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By Facsimile (345) 945-8284

The Managing Director,
Information and Communications Technology Authority,
3rd Floor, Alissta Towers,
North Sound Way,
Grand Cayman, Cayman Islands

Dear Mr. Archbold,

This letter is written in response to the Information and Communications Technology Authority's (ICTA) public consultation on Indirect Access (Ref: CD (2003)7). TeleCayman Limited has been licenced by the ICTA to provide a wide range of telecommunications services in the Cayman Islands, including international long distance services.

TeleCayman fully supports the ICTA's initiatives to promote a fully-competitive international telecommunications marketplace. We concur with the ICTA's objective to lead to more choice, lower prices and improved service quality. However, there are a number of issues contained within the public consultation paper which need to be addressed by TeleCayman. Our shareholders are in the process of investing more than \$4 million to create competitive domestic and international networks and require a regulatory environment which enables our investors to secure a reasonable return on invested capital.

TeleCayman's primary concerns at this juncture are as follows:

1. The incumbent carrier has not provided TeleCayman with any information with respect to the interconnection of our domestic facilities with our international leased capacity through the Maya-1 landing station bottleneck and as such we are not in a position to properly ascertain the full economic impacts of reseller

competition upon our business plan. We believe that these Indirect Access proposals and consultations are premature in the context of the actual physical deployment of international competition which by ICTA edict cannot occur before April 1, 2004;

2. In most jurisdictions, resellers are able to enter the marketplace without a financial commitment to the construction of physical networks or switching facilities. Such would be the case in the Cayman Islands. TeleCayman believes that only through the construction of alternative network facilities will competition thrive over the medium and longer term. In the short term, resellers may be able to arbitrage other facilities-based carrier facilities in a more efficient manner than the actual facilities-based carrier itself due to the ability to purchase network and switching capacity on an as-needed basis (i.e. T-1 increments). Conversely, TeleCayman is forced to procure international IRUs on a DS-3 basis and install multiservice switches on a speculative basis with considerable investment risk;
3. TeleCayman is unfairly being asked to accommodate other resale carriers when it has not yet had an opportunity to garner a single revenue dollar on international services nor determine its absolute cost structures (i.e. the cost of Maya-1 access through C&W's constrictive distribution frame gateway). TeleCayman's take-up of licence was predicated on stated ICTA policies that embraced the concept of facilities-based competition. The ICTA has not given facilities-based carriers sufficient opportunity to procure customers and to generate revenues before proposing resale or non-facilities-based competition. The mandate of Indirect Access will impose an unfair burden on TeleCayman.

In recent discussions TeleCayman's management has informed the ICTA that the imposition of a 20% discount to C&W's retail rates provides insufficient economic incentive for TeleCayman to offer resale of C&W's facilities prior to the introduction of full scale international competition on April 1, 2004. Assuming that TeleCayman's retail rates were lower than C&W's, resale might become economically viable for a carrier with no capital at risk.

In other jurisdictions (Canada), indirect access (resale) was not imposed upon wireline carriers for three years and resale of cellular services is still not permitted some 18 years ago the establishment of that industry. In the case of the Canadian cellular, the CRTC has determined that there was sufficient competition amongst the facilities-based carriers to preclude the need for resale. Why can't the ICTA let facilities-based carriers in the Cayman Islands physically establish their networks and build an economic base before promoting Indirect Access.

TeleCayman management suggests that the ICTA should review the situation in 2005 or 2006 and ascertain at that juncture if the objectives of liberalization are being met. The prospect of competition has prompted the incumbent carrier to lower prices by 61%. TeleCayman's pricing initiatives will probably create further deflation in pricing and improve technical service standards.

Should the ICTA mandate Indirect Access prematurely, TeleCayman's ability to effect further price reductions based upon improving economies of scale would be diminished. Lacking sufficient critical mass, our company could fail and there would exist the prospect of re-monopolization. The Cayman Islands would be left with a dominant facilities-based carrier and potentially a few switchless resellers.

TeleCayman's management is extremely distressed by the presumptive nature of the ICTA consultative document which reads, "Question 1.2 Assuming a decision in favour of indirect access, what proposed limitations, if any should apply to the provision of indirect access...." Question 2.1, "Assuming a decision in favour of indirect access, are the proposed qualification criteria for indirect access operators appropriate?" Question 4.1 reads, "Assuming a decision in favour of indirect access, is there agreement with the proposed indirect access regimes...." On Page five, the ICTA wrote, "...the Authority is included to require Cable & Wireless to offer indirect access..."

It is imperative that any regulator approach an issue of this import with no preconceived bias or outcome. It is not evident that the ICTA exhibits objectivity in the matter of Indirect Access.

Notwithstanding the foregoing, TeleCayman wishes to make its views known with respect to specific elements within the consultative paper. We will respond bay page number or specific paragraph reference.

On Page 4, the ICTA wrote, "Beginning 1 April 2004, a new licensee offering international ICT services has the option of using its own international network or making arrangements with a provider of international network facilities other than Cable & Wireless as an alternative to using Cable & Wireless international facilities." The ICTA's statement is speculative and indeed presumptive of Cable & Wireless's future behaviour. On 5 November 2003, TeleCayman wrote to Cable & Wireless seeking technical interconnection at the Maya-1 distribution frame within Cable & Wireless landing station, but has not received any verbal or written response as of this date.

It is TeleCayman's firm intent to provide wholesale international capacity services and domestic backhaul services to other licenced carriers. Our ability to do so is contingent upon the ICTA's ability to ensure TeleCayman access to the Maya-1 fibre on equitable terms. We are in discussions with a number of licensees to provide them with bulk (not switched) capacity within our proposed Maya-1 capacity lease and to provide these licensees with collocation facilities on High Rock Road in the East End.

Under the heading of Consultation Questions in section 4.0, the ICTA wrote, "The Authority is inclined to require Cable & Wireless to offer indirect access." While the ICTA may have such inclination it should examine the negative financial impacts that would result to other new international carriers (such as TeleCayman) at such a crucial point in infancy. TeleCayman opposes any attempt to mandate switched and non-switched resale on its facilities at this juncture. To do so would impose significant technical and financial burdens on a fledgling carrier. Under the ICTA's proposal a

reseller without and financial commitment whatsoever could purchase C&W facilities at the 20% discount to C&W's retail rate structure. This cost structure would enable a switchless reseller to compete with TeleCayman and other competitors on comparable price basis without any risk capital.

In response to questions 1.1 and 1.2, TeleCayman suggests that mandatory resale be imposed upon a licenced carrier only in the event that the carrier in question has greater than a 20% share of the outbound switched traffic and then only in the event that such carrier cannot exhibit that its long distance price (per minute prime rate to the United States) structure has not declined by at least 5% in the preceding year. This policy would enable facilities-based carriers to achieve requisite economies of scale and also ensure continued price benefits for consumers.

Question 1.3 while TeleCayman is not licenced as a mobile carrier, we would humbly suggest that the licencing of five mobile carriers on an island with 43,000 citizens constitutes ample competition. Given the substitution of international calling through mobile wireless will influence wireless LD price structures, premature indirect access will create similar negative consequences for TeleCayman.

With respect to Issue 2, there exists the prospect that a number of existing licencees might be persuaded by the Indirect Access policy to cancel their physical network plans and opt for Indirect Access. Under the proposal such licencees would still be able to effectively compete with licencees who have fulfilled their build out obligations.–

While it is admirable that the ICTA attempts to limit the ability of Indirect access operators to cream skim to profitable high traffic routes, it is impractical to: (a) ensure and monitor resellers' traffic to *all* international destinations; and (b) to assume that a reseller would not adopt price structures that would concentrate on high traffic routes (US, UK, Canada, Jamaica) and implement non-competitive pricing on other routes.

Issue 3. TeleCayman estimates that the cost to modify switching and billing software to accommodate resellers at this juncture would exceed US\$220,000. This capital outlay could be mandated upon TeleCayman without the prospect of *any* incremental revenues should the resale market not develop as a consequence of direct long distance competition amongst the four licenced international carriers and five mobile wireless carriers.

In addition, TeleCayman would likely incur incremental cash outlays to fund the working capital requirements of resellers who would require TeleCayman to bill and collect on their behalf. The licencing of indirect access operators also creates material credit risks for TeleCayman absent any performance bond or bank guarantee.

In response to Question 3.1, TeleCayman is of the opinion that indirect access should not be mandated. If so, all causal costs, plus an appropriate 15% mark-up should be recouped by the carrier. In addition, all indirect access operators should also be subject to contribution to the universal service pool, proportionate allocation of ICTA costs and

franchise revenue fees on a basis consistent with all facilities-based carriers, having regard for appropriate transfer pricing and callback offsets.

With regard to Issue 4 Proposed Indirect Access Regime, TeleCayman takes no issue with the proposed technical switching requirements and believes that such CAC and CPS mechanisms are consistent with the arrangements to be put into place between licenced facilities-based carriers. However, we would advise the ICTA that call-by-call selection using CACs may impose specific switching and international capacity constraints upon a carrier such as TeleCayman, given the absence of forward traffic forecasts.

TeleCayman would be disinclined to pre-empt its traditional long-term subscriber traffic to accommodate wide fluctuations in traffic from a reseller or calling card operator on a day when there are five cruise ships in port. Traffic balancing creates a major burden for TeleCayman given the cost of long-haul international capacity or requirement for peaking satellite capacity. The Cayman situation is unlike that which exists in most industrialized countries where there exists a significant oversupply of inter-city fibre and dynamic network routing is a viable alternative.

Question 4.1 – There is no concurrence from TeleCayman with respect to the requirement for TeleCayman to provide CPS and CAC services to resellers.

Question 4.2 - See response to Issue 3.

Question 4.3 – TeleCayman’s network is not being structured to handle any third-party call completion issues.

Question 4.4 – TeleCayman has not yet issued a single bill to any customer so we are not in a position to ascertain whether there is customer demand in the Cayman Islands for a single bill option. It is TeleCayman’s intention to electronically bill most of its subscribers so any reseller would have to adhere to our billing format and our credit and collection policies (pre-authorized bank debt or credit card authorization) and provide specific written customer authorization.

Question 4.5 – In the event the ICTA implements indirect access, we would prefer that the indirect access licensee provide their own billing services. TeleCayman could provide such services on a negotiated (not ICTA tariffed) basis.

With regard to Issue 5 ,Consumer Practices, TeleCayman supports the notion of a Code of Practice. In particular, those indirect access operators providing long distance services by prepaid billing cards should be required to disclose on all prepaid cards all relevant information with respect to call setup charges, minimum charges per call, per minute rates, card expiration and breakage policies. All prepaid companies should be required to post material performance bonds or guarantees with the ICTA to prevent carrier fraud. Furthermore, the ICTA should allow facilities-based carriers to impose similar bank guarantee or deposit mechanisms to shield facilities-based carriers from credit risk associated with any indirect access provider.

With respect to the issue of slamming, the ICTA believes that the ICTA should develop, not only for indirect access, but for direct access carriers, a specific policy which would prohibit a facilities-based carrier from re-approaching the former subscriber for a 60-day period following cutover.

With regard to Issue 6, Numbering Issues, TeleCayman will not be in a physical position to provide indirect access until some point in 2004Q4. TeleCayman cannot be expected to provide indirect access when the newly-licensed carrier is itself forced into an indirect access mode due to prohibitions on international signal carriage prior to April 1, 2004. The economic issues have been addressed previously and the Company is not prepared to undertake the requisite software modifications unless it has received a specific request from a financially-competent licensee willing to compensate the company for all causal costs. A determination as to the “costs of an efficient operator using an efficient technical solution” cannot be benchmarked and will vary significantly from carrier to carrier dependent upon the facilities-based carrier’s individual architecture and billing software.

Question 7. 1 – There is no practical method to impose cost recovery given varying carrier costs. In the event that the ICTA licenses indirect access operators, the carriers involved should attempt to negotiate a specific contract having regard for monthly traffic volumes, peak-hour traffic, provision of billing services, collocation services, etc. In the event the parties cannot reach a settlement, they should revert to the ICTA for arbitration.

In conclusion, TeleCayman regards the entire issue of Indirect Access as being premature. It is unreasonable to expect a start-up carrier to provide resale services five months before it has the right to provide international services. The matter also creates a significant regulatory burden on all facilities-based carriers dealing with the myriad of practical interconnection issues with the incumbent carrier.

Based upon the Bermuda experience the price of international long distance to the United States declined from US\$1.15 per minute in 1997 to \$0.17 at present. This price deflation occurred within a duopoly environment where resale was not permitted. Furthermore, the cellular carriers utilize the international facilities of the two wireline international carriers, TeleBermuda and Cable & Wireless.

Similar price reductions can be expected in the Cayman context given the presence of at least four international wireline carriers, four or five mobile wireless licensees and given the real threat of VOIP. The establishment of Indirect Access will detract from the construction of alternative fixed wireless and fibre facilities as TeleCayman would be unable to fully deploy its business plan.

The ICTA need only look to the Curacao experience where a plethora of non-facilities-based resellers created massive initial LD price deflation. Consequently, none of the alternative licensees have the financial capability to build out alternative domestic

networks. The incumbent's market share appears to be on the rise and service levels remain abysmal.

The establishment of indirect access will largely extent benefit the tourist crowd who are now subjected to usurious per minute pricing of US\$1.50 at the incumbent's payphones. TeleCayman will cut those rates by nearly two-thirds obviating the short-term need for a myriad of prepaid card resellers who will contribute nothing to the establishment of sustainable domestic facilities-based competition.

In the interests of regulatory equitability, we beseech the ICTA to permit market forces to determine pricing, at least through 2004 and 2005. TeleCayman accepted its licence on the basis of a stable regulatory environment notwithstanding the vast number of licences granted. To grant additional Indirect Access licences or permit those who have not fulfilled their build-out obligations would further exacerbate the problems of an overlicenced market. If the new market participants are not permitted to achieve financial stability, the ICTA could readily create a situation where the new market participants fall by the wayside and the incumbent carrier becomes the primary beneficiary of a fragmented marketplace.

Should you require clarification of any of the aforementioned points, please do not hesitate to contact the undersigned at (905) 842-6766.

Yours very truly,

Douglas G. Cunningham
President