



**CABLE & WIRELESS**

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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

Dear Mr. Archbold:

**Re: Public Consultation on Costing Manual (CD 2005-1) – Digicel Disclosure Request - Response**

This letter constitutes our reply, pursuant to regulation 4(1)(g) of the *Information and Communications Technology Authority (Confidentiality) Regulations, 2003* (the “**Regulations**”), to Digicel’s 25 July 2007 letter, which the Authority views as a request for disclosure of confidential information pursuant to Regulation 4 (1)(f) of the Regulations. We believe the Authority should set aside the Digicel request as C&W’s confidentiality claims are justified and provided for by the process outlined by the Authority. We also reject Digicel’s renewed assertions that Digicel and/or its consultants be allowed to view C&W confidential models and results.

C&W’s claims for confidentiality were properly made within the framework established by the Regulations and, therefore, are valid. Regulation 3 in particular states that:

Any person who submits information to the Authority (“the submitting party”) may request that such information be designated “confidential” by the Authority if -

- (a) the information is a trade secret;
- (b) the information is financial, commercial, scientific or technical information that is treated consistently in a confidential manner by the submitting party and the information is not otherwise publicly available;
- (c) the information is subject to a claim of legal privilege; or
- (d) the disclosure of the information could reasonably be expected-



- (i) to result in significant financial loss or gain to any person;
- (ii) to prejudice significantly the competitive position of any person; or
- (iii) to affect contractual or other liabilities of any person.

The information that C&W designated as confidential and that Digicel now seeks to publicly disclose, with a single exception, meets one or more of these criteria. We note that we inadvertently redacted the MSC routing factors for call-sensitive mobile network traffic. These routing factors were drawn from a public consultation (cited in the text) and therefore were not confidential. The figures are as follows:

Call Type	GSM: MSC -call sensitive
MOBILE INTERNATIONAL INCOMING	2.60
MOBILE ON NET CALL	3.60
MOBILE TERMINATION	2.60

Apart from this exception, there were two types of information for which C&W claimed confidentiality. Firstly, there was demand information provided as back-up for the prepaid platform routing factors. The figures are actual C&W demand numbers. Actual C&W service demand information clearly satisfies the tests for confidential treatment in Regulations 3a, 3b and 3d.

The second type of information consists of results from the confidential LRIC model itself. The claim for confidentiality for this information is valid, not only per Regulations 3b and 3d, but also by virtue of the Authority's procedural letters of 6 January 2007 and 8 February 2006, which provided for the removal of confidential information from the FLLRIC model while requiring that formulas and calculations be left intact.

Furthermore, we reject Digicel's assertion that confidentiality is no longer relevant simply because "the modeling exercise has clearly moved beyond the inclusion of C&W specific inputs." These outputs are based on specific actual costs incurred by C&W in the provision of services, which we consistently treat as confidential and which is not publicly available and, when taken together with other information, could provide actual and potential competitors details of C&W's cost structure.

We similarly reject Digicel's view that these redactions are indiscriminate, obscure the public record or prejudice their ability to respond to interrogatories.

We emphasise that there could be no justification for the Authority to require C&W to disclose confidential demand information. The public interest (as opposed to Digicel's private interest) cannot conceivably be served by forcing disclosure of confidential C&W actual service demand or cost information.



If, however, with respect to the output redactions, the Authority believes that the process would be better served by producing non-confidential outputs, rather than redacted confidential outputs, then the C&W could produce the analogous outputs from the non-confidential model. In this manner, the confidentiality of the confidential model would be preserved, but interested parties would view actual model outputs. If the Authority opts for this alternative, we propose to produce the non-confidential results from the non-confidential model due to be submitted on 7 August 2007, so that all parties are working with the latest version of the model.

In the interest of clarity, a summary of our position on the disclosures requested by Digicel is given in the table below.

Item	Redaction	C&W Comment
1	17 May submission: Redacted figures and calculations at p.35	The routing factors for the MSC call sensitive is disclosed as per this 6 August 2007 letter; however, the routing for prepaid subscribers as a percentage of all mobile subscribers is based on actual C&W data, which should not be disclosed.
2	17 May submission: Redacted LRIC figures and calculations at p. 39	These are outputs from the confidential model and as such should not be disclosed. A possible alternative is presentation of analogous outputs from the non-confidential model could be disclosed. C&W suggests that the Authority consider this type disclosure on the basis of the updated non-confidential model due to be provided on 7 August 2007.
3	17 May submission: Redacted figures and calculations at p. 40	As above (item 2)
4	17 May submission: Redacted figures and calculations at p. 44	As above (item 2)
5	17 May submission: Redacted figures and calculations at p. 45	As above (item 2)
6	17 May submission: Redacted figures and calculations at p. 48	As above (item 2)
7	25 May submission: Redacted figure and calculations in tables at p. 3	As above (item 2)
8	25 May submission: Redacted figure and calculations in table at p. 4	As above (item 2)
9	8 June submission: Redacted Summary BU pure LRIC results for PSTN Access Residential Service at p. 2	As above (item 2)
10	8 June submission: Redacted BU pure LRIC and DLRIC results for PSTN Access Residential service at p. 7	As above (item 2)
11	8 June submission: Redacted BU LRIC, DLRIC and FLLRIC results for PSTN Access	As above (item 2)

	Residential service at p. 11	
12	8 June submission: Redacted BU pure and DLRIC results for Mobile termination service and BTS network element at p. 16	As above (item 2)
13	8 June submission: Redactions in text beginning "this proportion" and ending "Note 2 above" at p. 19	As above (item 2)
14	8 June submission: Reactions in Summary BU pure, DLRIC, FLLRIC LRIC results for Mobile Termination service and BTS network element at p. 20	As above (item 2)

Finally, C&W reiterates its strong disagreement with Digicel's proposal to include its staff and/or consultants into the confidential model review process. The Authority has already set in place a process for dealing with the issues that Digicel raises. Digicel has a model structure and the ability to input what it considers reasonable inputs into the model. It has had and will have further opportunity to comment on both the model structure and inputs. The Authority and its experts will then be the arbiter of that structure and those inputs. As we have previously outlined (in our 10 April 2007 letter on this subject), Digicel's proposal would only add a superfluous layer of review and would only serve to delay the proceeding. This would not be in the public interest.

Please contact me regarding any questions you may have.

Yours faithfully,  
Cable & Wireless (Cayman Islands) Ltd.



Rudy B. Ebanks  
Chief Regulatory and Carrier Relations Officer

cc: Timothy Adam, Chief Executive C&W  
Ian Tibbetts, Chief Operating Officer C&W  
Frans Vandendries, Vice President Regulatory Affairs C&W  
Erik Whitlock, Regional Vice President Regulatory Finance C&W  
John D. Buckley, Chief Executive Officer Digicel