



10 December 2003

The Managing Director
Information and Communications Technology Authority
P.O. Box 2502GT
Grand Cayman
Cayman Islands

Dear Sir,

RE: Indirect Access (Ref:CD 2003)7)

These comments are submitted in the above-captioned public consultation on behalf of North Rock Communications (Cayman) Ltd., a licensee of full range of information and communications technology ("ICT") networks and services in the Cayman Islands. North Rock is pleased to have this opportunity to comment on the ICT Authority's regulatory issues associated with indirect access; the costs and benefits of indirect access; and a proposed framework for the provision of indirect access in the Cayman Islands.

These comments are organized as a response to the questions raised.

Issue 1. Licensee Obligations to Provide Indirect Access

Question 1.1

Should indirect access be mandated only for Cable & Wireless at this time? Should it be mandated for all licensed ICT service providers that have fixed line access network arrangements? If parties believe that indirect access should be mandated only for Cable and Wireless at this time, the Authority would welcome comments on the criteria that might be used to review and to potentially extend this obligation to other licensees in future.

It is the opinion of North Rock that any fixed line, fixed wireless and mobile customers should have the ability to choose their indirect access provider. The indirect access providers should be limited only to the incumbent Cable and Wireless and the new licensees offering fixed access line or fixed wireless services. We recommend that mobile operators are not permitted to offer indirect access service (reasoning provided later in this document).

Question 1.2

Assuming a decision in favour of indirect access, what proposed limitations, if any, should apply to the provision of indirect access including limiting implementation of indirect access to certain types of access lines and/or limiting implementation of indirect access before or after 1 April 2004?

It is the opinion of North Rock that indirect access should be provided only by any type of fixed line and fixed wireless operators as of April 1, 2004.

The following categories of customers should be able to select their indirect access provider:

- *Fixed residential line*
- *Fixed business line*
- *Multi lines such as PBX, including hotels*
- *ISDN line*
- *ADSL, Lines part of a VPN*
- *And all mobile subscribers*

The indirect access providers should be limited to the incumbent Cable and Wireless and the new licensees of fixed access line and fixed wireless services. We recommend that mobile operators are not permitted to offer indirect access service.

Question 1.3

Should indirect access be mandated for mobile carriers at this time, in addition to the licensees addressed in Question 1.1?

It is the opinion of North Rock that mobile carriers should not be permitted to provide indirect access. Mobile customers should be able to select an indirect access provider.

Question 1.4

If indirect access should not be mandated for mobile carriers at this time, what is the contemplated time scale for investigating the potential extension of mandates indirect access on mobile carriers? What factors should be taken into account in such an investigation?

It is North Rock's opinion that mobile carriers not be permitted to provide indirect access. The reasoning for this recommendation, is that mobile carriers have a larger market size compared to fixed carriers. As mobile carriers are already licensed to provide direct access, it would be expected that they would be pre-eminent in their own customer base. If permitted to also provide indirect access, this will reduce the opportunities for the fixed line providers who operate in a much smaller market. To permit mobile carriers to offer indirect access would impact the financial performance of the fixed line operators and potentially endanger this class of operator.

Issue 2. *Licensee Eligibility to Avail Itself of Indirect Access*

Question 2.1

Assuming a decision in favour of indirect access, are the proposed qualification criteria for indirect access operators appropriate? Should there be tighter restrictions on which licensees can avail themselves of the indirect access?

North Rock concurs with the recommended four criteria, namely the licensee must satisfy:

- *Holds a Fixed Telephony and/or Internet Telephony licence AND does not hold a mobile licence*
- *Provides publicly available international ICT services to subscribers;*
- *Has an interconnections agreement with an access network.*
- *Is able to deliver calls to all international destinations; and*
- *Has relevant numbering codes from the authority*

North Rock recommends managed competition will create choice for the Caymanain market but also ensure the viable success of the operators. If there are too many indirect access providers, the market will become fragmented and the longevity of the providers is doubtful.

Issue 3. *Costs and Benefits and any Unfair Burden of Indirect Access*

Question 3.1

Is there agreement with the above costs and benefits of mandating indirect access? Are there other costs and benefits the Authority should take into account? How should the Authority assess the notion of unfair burden?

In our experience, we do not believe that indirect access poses an undo burden on the access operator. In order to compensate the access operator for true costs, North Rock recommends that the Authority defines a Local Access Charge be paid to the access network operators (Fixed line or Mobile) for all originating calls. This charge should be based on a per minute fee. The fee will compensate the providers for the call handing and initial capital expenditure required to complete the interconnect. It will be the responsibility of the carriers to provision adequate capacity to handle the volume of calls. The Local provider will pay for their half of the circuit and the Indirect Access provider for their half. North Rock is opposed to an upfront fee to the access providers for the physical interconnection requirements. Under such an arrangement there is no incentive to engineer the required solution in a cost effective manner. Also, under such arrangements new entrants are potentially unfairly required to compensate an incumbent for their legacy network design.

The customer billing will be the responsibility of the Indirect Access provider unless other interconnect agreements are agreed to. The providers will reconcile the Local Access Charge fees at the end of every month. The two carriers will provide a summary of minutes completed and the Indirect Access operator will pay the Fixed line and/or Mobile operator the ICTA determined rate per minute. If there are discrepancies in the summary of minutes completed the detailed CDR's (Customer detail records) will be reviewed by both parries to settle the discrepancy.

The Indirect Access providers will be responsible for collecting their own accounts receivable.

Indirect access order taking will be the responsibility of both the access operator and the indirect access provider. The access operator must offer their customers the choice of indirect access providers in an equivalent manner to the presentation and offer of their own service, at the time of sign-up. When a customer chooses a particular indirect access provider, the customer information should be given to the indirect access provider expeditiously by either electronic or paper based methods.

Issue 4. Proposed Indirect Access Regime

Question 4.1

Assuming a decision in favour of indirect access, is there agreement with the proposed indirect access regime and, in particular, the proposal for the availability of both carrier pre-selection with call-by-call override capability for publicly available international voice services?

North Rock concurs with the Authority's view that carrier pre-selection with call-by-call override capability for publicly available international voice services from any type of access line would be the most appropriate. As stated this would provide maximum consumer choice and an equal opportunity for international service providers to compete. We recommend CPS and call-by-call selection for all customers, mobile, fixed wireless, and wireline.

Question 4.2

Are there implementation issues with the proposed indirect access regime which may preclude the economic and/or timely introduction of competition in international ICT services in the Cayman islands? Are there proposed solutions to such implementation issues?

From North Rock's experiences the potential issues lie with timely installation and testing of facilities, negotiating Interconnection Agreements, and creating market awareness. We recommend that the Authority establish a reasonable timeframe for completion of Interconnection Agreements and physical facilities. The period of 30 days is reasonable. If the requested party is unable to meet this timeframe then a financial penalty should be levied. The amount should be large enough to ensure the party will work toward completion of the Interconnection in the prescribed thirty days.

There should not be any implementation issues. Attention should be directed to how the regime is administered, in particular number administration. We recommend a watch dog type of approach from ICTA to ensure fair play.

Question 4.3

Are there additional service functions that would be required in order to implement CPS with call-by-call selection?

North Rock is not aware of any additional service functions that would be required at this time.

Question 4.4

As the industry trend is to simplify billing for customers as much as possible, is there customer demand in the Cayman Islands for a single bill option? If so, what benefits and costs would such an additional service bring and how should it be implemented?

From North Rock's experience customers are not expecting or requesting a single bill for telecommunication services. We do not support the one bill option. The bill is a very important component of managing the customer experience. The bill is a tool to differentiate one provider from another.

The collection of monies owed, and the need to suspend accounts overdue, needs to be closely managed by the service provider. If the billing function was outsourced the management of accounts receivable and bad debt would be very difficult.

Question 4.5

Are there technical, legal, or other impediments which would prevent one bill to be issued either by the indirect access operator or the access and local service provider? If single billing of indirect access customers was to be implemented, would single billing by the indirect access operator or by the access and local services provider be more desirable?

One bill, in our opinion, would only add costs to the delivery of telecommunication services. Outsourcing this important function to a third party, would result in an additional fee. It is the responsibility of the service provider to bill and collect.

If the ICTA decided to proceed with the one bill option, it would need to be described, defined and agreed in the inter connection agreement. In addition, a standard for billing record exchange and settlement would be required. Difficulties to be discussed are dispute resolution and responsibility for collection.

Issue 5. Consumer Protection

Question 5.1

Assuming a decision in favour of indirect access, is a Code of Practice is required? What issues might be addressed in such a code? Which parties should be required to adopt the Code of Practice – indirect access operators only or both indirect access operators and indirect access providers? How should such a code be developed?

North Rock recommends the indirect access operators and indirect access providers establish the guidelines. The Code of Practice should be developed and agreed upon with an industry initiative supervised by ICTA.

Question 5.2

Are consumer protection measures other than or in addition to a Code of Practice as addressed in Question 5.1 necessary to protect consumers against fraud or misuse of personal information, and, in general, to ensure consumer confidence in licensed international ICT service providers?

North Rock recommends that the Code of Practice be backed by Legislation.

Issue 6. Numbering Issues for Indirect Access

Question 6.1

Assuming a decision in favour of indirect access, are there any technical or other impediments preventing the timely and economic implementation of the proposed format of CAC and CIC codes?

A decision must be made if ICTA or Telcordia/Neustar are the administrators of such a scheme. As Cayman is part of the NANP we believe that Telecordia is the most appropriate way to administer the regime.

Issue 7. Cost Recovery for Indirect Access

Question 7.1

Assuming a decision in favour of indirect access, is there agreement on the proposed cost recovery proposals? Are there any practical problems in implementing any of the proposals regarding cost recovery?

Already addressed previously in Issue 3.1.

Issue 8. Other Issues

Question 8.1

Assuming a decision in favour of indirect access, is there a requirement for the establishment of an industry committee to implement indirect access?

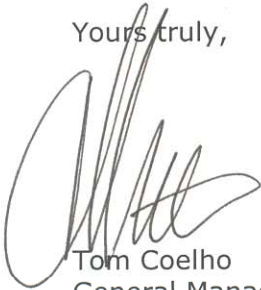
Please refer to Issue 4.2.

Question 8.2

Are there any other issues that the Authority should take into account in its determination on indirect access?

None to submit.

Yours truly,

A handwritten signature in black ink, appearing to read 'Tom Coelho', with a large, stylized flourish at the end.

Tom Coelho
General Manager
North Rock Communications Ltd.