



The Bigger, Better Network.

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BY E-MAIL & COURIER

September 1, 2008

Mr. David Archbold
Information Communications Technology Authority
P.O. Box 2502 GT
3rd Floor Alissta Towers
Grand Cayman

Dear Sir:

Re: Decision on Cost Manual Consulting - Decision 2008-2

We write with reference to Cable & Wireless' August 22nd 2008 letter which requires a response/comment from us by today's date.

Cable and Wireless (Cayman) and ICTA negotiated and agreed a Licence which set clear expectations on the timeframe for FLLRIC implementation. Paragraph 50 (d) of Schedule 4 as agreed by the parties is in the following terms:

*“As part of its decision regarding the nature of the costing model to be implemented, the Authority shall provide a reasonable time frame within which C&W shall implement the Authority's determinations. **It is estimated, at present, that it will take C&W one year to implement a FLLRIC model.**”*

At no time prior to August 22nd 2008 did C&W take issue with this agreed projection. As recent as nine months ago they argued that the wisdom of this projection was supported when its highly touted expert sought to confirm that to complete Phase III of the process would indeed take twelve months from the determination of Phase III. It's sworn

Directors: Denis O'Brien (Chairman), Michael Alberga, Leslie Buckley, Conor O'Dea

evidence at that time, confirmed the shared view of both the Authority and itself that the projected time was necessary, due, amongst other things, to the complexity of the model construction. Erik Whitlock in the ICC Arbitration Case No 14713/JEM opined at 53 of his Statement that:

53. ...Furthermore, even after the inputs have been decided and a FLLRIC – derived MTR is determined, the Authority may wish to consult on how the final FLLRIC rate should formally be implemented in the interconnect agreements. If past history in this FLLRIC process is indicative, it may take several months to complete this final phase. ***Indeed paragraph 50 of Schedule 4 to the C&W Agreement (R5 tab 6) envisages that Phase 3 will take one year to complete....***” (emphasis mine.)

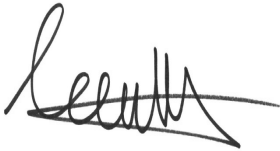
Whereas we must accept that it within CW’s discretion to apply such additional resources as will complete the Phase III segment within a shorter time, the sudden and almost illogical shift from the ‘expert’ projection of twelve months to seven months and possibly six, devoid of reasoned explanation, should alert the Authority to the real possibility that what may be posited as genuine Phase III computations may not withstand rigorous intellectual critique. The result of a rushed and inadequate model will once again send us into a protracted period of review, rejection and revision. This cannot be in the interest of consultation, ICTA, or any of the industry players.

Of course if CW were to have said that they are dedicating significant resources to this enterprise, and to make some sort of suggestion, stipulation or commitment to this, and indicate that this formed the basis of the new and starkly reduced timeframe, we and certainly ICTA would have more cause to be confident in the process. Unfortunately it is standard CW practice to argue one thing today and simply abandon that argument later when it no longer suits its purpose.

Transparency and genuine consultation would require that whatever Phase III figures are presented by CW at the end of six or even seven months they are accompanied by explanatory notes and a comprehensive report to ICTA and us. This report would have to provide sufficient details on the data used in the model, how it was procured and manipulated and such other reasonable information as would increase our understanding of it and enhance its credibility or lack thereof. At the end of the day, irrespective of the timeframe given by CW, ICTA must have enough time to fairly complete the work, consult on it and evaluate it against the requirements of the model.

We are not convinced, in the absence of credible explanations for the new timeframe it has proffered, that this will be done within six or even seven months. Of course Digicel cannot say whether C&W can do all that is required in the time it states, but we urge ICTA to forcefully make the point that the explanatory documents C&W must provide in defense of the inputs of the model will be such that it provides complete transparency

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sean Latty', with a stylized flourish at the end.

Sean Latty
Assistant General Manager
Digicel (Cayman) Limited