



PO Box 2502  
Grand Cayman KY1-1104  
CAYMAN ISLANDS  
Tel: (345) 946-ICTA (4282)  
Fax: (345) 945-8284  
Web: www.icta.ky

Our ref: ICTA/160/161-09

11 June 2015

Mr. Bill McCabe  
Chief Executive Officer  
LIME/Cable and Wireless (Cayman Islands) Limited  
PO Box 293  
Grand Cayman KY1-1104  
CAYMAN ISLANDS

Via email

**REDACTED**  
\* \* \* **CONFIDENTIAL** \* \* \*

Dear Mr. McCabe,

**Re: Introduction of New Service**

On 17 February 2015, LIME requested authorisation to offer a new international direct dial ('IDD') service in the Cayman Islands called WorldPak (the '**Service**') pursuant to paragraph 31 of Annex 5 to LIME's Licence.

On 27 February 2015, in order for the Information and Communications Technology Authority (the 'ICTA' or 'Authority') to continue its review of the service filing, the ICTA requested that LIME reply to the following interrogatories:

1. Please provide Tariff Pages for the proposed Service.
2. Please provide detailed calculations, along with all supporting documentation, used to determine IDD wholesale cost/minute specified in the imputation test for the proposed Service.

3. Please provide detailed calculations, along with all supporting documentation, used to determine IDD bundle utilization specified in the imputation test for the proposed Service.

On 9 April 2015, LIME provided the following responses to the Authority's interrogatories of 27 February 2015:

- In relation to interrogatory 1, LIME submitted:

*"Pursuant to paragraphs 5, 13, 26 and 28 of Annex 5 to LIME's 10 July 2003 ICT Licence, LIME is required to publish Tariff Pages for Category 1, 2, 4 and 5 services. By contrast, paragraph 20.1(a) of Annex 5 requires LIME "to publish all of its rates, terms and conditions (in a manner that is easily accessible and clearly indicates to user what terms and conditions apply to each ICT Service)" in respect of Category 3A services, while paragraph 20.1(b) exempts LIME from a publication requirement in respect of Category 3B services. In neither case is there a reference to "Tariffs".*

*Since liberalisation in 2003, LIME has satisfied its Category 3 "publication" obligation by publishing in separate documents on its website (and in paper form upon request) the applicable service descriptions, rates and terms and conditions. In other words, provided that LIME's rates, terms and conditions are available "in a manner that is easily accessible and clearly indicates to user what terms and conditions apply to each ICT Service", LIME has the discretion to choose how to publish its rates, terms and conditions.*

*In this case, the Service clearly consists of the provision of IDD minutes to specified countries. As set out in LIME's 25 January 2005 letter to the Authority regarding IDD Service classification, and as acknowledged by the Authority in its 29 March 2005 letter regarding NetSpeak Service, this is a Category 3 service.*

*LIME notes that the Service is therefore at most a Category 3A service. LIME further submits that, given the degree of competition faced by LIME in the market for IDD services, this Service and indeed IDD generally ought to be classified as a Category 3B service. All ICT Licensees providing voice services in this country (i.e. Digicel, Logic and the Licensees it has acquired, and C3) provide IDD services. With minor exceptions, Licensees do so on their own facilities, i.e. without relying on LIME's wholesale IDD service. Further, a comparison of LIME's Quarterly Monitoring Reports and of the Authority's Industry Statistics indicates that, as of 31 December 2014, LIME's fixed-originated IDD traffic represents ██████% of all IDD traffic reported to the Authority. Even if LIME's mobile-originated IDD traffic is taken into account (which LIME submits is not appropriate as WorldPak is available only to landline*

subscribers), LIME serves only a minority share of the "official" reported IDD market, ██████%.

LIME can see no merit to consumers or competition in regulating LIME's fixed IDD service, when ██████% of the official market is unregulated (and when the official market appears to be smaller than the actual IDD market). This market share is sufficient to demonstrate LIME does not possess significant market power, or the ability to establish a supra-competitive price to the detriment of consumers in the Cayman Islands. There is even less merit in an argument that LIME's WorldPak Service could have any material impact on either the official or actual IDD markets.

The fact that LIME appears to have a majority of the fixed access lines reported to the Authority is also irrelevant. Even if LIME had market power in the fixed access market, it is clearly unable to leverage that supposed "power" into the IDD market because few customers use their fixed access lines to make IDD calls as is evident from the data mentioned above. In addition, an analysis conducted by LIME in 2012 showed that, from April 2011 to April 2012, ██████% residential landline subscribers generated no IDD revenues and a further ██████% generated less than \$█████ per month on average. LIME has no reason to believe this situation has changed.

LIME submits, therefore, that its fixed-originated IDD service should be reclassified as a Category 3B service. Even if the Authority were not prepared to reclassify LIME's fixed-originated IDD service in the face of the evidence presented above, LIME submits that, at a minimum, the proposed WorldPak Service should be classified as a Category 3B service.

In any event, LIME considers that, in the circumstances, Tariff Pages are not required."

- In relation to interrogatory 2, LIME submitted a table with relevant calculations.
- In relation to interrogatory 3, LIME submitted a table with relevant calculations, noting that:

"The utilization ratio was based on an analysis of customers' usage of the same WorldPak 1000 plan offered by LIME's sister companies in five Caribbean countries where data was available. Usage from July 2014 to December 2014 was used in the analysis..."

The Authority considered however, that more information was required in order for it to make a determination as to what ICT Service the Service should be categorised as under paragraph 31 of Annex 5 to LIME's Licence.

As such, on 22 April 2015 the Authority issued a second round of interrogatories requesting LIME to provide the Authority with:

1. An explanation, with supporting evidence, as to why the proposed Service should be treated differently from the fixed-originated IDD service since the Service is simply "an IDD calling plan available as a "bolt-on" to LIME's landline customers", as described in LIME's letter of 17 February 2015.
2. Supporting documentation showing the "current wholesale rates charged by LIME to OLOs, effective 3 February 2015" as referenced by LIME in response to interrogatory 2.

On 26 May 2015, LIME provided the following responses to the Authority's interrogatories of 22 April 2015:

- In relation to interrogatory 1, LIME submitted:

*"In its 17 February 2015 filing, LIME submitted that the Service was a Category 3 service. In its 9 April 2015 responses to the Authority's 27 February 2015 interrogatories, LIME submitted that the Service "is therefore at most a Category 3A service". LIME went on to provide its views on why the Service as well as IDD generally ought to be less regulated, i.e. treated as a Category 3B service.*

*For the avoidance of any doubt, LIME does not believe either service needs to be regulated by the Authority in order to protect consumers or competition, and that any level of regulation of these services is unnecessary, unreasonable and disproportionate. In fact, if the Service had not been subject to regulation by the Authority, LIME could have introduced it to the market and consumers could have been enjoying the benefits of better value some three months ago, as the Service clearly passes the imputation test and meets all other regulatory requirements.*

*However, as noted on 9 April 2015, LIME is willing to be subject to Category 3A regulation for this Service, in order to be allowed by the Authority to bring it to market."*

- In relation to interrogatory 2, LIME provided copies of the notices sent to the relevant customers referring to "new rates to certain destinations" effective 3 February 2015, and a revised imputation test named "Imputation Worksheet: World Pak offers, LIME Cayman Islands", noting the following:

*"Upon review of the attached notices, it appears that the wholesale IDD rate for calls terminating in the USA was misstated. It should have been USD [REDACTED] instead of USD [REDACTED]. This has the effect of increasing the average rate by [REDACTED]% to CI\$ [REDACTED] per minute..."*

*However, the effect of this change on the imputation test is immaterial, and all plans of the Service continue to pass the test..."*

Having reviewed the responses provided by LIME to the Authority's interrogatories of 27 February 2015 and 22 April 2015, the Authority has found no reason to conclude that the proposed Service should be treated in any way different to the fixed-originating IDD service, which is classified as a Category 3A service, and for which LIME is required:

- to publish all of its rates, terms and conditions; and
- to notify the Authority in advance of any change to the rates, terms or conditions of the service.

Accordingly, while LIME submitted that "*Tariff Pages are not required*" for the proposed Service, the Authority maintains that such information is required to be published by LIME for any Category 3A service, unless the Authority exempts LIME from such requirement, in accordance with section 20.1.a. of Annex 5 to LIME's Licence.

In this regard, the Authority notes that LIME publishes what it references as "General Tariff" pages for its Category 3A fixed-originating IDD service, as seen on LIME's website: [Item 401 International Direct Dial Calls](#).

The Authority has completed its review of the application and, based on the above consideration, hereby determines that WorldPak be classified as a Category 3A Service, as it is essentially an IDD service.

The Authority also determines that the introduction of the new Service – WorldPak by LIME is subject to the following conditions:

1. LIME must publish its rates, terms and conditions for the proposed Service – WorldPak, at the same time when launching the Service in the market.
2. LIME must file with the Authority a copy of its rates, terms and conditions for the proposed Service, before introducing the Service in the market.

As this determination may relate to information for which LIME has claimed confidentiality in its responses dated 9 April 2015 and 26 May 2015, LIME may consider redacting the portions of the determination it considers confidential, and providing a redacted version of the determination for the public record.

At this time, therefore, the Authority is providing this determination in confidence to LIME. However, in order to maintain a full public record, LIME is hereby directed by **21 June 2015** to either 1) indicate in writing to the Authority that it does not intend to make any confidentiality claim in relation to the content of this ICTA determination or 2)

provide a redacted version of the determination to the Authority, redacting the portions that it considers confidential and providing the reasons for each confidentiality claim and the other requirements for confidentiality claims as specified in the *ICTA Law (Confidentiality) Regulations, 2003* (<http://www.icta.ky/upimages/commonfiles/1417429193ICTA-ConfidentialityRegulations.pdf>).

Yours sincerely,

[signed]

Dr Russell Richardson  
General Counsel and Deputy Director Industry Affairs