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Cable and Wireless
(Cayman Islands) Limited
P.O. Box 293
Grand Cayman KY1-1104
Cayman Islands

Telephone +1 (345) 949-7800
Fax +1 (345) 949 7962

LIME

28th April 2010

Mr. David Archbold
Managing Director
Information and Communication Technology Authority
3rd Floor Alissta Towers
P.O. Box 2502
Grand Cayman, KY1-1104

Dear Mr. Archbold:

Re: ICT Decision 2010-4 Deep Packet Inspection

Cable and Wireless (Cayman Islands) Limited, trading as LIME (“LIME”) is writing further to paragraph 55 of ICT Decision 2010-4, “Decision on Deep Packet Inspection and Similar Technologies in the Cayman Islands” (the “**Decision**”), and to the Authority’s e-mail of 12 April 2010 regarding the Decision. LIME thanks the Authority for the extension of time in order to review the Decision and respond to the issues set out in paragraph 55.

LIME notes that it had suspended its plans to implement DPI last year and is currently still reviewing the same in light of the requirements of the Decision and of the business. While LIME believes that if it had in fact implemented DPI on its network, its proposed implementation of DPI would have been compliant with the obligations set out at clause 12.2 of its ICT Licence, LIME submits that the issue is moot as it is not implementing DPI at this time. If and when LIME’s internal review of the technology, regulatory rules and business requirements is complete and a decision has been made to implement DPI, LIME shall comply with all applicable rules.

LIME is disappointed with some of the language employed by the Authority in the Decision, in particular the statement at paragraph 55 that “[i]n light of the above, the Authority hereby notifies Digicel and WestTel that their current uses of DPI, and LIME’s proposed uses of DPI, are in breach of clause 12 of their respective ICT licences.” As the Authority explicitly acknowledged, LIME had not yet (and still has not) implemented DPI in its network. LIME therefore strongly disagrees that it could be considered to be in breach of its ICT Licence, even assuming that its proposed implementation

would have breached clause 12.2 had it been implemented , as no action which could be the cause of an offence or breach had / has yet been taken.

LIME regrets that the Authority has made such highly prejudicial statements regarding alleged breaches by a licensee when it is patently impossible for a breach to have occurred, and LIME does not believe the Authority had in fact intended to do so. LIME therefore requests that the Authority clarify the Decision to state that, in the case of LIME, no breach of Licence had in fact yet occurred. LIME reserves all of its rights in this matter.

In addition, LIME notes that much of the Decision is focused on the issue of “net neutrality”, whereas most of the Consultation Document, including the specific questions posed to the public and to licensees, is focused on the issue of whether use of DPI might be in breach of the Law or the Licence. LIME submits that “net neutrality” is not the same thing as DPI. Further, LIME submits that the language applied by the Authority in its Decision, in particular paragraph 3, suggests that Authority had already decided to apply a policy of “net neutrality” even before it issued its public consultation on DPI. This is not appropriate for an administrative tribunal like the Authority. A significant policy determination on matters such “net neutrality” should be made after a public consultation focused on the issue, not prior to a consultation on a single aspect of the issue. LIME recommends that, if the Authority wishes to make a determination on the question of whether “net neutrality” ought to apply, it conduct a consultation on the subject.

Please do not hesitate to contact the undersigned if you should have any questions.

Yours sincerely,

‘Signed’

Anthony Ritch
General Manager LIME (Cayman)

c.c. Donald Austin, EVP Legal, Regulatory & Corporate Affairs, LIME