



Fair Trading Commission

**Decision on Standards of Service
for
Cable & Wireless (Barbados) Limited**

No. FTC/UR/2006 - 1

Date: February 28, 2006

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* Revised May 15, 2006

SECTION 1. INTRODUCTION

1. BACKGROUND

This document sets out the Fair Trading Commission “the Commission” determination and rationale for the establishment of standards of service for the regulated fixed telephony services of Cable & Wireless (Barbados) Limited (Cable & Wireless).

The Utilities Regulation Act, CAP. 282 provides for the determination of standards of service by the Commission. In discharging this responsibility the Commission has sought to be transparent in its decision making processes and as such has consulted with service providers, representatives of consumer interest groups and other interested parties as mandated by the Fair Trading Commission Act, CAP. 326B.

It is expected that the establishment of standards of service and a system for monitoring them will empower both the customer and the service provider. As standards of service are maintained or improved, both parties should benefit as conditions conducive to customer satisfaction are created.

The standards of service will be applicable from June 1, 2006.

2. LEGISLATIVE FRAMEWORK

The functions of the Commission encompass the important aspect of the setting of standards. Section 3(1) of the Utilities Regulation Act, CAP. 282, states that the Commission shall, in relation to the service provider:-

- (a) determine the standards of service applicable;*
- (b) monitor the standards of service supplied to ensure compliance; and*
- (c) carry out periodic reviews of the rates and principles for setting rates and standards of service.*

The Commission therefore has responsibility for determining and monitoring the standards of service offered and carrying out periodic reviews of the standards of service for utilities under its jurisdiction.

Section 4 of the Utilities Regulation Act CAP. 282 notes that in determining standards of service the Commission shall have regard to:-

- (a) the rates being charged by the service provider for supplying a utility service;*
- (b) ensuring that consumers are provided with universal access to the service supplied by the service provider;*
- (c) the national environmental policy; and*
- (d) such other matters as the Commission may consider appropriate.*

Rule 63 of the Utilities Regulation Procedural Rules 2003, S.I. 2003 No. 104 indicates that service standards may include issues such as:-

- (a) Universality of service;*
- (b) The provision of new services;*

- (c) *The extension of services to new customers;*
- (d) *The maximum response time permitted for responding to customer complaints; and*
- (e) *Standards related to service qualities which are specific to each sector.*

Under Statutory Instrument (S.I.) No. 108 Telecommunications (Regulated Services) Order 2003, the following categories of telecommunications services were determined to be subject to regulation by the Commission:

- (a) *International telecommunications services;*
- (b) *Domestic voice telecommunications services;*
- (c) *Services in respect of interconnection charges;*
- (d) *Leased circuits; and*
- (e) *International simple resale*

The consultation related specifically to the standards of service provided by Cable & Wireless as the only carrier for domestic fixed voice telecommunications services currently operating in Barbados. The standards do not relate to mobile carriers since the Commission does not have jurisdiction to regulate the services provided by the mobile carriers.

3. CONSULTATION PROCESS

On September 6, 2004, the Commission issued the consultation paper on Standards of Service for Cable & Wireless. Interested parties, including the service provider and representatives of consumer interest groups were invited to participate in the process and submit written comments where appropriate. The consultation period concluded on November 29, 2004.

In addition, consultation forums were held on October 25 and 28, 2004, and November 1, 2004. These meetings were used to facilitate the receipt of comments from consumers who wished to make verbal submissions to the Commission.

Issues that were highlighted during the first public consultation forum prompted the Commission's decision to amend the consultation paper. Alterations were primarily in the form of addition of other service categories to the proposed lists of guaranteed and overall standards. The Commission considered it appropriate and in the interest of consumers to include 'reconnection' and 'wrongful disconnection' service categories in its proposed guaranteed standards. Other changes to the proposed guaranteed standards related mainly to the definitions of the various service categories. The service category 'loss of service' was renamed 'repeated loss of service' and appropriately redefined.

The proposed overall standards were expanded to incorporate 'fault repair', 'repeated loss of service', and 'billing accuracy'. The service category 'public payphones' was renamed 'working payphones'.

Cable & Wireless was invited to comment on these modifications and the revised papers were distributed and discussed at the remaining public consultation forums.

In reaching its decision the Commission considered the written and oral submissions of all parties.

The Commission wishes to thank all parties who participated in the consultative process.

SECTION 2. THE DETERMINATION

4. POLICY DECISION

Having considered all responses, analysed the existing and publicly-available information on telecommunications standards of service, and compared standards from regional and extra- regional jurisdictions, the Commission believes that:

- the establishment of guaranteed and overall standards for regulated telecommunications services is appropriate;
- the standards of service developed are specific to the service provider and mandatory;
- Cable & Wireless' customer service charter should be expanded to include the guaranteed standards as stipulated in this decision; and
- exemption from the standards of service is appropriate under force majeure and other specified conditions.

The following sections set out the guaranteed and overall standards which will be implemented from June 1, 2006. This will allow for the Commission to educate the public and for Cable & Wireless to sensitise its customers, prepare its staff and system for the administration of the standards of service.

The Guaranteed Standards of Service require that Cable & Wireless make a compensatory payment to each individual customer who is affected by the Company's failure to meet the defined target for the relevant standard.

The Overall Standards are designed to reflect the overall performance of the Company and are not defined by the service which an individual customer receives. There is no compensation to customers for failure to meet overall standards.

The standards also include details of exemptions. Exemptions refer to situations where the Commission considers that failure to meet the standards is outside the control of Cable & Wireless.

5. SUMMARY OF GUARANTEED AND OVERALL STANDARDS

Guaranteed Standards

STANDARD	SERVICE CATEGORY	TARGET	COMPENSATORY PAYMENT
GTS 1	Installation of Service This refers to the time between the approval of customer's application for service and the actual provision of service, where plant is available. Service installation refers to installation up to the demarcation point which is the network interface device (NID).	Residential Customers- no more than 15 working days. Business customers - no more than 7 working days.	Refund to customers of the applicable installation fee.
GTS 2	Fault Repair The speed with which faults due to failure of the service provider's equipment or systems are repaired. Faults due to inside wiring or customer owned equipment are not included.	<u>Dry Season</u> Residential - 12 working hours Business - 8 working hours <u>Wet Season</u> Residential - 40 working hours Business - 16 working hours Dry season - Dec. 1 to May 31 Wet season - Jun. 1 to Nov. 30	Refund of BDS\$15 to residential customers and BDS\$30 to business customers on breach of the target time. An additional BDS\$15 for each additional 12 or 40 working hours for residential customers, an additional BDS\$30 for each additional 8 or 16 working hours for business customers as dictated by the season.

Summary of Guaranteed Standards Contd.

STANDARD	SERVICE CATEGORY	TARGET	COMPENSATORY PAYMENT
GTS 3	<p>Repeated Loss of Service</p> <p>This refers to the recurrence of a fault of the same nature, within 30 days of occurrence of the original fault, on the service provider's network.</p> <p>Loss of service is defined as no dial tone.</p>	<p>Faults should not reoccur within 30 days of repair of first failure.</p>	<p>Refund of BDS\$15 to residential customers and BDS\$30 to business customers for repeated loss of service, due to the service provider's equipment, within 30 days of original fault.</p>
GTS 4	<p>Response to Customer Complaints</p> <p>This refers to the time frame in which a service provider acknowledges a customer's complaint relating to billing, malfunctioning network, quality of service or similar issues.</p>	<p>Acknowledgement within 5 working days for telephone, fax or email complaints. 7 working days after receipt for written complaints forwarded by post.</p> <p>Acknowledgement should include a commitment as to the date investigations would be completed.</p>	<p>Refund of BDS\$15 to residential customers and BDS\$30 to business customers on breach of the target time.</p>
GTS 5	<p>Customer Appointments</p> <p>These scheduled appointments pertain to visits by the service provider's representatives to correct faults on the service provider's network up to and including the network interface device, where access to the customer's premises is necessary but restricted.</p> <p>This does not include appointments pertaining to customers' premises equipment (CPE) or internal wiring.</p>	<p>All customer appointments should be honoured.</p> <p>Morning (8:00 a.m. to 12:00 noon) or afternoon (1:00 p.m. to 4:00 p.m.) appointments may be scheduled.</p>	<p>Refund of BDS\$15 to residential customers and BDS\$30 to business customers (subject to 15 minutes grace period i.e. 12:15 p.m. for morning appointments and 4:15 p.m. for afternoon appointments) for missing agreed appointment.</p> <p>The service provider may reschedule an appointment; however the customer must be notified at least 8 working hours prior to the scheduled appointment.</p>

Summary of Guaranteed Standards Contd.

STANDARD	SERVICE CATEGORY	TARGET	COMPENSATORY PAYMENT
<p>GTS 6</p>	<p>Reconnection after Disconnection for Non-payment</p> <p>This refers to the timely reconnection of a customer's service after payment of overdue amounts following notification to the service provider, where appropriate, and their acknowledgement of receipt of payment.</p> <p>Where the overdue amount and reconnection fee is paid at an authorized payment point that is not on-line such as the post office or some banks, the customer is required to notify the Company and provide proof of payment through a receipt number in order to effect timely reconnection.</p>	<p>Reconnection of the service should occur within 8 working hours of acknowledgement of payment.</p>	<p>Compensation in the amount equal to the reconnection fee.</p>
<p>GTS 7</p>	<p>Wrongful Disconnection</p> <p>This refers to situations where customers are deprived of service due to system errors by the service provider.</p> <p>This standard is not applicable where disconnection arises out of circumstances pertaining to an overdue amount, specifically the service provider's non-acknowledgement of payment.</p> <p>Where the overdue amount is paid at an authorized payment point that is not on-line such as the post office or some banks, the customer is required to notify the Company and provide proof of payment through a receipt number in order to effect timely reconnection.</p>	<p>Reconnection within 1 working hour of notification.</p>	<p>Automatic minimum payment of BDS\$15 to residential customers and BDS\$30 to business customers. Following this, if the service is not reconnected within 1 working day of the customer's report of wrongful disconnection compensation shall continue to accrue based on pro-rating of the month's line rental fee.</p>

Unless otherwise stated working hours are defined as 8:00 a.m. to 4:00 p.m. Mondays to Fridays. Weekends and bank holidays are excluded.

The Company will make readily available at their offices, customer claim forms which should be filled in by a customer wishing to make a claim. Customer claim forms shall also be available on the Company's website. If the Company accepts the claim the Company should indicate this on the relevant bill. If the claim is denied the Company must inform the customer on what basis the decision was made. All compensatory payments will be made as credits on the customer's next bill after the claim has been accepted. The customer has the right to make a complaint to the Commission if he/she considers that he/she has been wrongfully denied compensation.

Overall Standards

STANDARD	SERVICE CATEGORY	TARGET
OTS 1	<p>Fault Repair</p> <p>The speed with which faults due to failure of the service provider's equipment or systems are repaired. Faults due to inside wiring or customer owned equipment are not included.</p>	80% of faults should be repaired within a 24 hour period.
OTS 2	<p>Repeated Loss of Service</p> <p>This refers to the repeated or frequent loss of phone service of the same nature, within 30 days of the occurrence of the original fault, and due to problems on the service provider's network.</p> <p>Loss of service is defined as the absence of a dial tone.</p>	No more than 5% of faults should reoccur within 30 days of repair of first failure.
OTS 3	<p>Working Payphones</p> <p>The number of payphones which are fully functional on a daily basis.</p>	At least 95% of the public payphones should be in working order daily.
OTS 4	<p>Trunk Blocking</p> <p>This is the percentage of originated calls on a single network which have been successfully completed during designated peak traffic periods.</p>	At least 95% of the calls should be completed during peak traffic.
OTS 5	<p>Billing Accuracy</p> <p>This reflects the accuracy of the service provider's billing system as given by the information presented.</p> <p>A billing error may be a mistake on a monthly statement defined as:</p> <ul style="list-style-type: none"> ▪ Charges for a product or service that list the wrong date or amount, is not in keeping with the officially communicated rates or prices; ▪ Charges for products and or services not requested and or delivered; ▪ Mathematical or calculation errors; ▪ Failure to send a bill to the customer's current address provided the service provider receives notification of a change of address, in writing, at least 30 days before the billing period ends. <p>Billing errors do not include charges due to fraud or faulty customer equipment. They also do not include the reflection of overdue amounts on subsequent bills if that amount was paid after the due date or pertain to format or frequency.</p>	Billing errors must be no more than 0.5% of the total bills issued.

6. REASONS FOR DECISION

The rationale for the Commission's decisions are summarised in the discussion below.

Basis for Standards of Service – During the consultation Cable & Wireless had sought clarification as to why the standards of service would be mandatory and only be applicable to their domestic fixed services although the sector was becoming competitive. The Commission believes that the establishment of mandatory standards of service redounds to the benefit of both the consumer and the service provider; consumer confidence is boosted and the Company is encouraged, through the provision of incentives, to improve the level of service proffered. Section 3 (1) of the Utilities Regulation Act, CAP. 282 makes provision for the Commission to determine standards of service and monitor to ensure compliance. If the Commission is statutorily mandated to establish standards of service and ensure compliance, it follows axiomatically that the standards of service must be mandatory. This Act also speaks to the establishment of standards for specific service providers and not to utility sectors. The Commission considers the institution of such standards, for Cable & Wireless, is appropriate as this service provider has been designated the dominant carrier for domestic fixed telephony and is the Universal Service Carrier.

In addition, the Commission considers that with the transition to Price Cap, it is even more critical to have enforceable standards to mitigate against the possibility of the Company neglecting standards when attempting to improve efficiency under this new regulatory structure.

The Commission is cognizant that as the industry becomes more competitive there may be a need to reconsider the standards of service regime. The Commission is of the opinion that to set too rigid a policy in relation to standards of service in advance

of new entrants operating in the market would be an improper exercise of its statutory powers.

Compensatory payments – The objective of a compensatory payment is to provide the incentive for the Company to ensure that specified levels of service quality are met. The need to provide an incentive for customers to claim, the increase in the domestic rates, and the comparison of Cable & Wireless’s proposed levels of compensation with other regional and international jurisdictions, were all factors that influenced the increase in the level of compensatory payment. The Commission will allow payments to be commensurate with outage time beyond target time where appropriate.

The Commission considered the implementation of a system to automatically recognise that there was a breach of a specific guaranteed standard and to automatically compensate the individual customer for the inconvenience. This automated system would remove the need for the customer to complete a claim form, but would require technical changes to the Company’s billing, tracking and reporting systems.

At this time the Commission considers that the cost of automating the compensatory payment system may adversely affect the Company’s profitability and lead to an application for consideration of the exogenous Z-Factor in the price cap plan¹. This has the potential to result in revision of the price cap formula and the rates of domestic and international services. Therefore, the Commission decided that the existing method by which customers make claims for compensation shall continue.

Each payment shall be in the form of a credit to the customer’s next bill. Where a claim is denied the Company shall explain, in writing, to the customer the basis on which the claim was denied. The customer, in the event that he/she does not consider the explanation satisfactory, may file a complaint with the Commission.

¹ The Commission. 2005. Price Cap Mechanism Decision. Document No. FTC/UR/2005-01.

The Commission reserves the right, based on the ongoing review of the operation of the standards of service, to request the automation of the compensatory payments system.

Installation of service – Given the Company’s provision of reports indicating 95% compliance of the proposed target times within both the residential and commercial market, the Commission adopted the target times as a guaranteed standard. The functionality of this service category requires the Company to institute an application approval process through which the potential consumer is informed of the status of the application.

Fault repair – The decision to set fault repair targets was reached after consideration of the comments and statistics on repair times from the service provider and other respondents. Cable & Wireless proposed a variation of the fault repair target time to accommodate the variance in working conditions in the wet and dry seasons. Cable & Wireless informed the Commission that during the rainy season it was difficult and dangerous for technicians to climb poles and additionally there is normally a slight increase in faults during this season.

Being guided by the arguments presented by the service provider the Commission has set seasonal target times for this service category. The Commission expects that the Company will always strive to restore the customers’ service in a timely manner and minimise delays regardless of the season.

The Commission considers that compensation under this service category should be linked to outage time beyond the stipulated target time. This is similar to the approach adopted by British Telecom (BT) which offers compensation for delayed fault repair at fixed rates commensurate with outage time.

Repeated loss of service – The objective of this standard is to encourage the service provider to offer dependable service to its customers. In accordance with the

industry standard, the Commission has defined a repeated fault as one that reoccurs within 30 days.

Response to customer complaints - As a response to comments received the Commission included this service category as a guaranteed standard; Cable & Wireless also proposed a similar standard. This standard is intended to ensure that customer complaints are dealt with promptly and satisfactorily.

Customer appointments - The objective of this standard is to minimize any inconvenience to customers and to ensure that time is valued by the service provider's representatives. The Company included this service category in its proposed standards and the Commission considers it necessary to retain it.

Reconnection after disconnection for non-payment - Cable & Wireless has suggested that the payment of compensation for breaching the reconnection target time is inappropriate for this type of situation which arises as a result of customers' default on payment. The Company further stated that, depending on the authorised agent chosen by the customer, the time taken for notification of payment to reach the Cable & Wireless accounting system would vary.

The Commission after considering all the comments received is of the view that a compensatory payment is appropriate where breaches of the target time occur. The Commission has set the target time for reconnection, under this service category, at 8 working hours, due to the simplicity of the task. Further, the Commission believes that the imposition of a compensatory payment is warranted as the consumer is entitled to have his/her service restored in the shortest possible time after payment of the overdue amount². Compensation under this service category is tied to the amount of the reconnection fee.

² In Jamaica the Office of Utility Regulation has proposed a similar standard in its consultation paper on Quality of Service Standards.

Wrongful disconnection – This standard has been instituted to ensure that the customer is not deprived of service as a result of a system error made by the service provider. The service provider has acknowledged the need for such a standard. The customer will be compensated for the inconvenience based on the duration of the service disconnection with a minimum payment of \$15.00 for residential customers and \$30.00 for business customers. This standard is not applicable where disconnection arises out of circumstances pertaining to the payment of an overdue amount at an authorised payment point other than the Company, where on-line facilities are not employed, e.g., the post office and some banks. Where overdue amounts are paid at points that are not on-line, the onus is on the customer to provide the Company with proof of payment through a receipt number.

Working payphones – This overall standard is intended to address the issue of universal access. It encourages the service provider to ensure the dependability of this service which is mainly used by persons that are unable to afford residential or mobile service.

Trunk blocking – The title of this service category was changed from “Call Completion” to “Trunk Blocking” as it relates primarily to the level of congestion on the network. This overall standard encourages the service provider to offer high quality service and allows the regulator to assess service quality. It assesses capacity or related problems during peak hours.

Billing accuracy – The objective of this standard is to minimize billing errors and therefore reduce customer inconvenience.

7. GENERAL EXEMPTIONS

The Commission is of the view that failure to meet guaranteed standards should not require compensatory payments from the service provider in situations where conditions outside the control of the service provider make it impossible to meet the targets.

The conditions for exemptions from standards are as follows:

- Acts of God;
- Riot;
- Civil commotion;
- Strikes, lockouts, and other industrial disturbances;
- Acts of terrorism;
- Wars;
- Blockades;
- Insurrections;
- Epidemics;
- Landslides;
- Hurricanes;
- Lightning;
- Earthquake;
- Storms;
- Floods;
- Trade restrictions;
- Inability to obtain any requisite Government permits; and
- Breakdown of machinery or equipment or any other force or cause of similar nature not within the control of the Company and which by the exercise of diligence it is unable to avoid, prevent or mitigate.

8. OTHER EXEMPTIONS AND CONDITIONS

The Commission is cognisant that other circumstances may exist from time to time which might impede the Company's ability to meet the prescribed standards of service. In such circumstances, where a customer is dissatisfied with the Company's application of an exemption, that customer may seek the Commission's guidance. Thereafter, the Commission may authorise the Company's action or require the Company to honour the claim. Situations which might fall into this category may include but are not limited to the following:

- The service provider is requested by a public authority to provide emergency communication to assist in emergency action and the provision of such services restricts the connection of a customer to a specified service or the rectification of a fault or service difficulty;
- The service provider is prevented from providing a connection to a specified service, or the rectification of a fault or service difficulty due to the service provider being unable to obtain lawful access to the land or a facility;
- A law of Barbados prevents the service provider from complying with the service standard;
- After following the Company's credit and disconnection guidelines, the customer has not paid applicable charges and remains disconnected;
- The customer is required to pay a charge to the service provider for the connection to the service or for the use of the service; and
- The service provider has reasonable grounds to believe that the customer would be unwilling or unable to pay the charge as it becomes due.

9. MONITORING AND ENFORCEMENT OF STANDARDS

Cable & Wireless is required to submit quarterly regulatory reports. These reports shall include information on:-

- The number of breaches under each guaranteed service category;
- The actual average times taken to respond to and /or rectify issues referred to under each guaranteed service category;
- The level of compliance, as a percentage, of each overall service category; and
- Details of any extenuating circumstances that would have prohibited the Company from achieving the targets of the overall standards.

Cable & Wireless is required to submit annual reports. These reports shall include information on:

- The number of customers eligible for compensation during the previous financial year;
- The total value of eligible compensation;
- The number of customers actually receiving compensation; and
- The value of compensation remitted;

The Commission reserves the right to conduct independent investigations that seek to determine the extent to which the service provider is meeting the standards of service.

It is expected that where an overall standard is not met the service provider will offer an explanation to the Commission. Where the service provider continually fails to meet an overall standard, particularly to the point where service is severely hampered, and it appears that the service provider has not made a reasonable effort to rectify the breach, section 43 of the Fair Trading Commission Act, CAP. 326B and sections 31 and 38 of the Utilities Regulation Act, CAP. 282 may be invoked. Both Acts make provisions for the imposition of penalties when the service provider is deemed not to be in compliance with prescribed standards of service.

10. PUBLIC DISCLOSURE OF INFORMATION

Information pertaining to the level of compliance, by the Company, with the herein prescribed guaranteed and overall standards of service will be made available to the public on an annual basis.

11. PUBLIC EDUCATION

The service provider shall make available to its customers a detailed list of the approved guaranteed and overall standards of service. This list shall include information on the service categories, target times, and compensatory payments where applicable. The Company's fault reporting process is to be made known to the public and the appropriate contact numbers included. The service provider shall also widely publicize the means via which compensation for breaches may be sought. Before implementation the Commission will seek to further educate the public as to their rights and responsibilities as they relate to these newly developed standards.

12. IMPLEMENTATION AND REVIEW

The Standards of Service for Cable & Wireless as herein outlined will become effective on June 1, 2006 to facilitate the public education program and to give the service provider time to ready itself for the standards of service plan. These standards are subject to a formal Commission review every two years, at which time amendments to the standards, target times or compensatory payments may be made.

Dated this 28 day of February 2006.

Original signed by:

Neville V. Nicholls
Chairman

Original signed by:

Vivian-Anne Gittens
Deputy Chairman

Original signed by:

Gregory Hazzard
Commissioner

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