

CABLE & WIRELESS
CAYMAN ISLANDS LIMITED

Comments on Responses to Ofreg Consultation on

**ICT 2016 – 2 - Consultation
Part B and Part C (Updated)**

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1. INTRODUCTION

- 1.1** Cable and Wireless (Cayman Islands) Limited, t/a Flow is pleased to provide comments on responses to Ofreg's Consultation '**ICT 2016 – 2 – Consultation Part B and Part C (Updated)**' (the Consultation Document) published June 2, 2023.
- 1.2** Flow expressly states that failure to address any issue raised in the Consultation Document or responses to the Consultation Document does not necessarily signify its agreement in whole or in part with any position taken on the matter by Ofreg or respondents. Flow reserves the right to comment on any issue raised in the Consultation Document at a later date.
- 1.3** Flow's response to this Consultation Document is comprised of its response dated August 2, 2023 and these comments on responses from other operators.

2. GENERAL COMMENTS

- 2.1** Flow sets out its comments on responses from other operators in a table format, using the questions and question numbering in the Consultation Document.
- 2.2** Kindly send any communication in relation to this Consultation Document to:

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3. FLOW’S COMMENTS ON RESPONSES FROM OTHER PROVIDERS

Question No.	OFREG’S QUESTION	FLOW’S COMMENTS ON RESPONSES FROM PROVIDERS
Issues Relating to the Permit Application Process, Including Make-Ready Work (Consultation 2016-2 Part B)		
7.	What specific changes to the terms of the Pole Sharing Agreement would you propose to implement this proposal, if it were adopted as a determination following consultation?	<p>DataLink Flow strongly opposes the proposal by DataLink to charge an additional fee called an application fee of KYD\$1,600 per estimate for up to 10 poles. As it stands, DataLink’s methodology produces fees that are unreasonable and inflated, which is not in keeping with the Interconnection and Infrastructure Sharing Regulations. Fundamentally, as well, the fees currently charged by DataLink covers all service provided to attaching operators.</p>
18.	Do you agree with the Office’s proposal to require Attachers to report to DataLink all unauthorised attachments that have not yet come to the attention of DataLink, and must refrain from all future unauthorised attachments? If not, explain in detail the reasons why you disagree.	<p>DataLink Flow strongly opposes DataLink’s proposal to reinstate the previous provision in the Agreement, which imposed a penalty of six years’ fees in arrears for unauthorized attachment. Flow does not endorse unauthorized attachment but strongly opposes any attempt by DataLink to extend unreasonable fees to unauthorized attachments. Moreover, while Flow does not endorse unauthorized attachments, DataLink’s indifference to the need for efficient processes to support the rollout of broadband services to customers, forces operators to find ways to connect customers. The solution to unauthorized attachments is a workable process from DataLink, not penalties. Not only is DataLink stymying the rollout of broadband services, but to add insult to injury, it is seeking to profit by so doing. Nor does Flow agree with DataLink’s proposal of a denial-of-service measure, which would prevent an operator from applying for new permits, perform maintenance, or engage in any other activities related to Joint Use, where an operator has unauthorized attachments.</p>

Question No.	OFREG'S QUESTION	FLOW'S COMMENTS ON RESPONSES FROM PROVIDERS
28.	<p>How often should attaching utilities be required to provide the forecasts, if any, and at what level of geographic specificity?</p>	<p>DataLink DataLink's proposal is at odds with Ofreg's intent at paragraph 10 of the Consultative Document which states '<i>The Office considers that an effective process (which includes appropriate contractual terms and conditions) relating to the installation and maintenance of attachments of communication cables to the utility poles owned by CUC, a process in effect managed by DataLink, is fundamental for the timely rollout of ICT networks across the Cayman Islands, which in turn is necessary for the promotion of competition in the provision of ICT services and ICT networks.</i>' DataLink proposes that operators should simply rollout their networks wherever DataLink chooses. And DataLink supports its proposal by citing lack of resources. It is Flow's considered view that DataLink does not lack resources to implement a robust, timely process, with the necessary resources, but rather is contented with its existing ineffective process which stymies the rollout of broadband services. The whole tenor of DataLink's response to the Consultation Document is to maintain the status quo and increase fees. DataLink's proposal is not timely nor will it facilitate the timely rollout of ICT services and ICT networks, or competition. Indeed, nothing in the totality of DataLink's response to the Consultation Document shows any regard to satisfying the Office's intent.</p>

END