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18 September 2023

BY EMAIL

Mr. Daniel Ebanks
Matter: Cross Comments Response to ICT Consultation 2016-2 Part B and Part C Updated
Utility Regulation and Competition Office
PO Box 10189
Grand Cayman KY1-1002
Cayman Islands
ict@ofreg.ky

Dear Mr. Ebanks,

Re Cross Comments Response to ICT Consultation 2016-2 Part B and Part C Updated

This letter is written on behalf of WestTel Limited trading as Logic (“**Logic**”) in relation to the responses received from (i) Cable and Wireless (Cayman Islands) Limited (“**Flow**”); (ii) DataLink, Ltd. (“**DataLink**”); (iii) Digicel Cayman Limited (“**Digicel**”); (iv) Infinity Broadband, Ltd. (“**C3**”); and (v) Logic (each of Flow, DataLink, Digicel, C3 and Logic a “**Licensee**” and together, the “**Parties**”) to ICT Consultation 2016-2 Part B and Part C Updated (the “**Consultation**”) and published by the Utility Regulation and Competition Office (“**OfReg**”) on 11 August 2023.

For the avoidance of doubt, any lack of comment to or on any question or point in the each of the responses to the Consultation received from a Licensee (save for the responses issued by Logic which are not within the scope of this letter) should not be interpreted as acceptance or agreement by Logic.

Logic’s cross comments to the responses received from the Licensees in respect of the Consultation are as follows.

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Consultation Question 3 – Logic cross comment

Logic disagrees with DataLink’s response to this question. It is evident from the responses of both Logic and the other Licensees (save for DataLink) and from Logic’s own experience that the current approach adopted by DataLink with regards applications by Licensees does not work.

Logic’s view is that the issue raised by DataLink in its response regarding the lack of adherence of the Licensees to the Master Pole Joint Use Agreements (“MPJUAs”) is in part caused by the lack of clarity within the MPJUAs as well as the amount of time taken by DataLink to process applications to attach.

As such, Logic’s position remains that applicants should be required to provide a properly-completed pre-permit survey with their applications for a permit to attach a communications cable to a CUC utility pole.

Consultation Question 4 – Logic cross comment

Logic disagrees with DataLink’s response to this question for the reasons set out above in respect of Consultation Question 3.

Consultation Question 7 – Logic cross comment

Logic disagrees with DataLink’s response to this question, specifically the proposal by DataLink to impose an upfront additional application fee as there is no explanation for the figure reached for such fee.

In the event that the upfront fee proposed by DataLink is adopted, Logic’s view is that this amount should form part of the make-ready costs for such pole application.

Consultation Question 12 - Logic cross comment

Whilst Logic largely agrees with DataLink’s response to this question, we wish to clarify this point to state that our view is that OfReg should be required to direct DataLink to investigate the creation of the proposed portal given the time which has elapsed, as referenced by DataLink.

Consultation Question 20 – Logic cross comment

Logic disagrees with the response issued by Digicel in respect of this question. Logic’s view is that any refunds issued under this proposal should be considered to fall under the remit of / be calculated in line with the process for make-ready refunds to avoid any issues with the amounts existing attachers should be entitled to (for instance, what loss may have been incurred by that attacher).

Furthermore, should DataLink be permitted to remove unauthorized attachments, there should be a fully transparent process to be followed by DataLink with regards such removals.

Consultation Question 22 – Logic cross comment

Logic disagrees with the response issued by DataLink to this question. Logic’s view is that this response takes a blanket approach to unauthorised attachments which will have a consequence on consumers.

In addition, please note Logic’s comment to Consultation Question 20 with regards the requirement for a fully transparent process concerning the removal of attachments by DataLink if permitted.

Consultation Question 23 – Logic cross comment

In addition to the points made by the other Licensees, Logic is of the view that any pole limits will need to be flexible due to the existence of different neighbourhoods / streets.

Consultation Question 28 – Logic cross comment

Logic disagrees with DataLink’s position that forecasted attachments should be based on areas identified by DataLink. Logic’s position is that DataLink should be permitted to provide feedback regarding common areas for forecasting for Logic to then agree (or disagree) on. In addition, forecasts should be given twice yearly only.

Consultation Questions 32 – 35 – Logic cross comments

Logic disagrees with DataLink’s response to these questions. Logic’s position is that if there is a standard pre-permit survey, then the surveys submitted by Licensees should be considered reliable and should be simple for DataLink to process, thus avoiding the issues raised by DataLink in its response.

In addition, if there is to be a standard set of requirements to be followed by attachers, then Logic’s view is that any costs of training associated with meeting such standards should be borne by the relevant attacher.

Consultation Question 36 – Logic cross comment

Logic disagrees with DataLink’s response to this question. Please see Logic’s response to Consultation Question 12 regarding the creation of a joint use portal.

Consultation Questions 37 – 38 – Logic cross comments

Logic disagrees with DataLink’s responses to these questions. Logic understands that the same third-parties being contracted by DataLink are used by Licensees in performing their own contracting work indicating that the standards of such third-party contractors are acceptable to DataLink. As such, there should be no reason for DataLink to deny use of the same contractors to be engaged to provide the same services to the Licensees as would be provided to DataLink in respect of make-ready work.

Consultation Question 42 – Logic cross comment

Logic agrees with it being more efficient for Datalink to make-ready a pole for 4 attachers. However Logic does not believe the cost for this should be absorbed by the requesting attaching utility.

If you have any questions in relation to the above, please contact the undersigned directly.

Sincerely,



Siobhan James-Alexander
Chief Executive Officer
WestTel Limited (t/a Logic