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Information & Communications Technology Authority

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**Decisions of the Board of the
Information and Communications Technology Authority
with respect to Cable & Wireless new postpaid, prepaid and
international direct dial (IDD) rates for the mobile services**

A major part of the Information & Communications Technology (ICT) Authority's mandate is to promote competition in the provision of ICT networks and services. In any newly liberalised market, the incumbent provider initially has 100% of subscribers and full control of the existing networks. In all such jurisdictions, an incumbent therefore has the potential to frustrate competition by abusing its dominance in the market to, for example, reduce its rates to consumers below cost, unfairly raise the prices it charges to other licensees for the wholesale services it provides to them, or fail to allow interconnection to its network on reasonable terms and conditions. Were this to be permitted, new entrants could be quickly driven out of the market and a monopoly would return.

To ensure the development of long-term, fair, and sustainable competition in the Cayman Islands, the ICTA Law, 2002 and the new licence issued to Cable & Wireless (Cayman Islands) Ltd in 2003, contain provisions to prevent the abuses detailed above. It is the responsibility of the Authority to ensure that these rules are complied with. In doing so, the Authority must balance the rights of Cable & Wireless to respond fairly to the challenges of competition, the need to protect new licensees from unfair anti-competitive practices, and the short-term and long-term interests of consumers.

It is against this background that the Authority today made its findings concerning the new postpaid, prepaid and international direct dial (IDD) rates for the mobile services introduced by Cable & Wireless on 9 March 2004.

In the first of two decisions, the Authority found that four of Cable & Wireless' eight postpaid plans, one of its three prepaid plans, and three of its mobile IDD rates failed to satisfy the required imputation test. This means that these mobile plans and rates are being offered below cost. Accordingly, the Authority has directed Cable & Wireless immediately to adjust the rates for these plans at least to a level where they cover their costs.

In the second decision, the Authority found that Cable & Wireless' failure to satisfy the appropriate imputation test is anti-competitive conduct contrary to its Licence and the ICTA Law. The Authority also found that Cable & Wireless engaged in other practices which, taken in combination, amount to anti-competitive conduct contrary to its Licence and the ICTA Law. The company has been directed to bring such infringements to an end immediately, by:

- Withdrawing its mobile rates which have not satisfied the imputation test,
- Ceasing the introduction of rates which do not clearly pass the relevant imputation test,
- Ceasing to charge substantially different mobile rates for on-net and off-net calls,
- Ceasing to waive termination charges only for Cable & Wireless' TDMA customers who migrate to Cable & Wireless' GSM plans, and
- ceasing all its advertisements, publicity and marketing which do not clearly describe the services and the rates for such services.

In addition, Cable & Wireless has been invited to show cause why the Authority should not impose a financial penalty .

The full text of the Authority's decisions will be available later today on its web site at www.icta.ky