

March 31, 2012

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

Dear Mr. Archbold,

**RE: - ICT Decision 2011-3 Follow-up Proceeding Disclosure Request**

I am hereby responding to the Authority's 17<sup>th</sup> May Decision with respect to the FLLRIC (Phase III) follow-up proceeding.

**Incongruence of the Model**

First of all we must revisit an issue which Digicel has raised previously but that the Authority has not addressed in any of its responses.

The model generates a fixed termination rate which is higher than the mobile termination rate. The Cayman Islands is the only country in the world where a model has produced this result to the best of our knowledge. Further, the mobile termination rate (MTR) generated by the model is about 50% lower than the European average while the fixed termination rate (FTR) generated is about 300% higher. We do not see how the ICTA can attempt to forge ahead faced with the proposed MTR given that this overall scenario is, on the face of it, implausible. This type of unsupportable regulation would surely constitute a red flag to any other investors considering risking their capital in the Cayman Islands once the full details of what has been proposed becomes generally known. This would raise major concerns with any investor looking to invest significantly in Cayman Islands (in spite of the best intentions of the Authority). Digicel would again implore the Authority to address this glaring issue.

The Authority states that that it has not ruled on the FTR. Presumably the Authority is intimating that this FTR might not be the final figure. But that is not an answer to the above issue. The FTR is already stated in the model. However we do not imagine that the Authority is suggesting that by using this model the FTR could be adjusted to come anywhere close to 50% of the European average (one sixth of the FTR in the current model) in order to match the Cayman proposed MTR relative to the European average MTR?

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If the Authority does however believe that its proposed FTR could be reduced to a sixth of the rate in the model, then it must also surely accept, as the corollary, that it would in the process prove that there has been significant cost misallocation from the mobile to the fixed network in the model. In consequence that would mean that the MTR proposed currently would be unacceptable.

### **The Authority's Decisions on Implementation**

We consider that under no circumstances should the proposed MTR be implemented and we note that there does not appear to be any contractual bar to the implementation of a legally sound rates Decision by the Authority. However we confirm that we will, effective as of May17, implement the rate of CI\$0.0284 per minute for the PLMN Terminating Access Service. We do not believe that the Authority's Decision is legally sound for all the reasons detailed previously. Digicel reserves all its rights in this regard.

### **FTR and Transit Rates**

Digicel and LIME have not reached agreement on the FTR or transit rates. The parties had several meetings following the ICT Decision 2010-5 in an attempt to negotiate FTR and Transit rates without any success. Following ICT Decision 2012-2 the parties re-engaged on the same topic and LIME, having considered the question internally, stated that they had no wish or intention to move from the current interim rates. Digicel hereby requests that the Authority should conduct a proceeding to review the FTR and the transit rate and implements the rates subsequently determined retroactively to the date of the Authority's interim FTR and transit rates determination on 24 December 2009.

Yours sincerely  
**Digicel Cayman Ltd**



Chris Hayman  
Chief Executive Officer

CC: FLLRIC distribution list