



FAIR TRADING COMMISSION

REPORT

on

DIRECTORY ENQUIRY SERVICE

November 15, 2004

INTRODUCTION

1. In response to concerns raised by consumers with respect to the Cable & Wireless (Barbados) Limited 'the Company' proposal to impose charges for directory enquiry services¹, the Fair Trading Commission 'the Commission' embarked on an examination of directory enquiry service and the Commission's regulatory jurisdiction with respect to the same.

2. The Commission has an obligation under the Fair Trading Commission Act CAP. 326B to monitor rates charged by the service provider. Section 4 of the Act states:

"The Commission shall, in performance of its functions and in pursuance of the objectives set out in subsections (1) and (2) ...

(c) monitor the rates charges by service providers to ensure compliance."

This paper sets out the Commission's findings with respect to the regulation of directory enquiry service as well as an overview of the circumstances that should be taken into consideration before a charge is imposed for this service.

BACKGROUND

3. Access to directory enquiry service has long been recognised as integral in the provision of efficient telecommunication services to subscribers. Professors Ian Lloyd and Mellor in their text Telecommunications Law state

"In order to make effective use of networks it is a basic requirement that users should be able to identify those other users with whom they wish to communicate" ²

¹ Copy of advertisement attached at Appendix 1.

² Telecommunications Law Lloyd I. and Mellor D. Lexis-Nexis UK, 2003 at page, 135

In Barbados, directory enquiry service was recognised as such and was provided as part of the local/domestic telecommunications services supplied by C & W BARTEL Limited and its predecessor, the Barbados Telephone Company. This service was regulated by the Public Utilities Board 'PUB', who was responsible for the regulation of local/domestic telecommunications services.

4. From the application made in 1992 by Cable & Wireless BARTEL Limited, to have a charge established for the directory enquiry service³, it is evident that the company considered directory enquiries to be a regulated service. In its general rate application made at that time the company specifically sought regulatory approval to have a charge established for the service. The PUB heard, considered and refused the application to institute a charge for the service at that time.

5. The Fair Trading Commission, the successor to the PUB, inherited the right to regulate this service. The continuity of regulation for this service was acknowledged by section 48 of the Fair Trading Commission Act. The transitional provisions of this Act bestowed on the Fair Trading Commission the rights, privileges, duties or obligations conferred or imposed upon the PUB. Section 48 (b) of the Act states:

"48. With effect from the date of commencement of this Act....

(b) any right, privilege, duty or obligation conferred or imposed upon the Public Utilities Board existing immediately before the commencement of this Act shall be deemed to be conferred or imposed on the Commission;"

³ The relevant extract from the 1993 rate hearing decision reads:

"The Company requested that a charge should be made for directory enquiries. It contends inter alia that much time and equipment are used providing consumers with information which is already in their directory. Subscribers would be allowed 3 free directory calls each month. The evidence discloses that the company expected to earn \$205,000.00 per annum under this head. That means that it expects to receive 410,000 directory enquiries per annum or over 1000 per day for numbers which appear in the directory."

After considering all of the evidence the Board is of the opinion that no charge should be made for directory enquiries at this time."

6. The Utilities Regulation Act CAP 282 also formally endowed the Commission with the power to regulate the local/domestic services provided by Cable & Wireless (Barbados) Limited. The Telecommunications Act CAP 282B, enacted in 2002, likewise continued this legacy of regulatory jurisdiction. While 'local' telecommunication services were changed to 'domestic' the change was in nomenclature only.

7. By virtue of the Telecommunications Act, S. I. 2003 No. 108, the Telecommunications (Regulated Services) Order⁴ was enacted. The telecommunication services to be regulated by the Commission, as set out in the Order are as follows:

- (a) international telecommunications services;
- (b) domestic voice telecommunications services;
- (c) services in respect of interconnection charges;
- (d) leased circuits; and
- (e) international simple resale

8. This Order did not exempt any existing domestic voice services from regulation but gave the Commission jurisdiction to regulate additional services.

9. The nature of the service has not changed since it was regulated by the PUB, it essentially involves a consumer seeking from the Company via a voice call over the domestic network the number listed for a fixed line telephone subscriber – local or overseas. A voice message of any nature transmitted over a telecommunications network and between one or more points in Barbados would constitute a domestic

⁴ S.I. No. 2003 No. 108 dated August 13, 2003

voice telecommunications service⁵ which is regulated by the Commission. The Act defines a 'telecommunications service' as

"a service that comprises the emitting, transmitting, switching, conveying or receiving of messages within, into or from Barbados by means of a telecommunications network."

Domestic telecommunications services is defined in the Act as a

"service that is provided between one or more points in Barbados, but excludes a transit service or a mobile telecommunications service."

The new Telecommunications Act therefore did nothing to remove directory enquiry services from regulation. The Fair Trading Commission's regulatory jurisdiction for directory enquiries as a local/domestic service remains.

10. Sections 32 and 33 (1) of the Act also recognises directory enquiry as a telecommunications service and lists it as part of the universal service obligation. The provisions state:

*"32 The universal service policy of the Government of Barbados is aimed at ensuring that every resident and every business enterprise in Barbados has access to reliable affordable **telecommunications services** throughout Barbados on an equitable basis."*[Emphasis added]

"33 (1) There shall be a universal service obligation which is an obligation imposed on the Universal Service Carrier designated by the Minister under section 34 (1), to

⁵ The Act defines a 'telecommunications service' as *"a service that comprises the emitting, transmitting, switching, conveying or receiving of messages within, into or from Barbados by means of a telecommunications network."* Domestic telecommunications services is defined in the Act as a *"service that is provided between one or more points in Barbados, but excludes a transit service or a mobile telecommunications service."*

- (a) ensure that the basic telecommunications service, which is the ability to access dial tone in order to make telephone calls to other end-users, is reasonably accessible to all people in Barbados on an equitable basis wherever they reside or carry on business;*
- (b) ensure that payphones are reasonably accessible to all people in Barbados;*
- (c) permit access to directory inquiries;*** [Emphasis added]
- (d) permit access to emergency numbers free of charge;*
- (e) provide appropriate telecommunications equipment to disabled person to ensure access by those persons to the basic telecommunications service."*

11. It is also noteworthy that basic telephone service, payphones and emergency numbers, the other services listed in this section are regulated by the Commission under the rubric of domestic voice telecommunications services.

12. **To date the Commission, as regulator of the service, has not received an application for a charge to be applied to the directory enquiry service. Any charges levied for a regulated service without Commission approval would be an unauthorised rate.**

13. In deciding whether a charge should be applied for this telecommunications service the following considerations, at a minimum, should engage the mind of the regulator :

(a) **Are the prices cost oriented?**

The Company should establish that the charge applied to the service is cost based.

(b) **Social Considerations**

(i) Safeguards may need to be put in place to ensure specified sections of the community are not disadvantaged by the imposition of a charge. To this end, an examination may need to be conducted to ascertain whether special provision should be made for visually impaired and physically challenged individuals.

(ii) While the Company has given their mobile and fixed line customers the opportunity to “log on to our e-directory at: *www.barbadosyp.com* or via Cable & Wireless website at *www.candw.com.bb*” to gain access to directory information, the question remains as to how many households in Barbados have access to the Internet?

(c) **Standard of Service Issues**

(i) Will subscribers be charged for queries with respect to numbers issued to persons after the publication of the directory?

(ii) If the printed directory omits subscriber listings or contain errors in the listed numbers will the consumer be charged for the query?

(d) **Financial Considerations**

(i) Trends in usage patterns and (ii) the amount of projected revenue to be earned.

These would be of particular interest to a regulator in light of the fact that evidence before the Public Utilities Board in 1992 was as follows:

“Mr. Walcott: Director[y] expense as shown for the period is \$1 158 000. This directory expense is involved in the production of the telephone directory. The revenues that are collected from the directory is in excess of 2.9 million and increasing. That revenue contributes significantly to keeping the cost of the basic service down. So, the directory expense as part of the marketing expense is considered to be justified because it makes a positive contribution to the revenue⁶.”

(e) **Fairness and reasonableness of the charge**

Questions of affordability would arise.

(f) **Relevant Comparisons**

A review of jurisdictions should be conducted. A prudent regulator would need to acquaint himself with the consideration utilised by those regulatory bodies to assess their relevance and applicability to Barbados.

In Britain, Sweden, Ireland, Finland for example a free directory service is available for those users who are unable to use a paper directory. In Portugal and Greece the blind or visually impaired are entitled to make 20 phone calls per month to the incumbent directory enquiry free of charge. In Eastern Caribbean Telecommunications Authority (ECTEL) jurisdictions customers are allowed three (3) free directory enquiries each month and thereafter there is a charge of EC\$1.50 per call.

⁶ Public Utilities Board Rate Hearing, April 20, 1993. Page 523

14. The Commission normally considers approval of an application for a rate for a single service by means of a written hearing. The Commission is of the view that this type of hearing is cost effective and is an efficient way of determining these matters.