION AND OTHER MATTERS

Part 1 – C&W's Retail Prices

1. With effect from the dates specified below, the rates set out below shall be the maximum rates which C&W shall charge retail consumers for the specified services. Percentage reductions where indicated are from C&W's existing standard rates as at 31st December 2002.

(i) **IDD (International Direct Dial) calls**

- An overall reduction in the existing standard rates of 40% with effect from 1st December 2003 (i.e. a weighted average decrease in the price of IDD by 40%).

(ii) **Monthly Line Rental (Access charge)**

- Residential \$9 (from 1st January 2004)
\$12 (from 1st April 2004)
- Business (incl. Government) \$30 (from 1st Dec 2003)

The amended business rate shall be used to re-calculate the tariff for PRI access that is based on multiples of the business line rental (which becomes \$648 (being 30 x 0.72 x \$30)).

(iii) **Local Calls (i.e. Calls throughout the Islands) – with effect from 1st November 2003**

- Voice:

Fixed to fixed (1 st minute incl. set-up)	9¢
Fixed to fixed (per minute thereafter)	2¢
Fixed to mobile (per minute)	27¢
Postpaid mobile to fixed (per minute)	27¢
Prepaid mobile to fixed (per minute)	45¢
- Data per minute (PSTN dial up calls to an ISP) 5¢

(iv) Light User Scheme

- A Light User Scheme ('LUS') shall be introduced by C&W, with effect from 1st January 2004, with the following characteristics:
 - a. Participants in the LUS shall receive a restricted version of a basic local access package, designed to permit access to the PSTN and emergency services. The following restrictions shall apply:
 1. only Residential customers shall be eligible to participate in the LUS;
 2. participants shall receive the limited service set out below. Each participant shall have no more than one fixed line service in their name or at any one address;
 3. that single fixed line shall not have any enhanced features (e.g. Call Waiting, Call Forwarding, Voice Mail, etc.) or packages (SmartChoice, etc.) applied to it;
 4. each participant shall have no Data Services as outlined in Part 2, Category 1, Section (c) to this Schedule (see paragraph 4), nor any Special Service as outlined in Part 2, Category 2 Sections (b) and (c) (see paragraph 12) to this Schedule.
 - b. Each recipient shall pay a basic access charge of \$8 per month and pay call tariffs at the rate applicable for residential access.
 - c. Each recipient shall receive a rebate to their account (of up to \$3) each month, to be offset against the cost of fixed-to-fixed domestic calls incurred during the month. The full cost of fixed-to-fixed calls shall be displayed on the bill with any amount of the rebate (of up to \$3) displayed separately.

- d. On the first anniversary of the launch of the LUS, the Authority and C&W shall jointly review the LUS. The target take up rate of the LUS is anticipated to be approximately 5% of those accounts that are categorised as Residential. The LUS shall be reviewed and re-adjusted if the take up rate materially differs from this target. If the take-up rate is materially more than 5% then C&W shall be permitted to make reasonable amendments to the scheme so as to reduce the take-up rate, provided that C&W and the Authority shall agree on the methodology of any changes and provide reasonable notice to participants of any changes to the LUS. If the take-up rate is materially less than 5% then C&W shall make reasonable amendments to the scheme so as to increase the take-up rate, provided that C&W and the Authority shall agree on the methodology of any changes. In either case, C&W shall provide reasonable notification of any changes to the LUS.
- e. The deposit policy (as may be amended from time to time) that applies for standard fixed line service will also apply to each participant in this scheme.
- f. The LUS shall only be provided to a Subscriber once a written request is received from a Subscriber who meets all the criteria as herein described.
- g. Any Subscriber that meets all the above criteria is eligible to participate in the LUS.
- h. Should any participant cease to meet all the criteria as outlined herein, C&W shall take reasonable steps to inform Subscribers as to when they may become ineligible. If they leave the LUS, they shall receive service at the standard fixed line rate then applicable from the date that they are informed.

(v) **Customer Premises Equipment**

- From 1st December 2003 for business customers, and from 1st January 2004 for residential customers, C&W shall cease to charge or be responsible for inside wiring and single line "customer premises equipment" for customers, e.g. handsets, additional sockets and extensions, etc and similar single-line equipment. Such existing equipment and inside wiring shall be left in place at no cost to the subscriber.
- For greater certainty, "Public access" single-line equipment provided by C&W such as payphones and Internet kiosks are not included in the definition of "Customer Premises Equipment".

Part 2 – Retail Price Regulation

2. **Price Cap Regimes.** The following arrangements apply to the regulation of C&W's retail prices. From the Effective Date until the date that the Initial Price Cap is set, C&W shall comply with the Interim Price Restrictions as set out in paragraph 35. The Authority shall conduct a public proceeding to set the Initial Price Cap consistent with the principles set out in this Agreement. From the date that the Initial Price Cap is set, C&W shall comply with the Initial Price Cap and the Interim Price Restrictions shall no longer apply.

3. **ICT Services Categories.** C&W's retail ICT Services are divided into the following six (6) categories:

Category 1 - Price Cap Services

Category 2 - Special (i.e. Fixed Internet Connectivity , Mobile, and IDD calls)

Category 3 – Other

Category 4 - Bundled services containing services from Categories 1 and 2 or 3

Category 5 - Bundled services containing services from Categories 2 and 3

Category 6 - New ICT Services

Category 1 – Price Cap Services

4. The following ICT Services are 'Category 1 Services':
 - a. Line Rental
 - (i) Business.
 - (ii) Residential.
 - (iii) Installation and Reconnection Charges (including maintenance and repair) for Line Rental, both standard working hours rates, and after hours and weekend rates.
 - (iv) Light User Scheme.
 - b. Domestic Calling Rates
 - (i) Fixed Originated Domestic Voice calls (including Fixed Wireless Originated Domestic voice calls and 800 Domestic calls).
 - (ii) Fixed Originated Domestic Data calls (e.g. domestic calls from a fixed line to an Internet Service Provider (ISP)).
 - (iii) Fixed to Mobile (FTM) calls (i.e. domestic calls from a fixed line to a mobile line).
 - (iv) Local Payphone calls (i.e. domestic calls made from a payphone).
 - c. Data Services
 - (i) International Private Leased Circuits (IPLCs).
 - (ii) Domestic Leased Circuits (DLCs).
 - (iii) Frame Relay.
 - (iv) ISDN (excluding Internet access charges above and beyond the data charge).
 - (v) Very Small Aperture Terminals (VSATs).

- d. Others
 - (i) Custom Calling Features (e.g. Voicemail), subject to review by the Authority in the Initial Price Cap proceeding.
- 5. **Tariff Filing.** Within thirty (30) days of the Effective Date, C&W and the Authority shall finalize the form of tariffs to be filed. Within sixty (60) days of the Effective Date, C&W shall file tariffs for all the Category 1 ICT Services complete with all terms and conditions with the Authority. C&W shall publish those tariffs.
- 6. **Rate Decreases.** C&W may decrease the price of any Category 1 Service, provided that the rate decrease complies with the ex ante Imputation Test. The Authority may elect to exempt certain ICT Services from the requirement to have an imputation test. The process for any such decrease shall be as follows:
 - a. C&W files a proposal with the Authority in complete confidence (even its existence is not disclosed on the public record).
 - b. Unless more information is requested by the Authority and provided C&W does not make more than two (2) tariff filings within any ten (10) business day period, the Authority shall issue a ruling within ten (10) business days. Where that proposed price decrease meets the Imputation Test, the Authority will grant interim approval. With interim approval, C&W may implement that price decrease.
 - c. C&W shall submit, on or before the date the proposed rate decrease becomes effective, each proposal to the Authority in an abridged form, including the imputation test, in a format that permits the Authority to place the abridged form of that proposal on the public record (together with any claim to be made under the Confidentiality Rules in respect of the application).
 - d. If no significant comments are received from interested parties and the Authority does not raise any concerns, within thirty (30) calendar days of the initial filing, final approval shall be granted.

- e. In respect of the time periods set out in sub-sections (b), (c) and (d) above, these periods shall be reviewed jointly by the parties twelve (12) months after the Effective Date. Any changes to these time periods shall be as agreed by the parties.
7. **Rate Increases.** C&W may raise the price of any Category 1 Service only with the prior written consent of the Authority.
 8. **Changes.** C&W may change any term or condition in respect of a Category 1 Service only with the prior written approval of the Authority.
 9. **Withdrawal of Service.** Proposals by C&W to withdraw existing Category 1 Services, either wholly or in part, (for example, if the service was unavailable on a going forward basis), other than ICT Services required to be provided as part of any Universal Service Obligation applying to C&W, shall be governed by the following principles:
 - a. Prior to the Effective Date, C&W shall provide the Authority with details of any Category 1 Service that it intends to withdraw within six (6) months of the Effective Date.
 - b. Unless permitted by the Authority, C&W shall not withdraw any Category 1 Service in the period from the Effective Date to the first anniversary of the Effective Date.
 - c. Following the first anniversary of the Effective Date, C&W may withdraw Category 1 Services with prior written notice to the Authority. Unless the Authority agrees to a shorter notice period, C&W shall provide twelve (12) months notice to the Authority.
 - d. In withdrawing any Category 1 Service, C&W shall consult with the Authority and provide the Authority with information reasonably required to allow the Authority to assess the likely impact on the market of the withdrawal of that Service, including, without limitation, technical details of the Service, the proposed process to notify affected customers and any proposed close substitutes of the ICT Service.
 10. **Bundling.** Bundles of price cap services will be permitted subject to the Authority's imputation test requirements.

Category 2 – Special (Internet Connectivity, IDD and Mobile)

12. **Interim Regime.** The following ICT Services are 'Category 2 Services':
 - a. all Mobile services (including GPRS or any method of accessing Internet through a mobile phone)
 - b. Low Speed Fixed Internet (both wireless or wire line) (56k and below)
 - c. High Speed Fixed Internet (both wireless or wire line) (above 56K)
 - d. IDD (including voice over Internet Protocol (VOIP) and 1010 service offerings and similar discount long distance plans)
13. **Tariff Filings.** Within thirty (30) days of the Effective Date, C&W and the Authority shall finalize the form of tariffs to be filed. Within sixty (60) days of the Effective Date, C&W shall file tariffs for all the Category 2 Services complete with all terms and conditions. C&W shall publish those tariffs.
14. **Geographic Averaging for Mobile and High Speed Internet.** C&W's rates for Mobile and High Speed Internet ICT Services shall be geographically averaged.
15. **Rate Increases.** C&W shall not increase the price of a Category 2 Service without the prior written approval of the Authority.
16. From the date that any Other Licensee starts to Commercially Provide any ICT Service defined in each of the sub-paragraphs 12(a) to (d) above, the services defined under that sub-paragraph shall be 'Category 3 Services'. (For example, until a mobile competitor starts commercial operations in the Cayman Islands, C&W cannot raise Mobile rates without the Authority's prior approval. Once there is a mobile competitor, Mobile services moves to Category 3, and C&W is permitted to raise its Mobile rates without the Authority's prior approval (see details below detailing the regulatory restrictions for C&W's Mobile and High Speed Internet pricing in Category 3)).
17. **Rate Decreases.** C&W may decrease the price of a Category 2 Service. C&W shall provide the Authority with three (3) business days' notice of any such decrease. The Authority may, in respect of any

such decrease, require C&W to demonstrate to the Authority that the proposed new price passes the Imputation Test. If the new price does not pass the Imputation Test, C&W shall amend the rate (or take other steps such that the Category 2 Service does not fail an Imputation Test). The ability to require such an imputation test is limited to the first six months after the rate for the ICT Service in question has been launched in the market.

18. **Changes to Terms and Conditions.** C&W may change the terms or conditions of any Category 2 Services only with the Authority's prior written approval.
19. **Withdrawal of Service.** Proposals by C&W to withdraw existing Category 2 Services shall be subject to the same principles governing withdrawal of Category 1 Services.

Category 3 – Other

20. **Services.** The following services are 'Category 3 Services':
 - a. Payphone IDD calls.
 - b. Value Added Services including IP/VPN (Internet Protocol/Virtual Private Network), MIR (Managed Internet Router), MIF (Managed Internet Firewall), Email, Web Hosting, Credit Card Processing (excluding connectivity), Domain Name, Evault/Disaster Recovery, E-Account, Conference calling and Global IPass.
 - c. Paging.
 - d. Telex and Telegram.
 - e. Operator Assisted Calls, Credit Card Calls, Calling Card Calls, and Collect Calls.
 - f. Premium Rate Information or Entertainment services (e.g. 900 services).
 - g. Equipment and Wiring Servicing and Consulting Services.
 - h. Installation and Repair Charges (except for monthly line rental).

- i. Training and Consulting.
- j. Equipment Sales and Rentals.
- k. Directory Advertising and Enhanced Directory Listings.

20.1 There will be 2 **sub-categories** of Category 3 Services:

- a. **Sub-category A** – are ICT Services for which C&W is required to publish all of its rates, terms and conditions (in a manner that is easily accessible and clearly indicates to users what terms and conditions apply to each ICT Service). C&W is permitted to offer customer specific pricing for these sub-category A ICT Services that differ from the published rates, provided that C&W files those arrangements with the Authority within a reasonable timeframe. The Authority may, on a service by service basis, exempt C&W from this requirement.
- b. **Sub-category B** – will be ICT Services whose rates, terms and conditions C&W will not be required to publish (i.e. those Category 3 Services not in sub-category A, and all Category 3 Services that are not ICT Services).

C&W and the Authority shall agree to the Category 3 services that shall be assigned to each sub-category.

- 21. **Rate Increases.** Rate Increases for Sub-category A do not require the Authority's approval, however, C&W must notify the Authority at least three (3) business days before that rate comes into effect.
- 22. **Rate Decreases.** Rate Decreases for Sub-category A do not require the Authority's approval. However, C&W must notify the Authority at least three (3) business days before that rate comes into effect. The Authority may require C&W to demonstrate that the new rate passes an ex post imputation test, if the Authority states in writing that it has concern that the new rate fails the imputation test, and provided that it does so within 180 days of the decrease taking effect.
- 23. **Terms and Conditions.** C&W may change its terms and conditions for Sub-category A services with appropriate notice to customers, in addition to the three (3) business days' notification to the Authority, prior to those changes coming into effect.
- 24. **Consumer Protection.** If the Authority determines that there is not

sufficient competition for an ICT Service and that it is the type of ICT Service that the Authority determines is of a non-discretionary nature such that regulation is appropriate, the Authority may take action in relation to that ICT Service, but that ICT Service will not be included in the Initial Price Cap plan.

25. **Exclusions from Paragraph 24.** For the avoidance of doubt the provisions of Paragraph 24 can be applied only to Category 3 services and so do not apply to Category 2 services. However, if competition ceases to exist in any one of the four (4) sub-categories listed in Category 2, then that sub-category service shall become subject to regulation under the rules of Category 2 until such time as another competitor offers a competing service.
- 25.1 **Geographic Averaging for Mobile and High Speed Internet.** C&W's rates for Mobile and High Speed Internet ICT Services shall be geographically averaged.

Category 4 - Bundles of Category 1 Services with Items of Category 2 or 3

26. Category 4 Services (being bundles comprising Category 1 Services with either Category 2 or Category 3 Services) shall be subject to an ex-ante imputation test. Bundling of these ICT Services shall be allowed. However, if the bundle contains a price cap service, then the rules found in Category 1 shall apply.
27. For Category 4 services, the Authority shall establish the manner in which the proportion of the revenues from the price cap service(s) element of this bundle will be credited towards compliance with the Initial Price Cap.

Category 5 - Bundles of Categories 2 and 3 Services

28. Category 5 Services are bundles comprising two or more Category 2 or 3 Services (that do not include a Category 1 Service). Bundling of these ICT Services shall be allowed, subject to the rules found in Category 2.

Category 6 - New ICT Services

29. If a New ICT Service is developed, the Authority shall determine in which Category that ICT Service belongs.

30. **Periodic Meetings.** C&W shall meet with the Authority at an agreed upon frequency for the purpose of C&W outlining its plans to adopt any New ICT Services, without reference to pricing. C&W shall file a list of those New ICT Services to be considered at least two (2) business days prior to each meeting. If the Categories can readily be determined, the Authority will give a ruling on the Category in which the ICT Service belongs on that same day.
31. **Rulings.** In addition to above, C&W may apply to the Authority in writing at any time for a ruling on an ICT Service categorization, in which case the Authority shall make such a determination within ten (10) business days, unless more information is required.
32. **Category 1 Inclusions.** An ICT Service shall only be included as a Category 1 Service if the Authority determines that there is not sufficient competition for the ICT Service and that the ICT Service is of a non-discretionary nature such that price cap regulation is appropriate.
33. New Mobile, Internet Connectivity and IDD ICT Services will not be included in Category 1.
34. **Category 1 Rate Proposals.** For new Category 1 ICT Services, C&W may propose rates for that service, which the Authority shall deny only if it determines that the proposed rate is not commercially reasonable. For all other categories, C&W shall be permitted to set the rates.

Interim Price Restrictions

35. Until such time as the Initial Price Cap plan is finalized and implemented, the following Interim Price Restrictions shall apply:
 - Stage 1: Rate changes for ICT Services as set out in Part 1 to this Schedule take effect.
 - Stage 2: For the first twenty-four (24) months after the Effective Date, unless the Initial Price Cap comes into effect earlier, there will be two (2) baskets:
 - a. Frozen Basket, no rate increases permitted¹:

¹ With the possible exceptions that C&W anticipates that it may make applications to the Authority for approval to:

- (i) Line Rental (business and residential).
 - (ii) Line Rental installation and reconnection, maintenance and repair.
 - (iii) Domestic calling (Fixed to Fixed domestic calls, including Fixed Wireless domestic calls, 800 Domestic calls, Data (Fixed to ISP) calls, Fixed to Mobile (FTM), Local Payphone). Note: The Authority will consider an application to increase the FTM rate if the interconnection rate for mobile termination is set at a rate that would make such a change appropriate.
 - (iv) Light User Scheme.
- b. Other Basket, subject to an overall constraint equal to the Consumer Price Index of the Cayman Islands ("CPI"):
- (i) This will consist of all Category 1 Services other than those listed in a. above.
 - (ii) No rate element can increase per year by more than CPI.
 - (iii) Bundling is permitted as per Category 4.

Stage 3: Commencing two (2) years after the Effective Date, unless the Initial Price Cap regime is in effect:

- a. Frozen Basket: no rate increase shall be permitted, except:
 - (i) Monthly rates for residential line rentals shall be permitted to increase by a maximum of \$1, for each year after the first two years after the Effective Date.
- b. Other Basket: subject to an overall constraint of CPI.

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- raise the reconnection fee to \$30 as the current rate of \$10 is below the monthly line rental fee,
 - raise the line installation rate from \$30 to \$50, and
 - create a rate for directory assistance charges as follows:
 - 2 free directory assistance calls per month from fixed phones; thereafter \$0.25 per call for directory assistance calls from fixed phones,
 - \$0.5 per call for directory assistance calls from mobile phones,
 - 2 listing per call.

- (i) Carryover of unused headroom from the previous two (2) years is permitted, consistent with any applicable rules on headroom that the Authority has determined, if any. For the avoidance of doubt, if no such rules apply, carry-over may still occur.
- (ii) No rate element can increase in any one year by more than CPI.

Principles to apply to the Initial Price Cap

36. In setting the Initial Price Cap, the following principles shall apply:

Going-in Rates

- a. The rates used at the start of the Initial Price Cap ("Going-in rates") for Category 1 Services shall be the rates in effect for the relevant services on the day before the Initial Price Cap is introduced. While the Authority can set the price cap factor ("X") to adjust prices over time (provided that such adjustment enables C&W to maintain a reasonable rate of return), one time adjustments to any of the Going-in rates will not be required for any Category 1 ICT Service when the Initial Price Cap regime is created.
- b. For Monthly Line Rental and Domestic calling rates, C&W will not be required to lower these over the course of the Initial Price Cap regime, below the Going-in rates.
- c. Carryover of unused headroom from the Interim Price Cap regime will be permitted into the Initial Price Cap subject to the rules set out in the Authority's Initial Price Cap decision.

Other principles:

- a. Each period of the Initial Price Cap Regime shall last for a pre-determined period of years. Each such year is a "Price Cap Year". Each Price Cap Year begins on the date of the implementation of the Initial Price Cap Regime or the applicable anniversary date thereafter. Each period of the Initial Price Cap Regime should preferably have a duration of three to five years.

- b. The Authority shall determine which ICT services shall be included in the Initial Price Cap Regime (the "Price Cap Services").
- c. The Initial Price Cap Regime will be based on regulating the prices of a basket or baskets of ICT services, which basket(s) shall be determined by the Authority following a public consultation proceeding. A simple Initial Price Cap Regime, with one or a small number of baskets, is preferable. Sub-baskets may also be established.
- d. In general, the Initial Price Cap Regime shall consist of a formula, which ties permitted price changes for the ICT services in the basket(s) to the Consumer Price Index of the Cayman Islands ("CPI") less an "X" factor intended to promote efficiency. The formula should also include appropriate provision to take account of costs required by certain unanticipated events over which C&W has no control (sometimes referred to as the "Z" factor).
- e. In determining the methodology and the value of X, the following factors, among others, are to be taken into account, with respect to that part of C&W's business used to provide services regulated under the Initial Price Cap:
 - (i) Existing and projected: revenues, financial and operating expenses, depreciation charges and capital employed;
 - (ii) Projected volume growth for services within the overall basket(s) or sub-basket(s);
 - (iii) Cost/volume and asset/volume relationships;
 - (iv) Projected unit input cost changes; and
 - (v) Weighted average cost of capital (WACC) in the Cayman Islands.

- f. The weighted average price change for the Price Cap Services must not exceed CPI – X (and taking account of any other factors) for the Price Cap Year. C&W shall comply with the price cap in each Price Cap Year based on data from its previous financial year. Compliance shall be measured using revenue weights.
- g. Before implementing any changes in prices of Price Cap Services, C&W shall provide sufficient advance notice, as determined by the Authority, to Subscribers and the Authority.
- h. C&W shall file compliance statements with any price changes to Price Cap Services to ensure that, during any Price Cap Year, any changes in the prices of Price Cap Services comply with the requirements of the Price Cap Regime.
- i. In the case of a new ICT service that comprises both a Price Cap Service(s) and any other service, the Authority shall establish the manner in which the proportion of the revenues from the Price Cap Service(s) element of this new service will be credited toward compliance under the Initial Price Cap Regime.
- j. The Initial Price Cap Regime may provide that the price for any Price Cap Service or Services (singly or applied to a sub-basket) shall not increase by more than a set percentage in any one Price Cap Year.
- k. A mechanism will be developed which will allow C&W to “carry over” from one Price Cap Year to the next changes that were permitted (but not made) in the prices of ICT services subject to the Initial Price Cap Regime.
- l. Promotional discounts for Price Cap Services may be permitted subject to rules of the Authority.

Part 3 - Imputation Test

- 37. In this Agreement, where a reference is made to an imputation test, that refers to:
 - a. (from the Effective Date) the Interim Imputation Test set out below; and

- b. (from the date, after the FLLRIC model is developed, that the Authority makes a determination to replace the Interim Imputation Test) the test as set out in the relevant determination by the Authority. That imputation test shall be based on the FLLRIC model.
38. The imputation test shall be applied on an ex ante basis for Category 1 Services, or Category 4 Services (ie., bundles that contain Category 1 Services). The imputation test shall be applied on an ex post basis, if the Authority requires an imputation test, for all other services. In each case the Imputation Test shall be administered by the Authority. C&W shall provide information to enable the Authority to conduct the Imputation Test and C&W bears the onus to demonstrate that it has satisfied the Imputation Test.
39. The Interim Imputation Test is set out below.
40. The Authority has the right to require that a retail rate passes the imputation test and has the discretion to waive the requirement for a retail rate to pass the imputation test. (E.g. the Authority may determine that it is appropriate to exempt time limited promotions from an imputation test requirement.)

Interim Imputation Test

41. This Interim Imputation Test is to be used from the Effective Date until the Authority has determined the form of the Imputation Test.
42. The Interim Imputation Test identifies a floor price for downstream services included in the pricing proposal, based on the measure set out in Table 1, for purposes of determining whether C&W is engaging in anti-competitive behaviour. Table 2 defines the terms used in Table 1. A proposal passes the Interim Imputation Test if the proposed retail price is equal to or greater than the floor price that the Imputation Test identifies. For a bundle of services, the imputed floor price is the sum of the floor prices for all of elements of that bundle.
43. For the purposes of this section, Stages 1 and 2 are set out in Table 1 below.
- The Interim Imputation Test shall be calculated at either of Stage 1 or Stage 2.
44. In respect of each service, the floor price shall be calculated as at

Stage 1 unless and until the Authority has made a determination that the service should be treated under Stage 2. The Authority may make such a determination conditionally or unconditionally, and, where the Authority elects to make a conditional determination, that service shall only be treated under Stage 2 to the extent stated and under the circumstances identified in the Authority's determination.

45. In determining whether to treat a service under Stage 2, one of the factors that the Authority shall have regard to, among others, in making such a determination shall be whether there is effective competition in relation to the relevant service market.
46. In making an application for changing the treatment of a service to Stage 2, C&W bears the onus to provide to the Authority that the test for the change in treatment has been met. The Authority will make a finding in relation to an application within three (3) months of receipt of said application.

Interim Imputation Test measures for determining floor prices

Table 1:

Service	Stage 1	Stage 2
Business line rental	Wholesale	Cost
Residential line rental	Retail	Retail
Light User Scheme	Retail	Retail
Fixed Domestic Voice Calls (including 800 domestic calls)	Interconnect plus Retail costs	Interconnect plus Retail costs
Fixed Domestic Data Calls (domestic calls from a fixed line to an ISP)	Wholesale	Wholesale
Fixed to mobile	Interconnect plus Retail costs	Interconnect plus Retail costs
International Private Leased Circuits	Wholesale	Cost
Domestic Leased Circuits	Wholesale	Cost
Custom Calling Features (eg Voicemail)	Cost	Cost
Mobile	Cost	Cost
Low Speed Fixed Internet	Wholesale	Cost
High Speed Fixed Internet	Wholesale	Cost
International Direct Dial	Wholesale	Cost
Equipment	Cost	Cost
Directory Enquiries	Retail	Retail

Definition of Terms used in Table 1

Table 2:

Term	Meaning
Retail	The price charged by C&W to its own retail customers, as set out in C&W's retail tariffs
Interconnection plus retail costs	The price being the sum of the interconnection charge for interconnection services used in the production of that service, plus the direct costs (i.e. excluding common costs) associated with the retail provision of that service.
Wholesale	The price charged by C&W to Other Licensees who are purchasing wholesale service as contemplated in this Schedule 4.
Cost	<p>Cost calculated using the adjusted FAC model, unless the FLLRIC model has been developed, in which case FLLRIC model shall be used.</p> <p>The FAC model costs shall be the sum of the network costs associated with the provision of the service and a contribution to common costs, and the costs associated with the direct retail functions of the service (i.e. excluding the associated common costs).</p> <p>If the adjusted FAC model does not provide costing information that is disaggregated to the level of the service(s) in question, the Imputation Test will use the results from the FAC Proxy Allocation. The FAC Proxy Allocation uses the results from the C&W adjusted FAC model to identify the network costs, retail costs, common costs and profit associated with the service category in which the service(s) in question is included. The values to be used in the imputation test will be derived from applying these percentages to the existing retail charge(s) of the service(s) in question. This means that the network cost associated with the service will be estimated through applying the percentage of cost associated with network functions for the relevant service group to the retail charge for the relevant service. The common costs will be split in the same proportion as the costs of the network and retail functions, and those associated with network functions will be included.</p> <p>In cases where C&W's FAC model does not include sufficient cost information, (e.g. when the service did not exist or had only</p>

	been offered for a short when C&W's FAC model was developed) then C&W's business cases and analysis will provide costing information to be used in the imputation test.
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47. For ICT Services not listed in Table 1, the Authority shall determine the appropriate price floor calculation method to apply, if the Authority believes it necessary to do so.

Part 4 - FLLRIC Model

48. C&W commits to building a forward-looking long-run incremental cost (FLLRIC) model within an agreed time frame. The parties intend that the form of the FLLRIC model may draw on elements of the Canadian Phase II methodology. In establishing prices for interconnection services and access deficit, if any, the Authority shall include a mark-up to provide a contribution towards the recovery of C&W's fixed and common costs. In establishing floor prices for imputation test purposes, the Authority shall decide whether to include such a mark-up.
49. Once built, the FLLRIC model shall be used for:
- (a) Interconnection Rates
 - (b) Determining whether Access Deficit exists, and if so, setting Access Deficit Contributions (ADCs)
 - (c) Imputation Tests
50. Process:
- (a) Two (2) months following the Effective Date, C&W shall submit a proposal on FLLRIC principles and parameters, the length of time and estimated costs to implement the proposed FLLRIC methodology.
 - (b) The Authority shall have ten (10) months thereafter to run a proceeding and make a decision (the period can be extended or shortened at the Authority's discretion).

- (c) The Authority shall determine the type of FLLRIC model (and the level of granularity to be required) to be built taking into account the benefits to be derived as compared to the expense associated with achieving that level of detail.
- (d) As part of its decision regarding the nature of the costing model to be implemented, the Authority shall provide a reasonable time frame within which C&W shall implement the Authority's determinations. It is estimated, at present, that it will take C&W one (1) year to implement a FLLRIC model.
- (e) The Authority reserves the right to conduct, from time to time, additional processes that are required to determine the reasonableness of the results, and where necessary, to require adjustments to the model.

51. **Cost Recovery.** The Authority will consider an application from C&W for the recovery of start up costs for building the model. If the Authority determines that the costs were reasonably incurred, the Authority will set up a mechanism to allow C&W to recover its costs.

Part 5 – Interconnection

- 52. From the date that model is developed, interconnection rates shall be based on the FLLRIC model.
- 53. Until the FLLRIC model is built, costs calculated for imputation tests and interconnection rates shall be based on C&W's Fully Allocated Cost model with the following adjustments:
 - (a) updating that model to include 2002/03 financial data and traffic data;
 - (b) adjustment to include the licence fee as an expense;
 - (c) adjustments to reflect the effects of the tariffs noted above (ie rebalancing);
 - (d) adjustments to reflect the following allocation of cellular antenna and tower costs: 80% cellular, 10% distribution; 10% switching;

- (e) assumptions concerning directory assistance, reconnection and installation charges as contemplated in the footnote 1 to this Schedule 4; and
 - (f) adjustments to treat the licence fee (assumed to be a constant level) as an expense, therefore reducing the weighted average cost of capital to 13.5%.
54. In lieu of updating the model in each subsequent (C&W) financial year, C&W agrees to apply:
- a productivity improvement assumption of 4.8% to the fixed termination rate excluding the call-set up component (for example, $\$0.0105 \times (1-4.8\%) = \0.0100 , thereby reducing a rate of $\$0.0105$ to $\$0.0100$), excluding the call set up component;
 - a productivity assumption of 25% to the transit rate excluding the call set up component.
- For greater clarity, after the above adjustments are made there shall be no further adjustments to the above rates until FLLRIC is implemented.
55. C&W shall provide the Authority on a timely basis the information the Authority reasonably requires to enable it to verify the output interconnection rates using the methodology set out in paragraph 53.
56. C&W may propose to the Authority that interconnecting Licensees should pay an Access Deficit Contribution (ADC). If the Authority is satisfied that C&W suffers an access deficit, C&W may charge interconnecting carriers an ADC. The question of whether an access deficit exists will be reassessed using the FLLRIC model. If the FLLRIC model, as verified by the Authority, confirms that an access deficit exists, then a mechanism to recover the access deficit in a manner consistent with competitor equity will be created.
57. All interconnection rates are to be reciprocal (i.e. all licensees will charge each other the same rate for the same service – except for any applicable contribution towards an Access Deficit).
58. Other Licensees, if they take the service, will pay C&W for its directory assistance and 9-1-1 service at cost-based rates to be approved by the Authority, despite the fact that it may be offered free or at a reduced rate to C&W's retail customers.
59. Prior to April 1 2004, the Authority shall conduct a proceeding to establish whether and the extent to which the mobile termination rate

should be amended until a FLLRIC model is created. Any such determination can only result in no greater than a 25% increase or decrease to the mobile termination rate charged by mobile Licensees at that time. Any change shall take effect on or after April 1, 2004 as specified by the Authority and shall be superseded by FLLRIC rates when available.

60. If the international settlement payment on a carrier route basis received by C&W is less than the mobile termination rate to be paid to deliver that traffic plus C&W's cost of transiting and delivering the call to the mobile Licensee, C&W shall first attempt to negotiate or otherwise obtain a higher international settlement payment. In the event that C&W is unsuccessful in obtaining a higher settlement payment, then C&W and the mobile Licensee ("the parties") are to negotiate an arrangement for the splitting of the international settlement payment. In the event that the parties are not able to reach an agreement, then:

- (a) the mobile Licensee may opt to refuse the use of C&W's facilities to terminate the international mobile traffic, without penalty, provided it receives a higher international settlement payment itself (or through third party) and therefore is able to terminate international mobile traffic itself; or
- (b) Either party may refer the dispute to the Authority for determination. If the mobile Licensee has exercised its option to refuse the traffic, the need for the dispute to be resolved by the Authority is negated.

The arrangements listed in this section also apply, with the necessary changes, when C&W is the mobile carrier and the other Licensee is the transiting international carrier seeking to terminate the call on C&W's mobile network.

61. For the avoidance of doubt, nothing in this section prevents C&W from agreeing with another Licensee to use a different mobile termination rate for international originated calls from that of domestically originated calls, provided that C&W acts in a non-discriminatory manner with its own international mobile terminated traffic.
62. Within thirty (30) days of the Effective Date, C&W shall provide to the Authority an indicative non-binding Legal Framework document, being the non-technically-specific portion of a proposed draft

interconnection agreement.

63. The first time that C&W responds to a written request from a Licensee under section 44(3) of the Law, C&W shall provide a copy of the response to that request to the Authority.

Part 6 –Wholesale Services

64. **Authority may mandate resale.** From the Effective Date, C&W shall offer any service to other licensed operators on a wholesale basis if the Authority has issued a written direction requiring C&W to do so. The wholesale price of any service that is required to be offered for resale shall, subject to any specific exemptions in section 66. below, be:
- (a) (in the case of a service covered by the commitments given in Attachment 1) as calculated in this Agreement; and
 - (b) (in all other cases) C&W's retail price less a discount to reflect the avoided retail costs to C&W of providing that service.
65. **Rate changes.** Wholesale rates shall be adjusted with effect from the date that changes to the relevant retail rate take effect, save and except that wholesale rates shall not increase more than once in each calendar year without the prior written approval of the Authority. In the case of rates given conditional on a term commitment, those rates shall remain as agreed during the life of that commitment unless similarly situated existing retail customers of C&W receive a rate reduction.
66. **Specific exceptions.** If the wholesale price is lower than the cost of providing that service, the wholesale price shall be the retail price of that service (i.e. no discount applies to such services). ('Cost' shall have the same meaning as in Table 2 but excluding common costs).
- 66.1 C&W shall not be required:
- (a) to offer wholesale access for traffic that neither originates, nor terminates, in the Cayman Islands;
 - (b) to make available on a wholesale basis any service which it does not itself offer to retail customers; and

- (c) to make available wholesale services for which there is insufficient demand to justify the cost of development.
67. **Costs associated with wholesale services.** With the exception of the services set out in Attachment 1, C&W shall be entitled to recover all material costs, if any, it incurs in developing the product capabilities necessary to provide an ICT service on a wholesale basis. Such costs should be shared amongst all purchasers of the resale service in an equitable manner.
68. **Bundling.** Where retail services are offered together to create a bundled service, both the retail services included in the bundle and the bundled service itself shall be made available as wholesale services unless the Authority has granted an exemption.
69. **Mobile not mandated for wholesale.** The Authority agrees to grant C&W an exemption from the requirement to offer mobile services on a wholesale basis regardless whether such services are offered on a bundled or unbundled basis, unless, at a date after the first anniversary of the Effective Date:
(a) C&W is the only operator of a mobile network in the Cayman Islands and (b) wholesale mobile services are reasonably requested by another Licensee which, in the Authority's view, such request would promote competition in the mobile market.

Notwithstanding the above, any requirement that C&W shall offer mobile services on a wholesale basis shall cease to apply once C&W is no longer the only mobile network operator in the Cayman Islands. If the conditions in (a) and (b) were met and another Licensee had obtained wholesale mobile services, its commercial arrangements with C&W shall continue for the length of the existing agreement.

70. **C&W Commitments.** Without being specifically required to do so by the Authority, C&W shall, from the dates specified in Attachment 1, make the wholesale services available to ICT licensees on request as set out in the Attachment 1 to this Schedule 4.

Part 7 - Corporate Choice

71. As part of its performance of this Agreement, C&W shall cease to offer 'Corporate Choice' contracts on the Effective Date, provided that each Corporate Choice customer elects to take service under the standard terms and conditions including the new pricing for IDD calls as set out in this Agreement. The parties agree that C&W shall not apply

cancellation fees to customers. The parties agree that the IDD discounts set out in this Agreement are not cumulative with any discounts received by customers who elect to remain on Corporate Choice contracts. For further clarity, the new rates for IDD set out in this Agreement shall not apply to any Corporate Choice customer that elects to remain on its Corporate Choice contract.

Part 8 – Internet Pricing

72. On 1 November 2003, C&W shall change its retail rate for internet access services to offer the following two plans:
- (a) an unlimited dial-up Internet package at \$17 per month plus usage charge of \$0.05 per minute; and
 - (b) 10 hours for \$29.00 plus \$2.90 per hour thereafter.

Part 9 – Bypass

73. C&W will continue to implement its existing policies with respect to Bypass of the international voice gateway. The parties further acknowledge that, from 1 April 2004, all such arrangements shall be subject to and governed by the relevant provisions of the ICTA Law.

Part 10 – Directories

74. C&W acknowledges that the Authority has authority over its contract terms with publishers and suppliers of directories.

Part 11 – Submarine Cable Assets

75. C&W acknowledges that the references in section 44(1) to an ICT Network include, in the case of C&W, submarine cable systems operated by C&W and, therefore, references in the Law to C&W's obligations in relation to interconnection and infrastructure include reference to obligations in relation to those facilities.
76. C&W acknowledges that its offering of interconnection services shall include capacity between Grand Cayman and each of Little Cayman and Cayman Brac (subject to capacity being available) and that, under the terms of any indicative interconnection offer made by C&W, such capacity shall be made available at a rate that is cost-based (meaning FAC as adjusted until FLLRIC is available, and FLLRIC thereafter)

using either cable or microwave link as appropriate.

Interpretation

"bypass"	means the commercial use or supply of either: <ul style="list-style-type: none">(a) the passing of an international voice service (including the carriage of a reconstructable voice channel within a data or mixed voice/data service) without passing through the international gateway switch of a licensed voice network; or(b) the termination of international voice services on the domestic switched telecommunications network by a person who does not originate the call or possess a valid interconnection agreement with that domestic operator with respect to international voice services;
"C&W"	means the Licensee;
"commercially operate"	means to use an ICT Network to provide an ICT Service to any person (with the exception of their own employees) or Licensee, charging a fee for that service;
"Effective Date"	has the same meaning given in the 2003 Agreement between Cable & Wireless (Cayman Islands) Limited and the Governor in Cabinet of the Cayman Islands and the Information and Communications Technology Authority;
"IDD"	means the service comprising circuit-switched international voice telephony, and, where relevant, a reference to an IDD call shall mean a call provided using IDD between a place in the Cayman Islands to or from a place that is not in the Cayman Islands;
"interconnection"	has the meaning given in the Law and hence a reference to interconnection in this Agreement includes a reference to infrastructure sharing under section 48 of the Law;

"local calls"	means voice calls between places within the Cayman Islands;
"New ICT Service"	means an ICT Service that the Authority determines to be materially different in one or more of its fundamental features from any ICT Service previously offered by C&W;
"Other Licensee"	means a Licensee other than C&W;
"publish"	means, in respect of a tariff, to make that tariff available on the Internet and available for inspection to people who visit each of C&W's public offices; and
"retail"	means in respect of any price, the published tariff rate of C&W not including any plans or discounts for that service.

SERVICE OUTLINE: OUTGOING IDD CARRIER WHOLESALE

Overview

Provides circuit switched IDD services to interconnected 3rd party fixed or mobile carriers. The call originates on the network of the 3rd party fixed or mobile carrier and is passed to C&W through a standard interconnect joining service, from where C&W carries the call to the relevant international destination. This wholesale service is covered outside of the interconnect agreement in a Wholesale Service Agreement

C&W will have documentation for the Outgoing IDD Carrier Wholesale service available from 25 July 2003.

Charges

Service	Charge
Interconnect Joining Service	Standard joining service rate
Outgoing IDD Carrier Wholesale	20% reduction from C&W's standard per minute IDD rates

SERVICE OUTLINE: IDD RESALE

Overview

Provides circuit switched IDD services to service provider for resale to end users who are directly connected to C&W's network through the use of C&W's 800 Access Service. Access and egress connectivity to the service provider platform is provided over channelised E1s. Once the service provider authenticates the call, it is handed to C&W's international switch over a channelised E1, from where C&W carries the call to the relevant international destination.

C&W will have documentation for the IDD Resale service available from 25 July 2003.

Charges

Service	Charge
800 Access Service	A 15% reduction from the standard domestic per minute calling rates
Channelised E1	A 15% reduction from the standard PRI rental charges which is currently \$649 therefore current wholesale prices would be Installation \$500 Monthly rental \$550
IDD Resale Service	20% reduction from C&W's standard per minute IDD rates

SERVICE OUTLINE: DOMESTIC LEASED CIRCUIT (DLC)

Overview

Dedicated bandwidth is provided between two carrier locations or from carrier to end customer

Case No	Service	Capacity provided
1	Customer to Customer	Nx64 kbit/s, NxE1
2	Customer to Carrier	NxE1
3	Carrier to Carrier (Approach links)	NxE1

C&W will have documentation for the Customer to Customer and Customer to Carrier services available from 15 September 2003 and documentation for the Carrier to Carrier (Approach links) service available from 1 October 2003.

Charges

Service	Charge
Nx64 kbit/s	10% reduction from the standard domestic leased circuit charge
NxE1	20% reduction from the standard domestic leased circuit charge

SERVICE OUTLINE: INTERNATIONAL PRIVATE LEASED CIRCUIT (IPLC)

Overview

International bandwidth is facilitated between domestic carrier location and international location to notional midpoint on international facility. The far end half circuit is alternatively sourced

C&W will have documentation for the IPLC for data services available from 15 September 2003 and documentation for the IPLC for voice services available from 1 February 2004.

Charges

Service	Charge
Domestic tail	10% reduction from the standard domestic leased circuit rental charge for Nx64kbit/s 20% reduction from the standard domestic leased circuit rental charge for Nx E1
International half circuit	20% reduction from the standard international half circuit rental charge

SERVICE OUTLINE: INTERNET ISP CONNECT AND DIAL UP ACCESS SERVICE

Overview

Provides IP Port connectivity from ISP premises to C&W ISP network. ISP may purchase channelised E1s for 800 dial up access for end customers.

C&W will have documentation for the Internet ISP Connect services available from 15 September 2003.

Charges

Service	Charge
Dial up service	A 20% reduction from standard Dial up internet access service which is currently 5 cents per minute therefore current wholesale prices would be 4 cents per minute
Channelised E1	A 15% reduction from the standard PRI rental charges which is currently \$649 therefore current wholesale prices would be Installation \$500 Monthly rental \$550
ISP Connect 64 kbit/s 128 kbit/s 256 kbit/s 512 kbit/s 1024 kbit/s 1536 kbit/s 2048 kbit/s	Installation \$660, Monthly rental \$674 Installation \$660, Monthly rental \$1,236 Installation \$660, Monthly rental \$2,153 Installation \$660, Monthly rental \$3,598 Installation \$660, Monthly rental \$5,806 Installation \$660, Monthly rental

	\$7,543 Installation \$660, Monthly rental \$8,890
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SERVICE OUTLINE: RETAIL ADSL INTERNET SERVICE RESALE

Overview

Enables the resale of C&W's retail ADSL Internet offering, consisting of four distinct packages as determined by the uplink and downlink speeds.

C&W will have documentation for the Retail ADSL Internet Service Resale offering available from 5 August 2003.

Charges

Service	Charge
Ultra (128/64 kbit/s)	A 15% discount on the monthly rental charge which is currently \$74 therefore the current wholesale price would be Installation \$120 Monthly rental \$63
Select (256/64 kbit/s)	A 20% discount on the monthly rental charge which is currently \$99 therefore the current wholesale price would be Installation \$120 Monthly rental \$79
Premium (768/128 kbit/s)	Which is a 20% discount on the monthly rental charge which is currently \$199 therefore the current wholesale price would be Installation \$120 Monthly rental \$159
Deluxe (1544/256 kbit/s)	Which is a 20% discount on the monthly rental charge which is currently \$349 therefore the current wholesale price would be Installation \$120 Monthly rental \$279