



Fair Trading Commission

DECISION

Reference Interconnection Offer – Domestic Fixed Wireless

No. FTC/UR/2005-04

Date: June 22, 2005

FAIR TRADING COMMISSION

REFERENCE INTERCONNECTION OFFER – DOMESTIC FIXED WIRELESS

The Legal Framework

1. The Fair Trading Commission “Commission” is the independent regulator of international and domestic telecommunications services. In carrying out its duties as regulator the Commission must operate in a transparent, accountable and non-discriminatory manner.

2. Section 4(4) of the Fair Trading Commission Act, CAP. 326B requires the Commission to consult with interested persons when it is discharging certain functions. Section 4(4) of the Fair Trading Commission Act, CAP 326B states:

“The Commission shall, in performing its functions under subsection (3)(a), (b), (d) and (f) consult with the service providers, representatives of consumer interest groups and other parties that have an interest in the matter before it.”

3. The Telecommunications Act, CAP. 282B “Act” provides for the liberalisation of the telecommunications sector in Barbados. It was determined by the Minister responsible for telecommunications that a phased approach would be used to introduce competition into the various sectors of the telecommunications market. To this end a transition timetable was established which prescribed the introduction of competition in three (3) phases. Phase 1 facilitated competition in network based mobile services. Phase 2 provided for the introduction of competition in the domestic fixed wireless services. Phase 3 commenced on 21 February 2005 and signaled the liberalization of international telecommunications services.

4. The Act requires the dominant carrier to ensure, inter alia, that:
 - a. Interconnection charges are cost-oriented;
 - b. Interconnection services allow the requesting carrier to select the services required and not require the carrier to stand the cost of network components, facilities or services that are not required or have not been requested by that carrier; and
 - c. Interconnection terms are non-discriminatory and non-preferential.
5. Section 26(1) of the Act requires the dominant carrier to submit to the Commission for its approval a Reference Interconnection Offer "RIO", which sets out terms and conditions for interconnection to its public telecommunications network. Cable & Wireless (Barbados) Limited "Cable & Wireless" was declared dominant carrier in SI 2003, No. 75, Telecommunications Act (Act 2001-36), The Telecommunications (declaration of dominance) Regulations, 2003 on April, 24, 2003.
6. In accordance with section 27 (5) of the Telecommunications Act, CAP. 282B:

"Where the Commission refuses the RIO of a carrier or part of that RIO, the Commission shall consult with the carrier in order to resolve the inconsistency with the interconnection principles referred to in section 25 and the carrier may amend the RIO to remedy the inconsistency."

The Approval Process

7. On January 22, 2004, Cable & Wireless filed a Reference Interconnection Offer for Phase 2 of the liberalisation process with respect to domestic fixed wireless service.

8. The Commission invited interested parties to provide written submissions to the document. One response was received. In order to obtain clarification on some issues the Commission requested additional information from Cable & Wireless.

9. The Commission issued a decision on July 1, 2004 in which partial approval of the RIO was given. The Commission, in its decision determined that the terms and conditions contained in the RIO Domestic Fixed Wireless should be applicable only to interconnection between domestic fixed wireless carriers and Cable & Wireless. Cable & Wireless was therefore required to extricate from the RIO Domestic Fixed Wireless the terms and conditions which pertain exclusively to services for mobile carriers and also to amend specific sections of the RIO.

10. Additionally, having considered the submissions of the parties the Commission approved all of the applicable sections of the RIO Domestic Fixed Wireless v. 1.0 save and except those listed below:

- a. Legal Framework Section – paragraph 7.5 and paragraph 8.4
- b. Service Description Section – Optical In-span Joining Services paragraphs 1.1.1 and 1.1.5;
- c. Service Description Section – Termination Services paragraph 1.1.4;
- d. Service Description Section – Part 2 PLMN to PLMN Terminating Access Service
- e. Parameter Schedule Section - PLMN to PLMN Terminating Access Service
- f. Service Schedule Section- PLMN to PLMN Terminating Access Service

g. Joint Working Manual - Paragraph 1.2.1.1, 1.2.2.1, 1.2.2.4 and 1.2.3.1

11. A revised RIO Domestic Fixed Wireless v. 3.0 document was provided on July 30, 2004 but Cable & Wireless included an access deficit charge “ADC” on the tariff schedule. Having been advised by the Commission to remove the ADC and resubmit, Cable & Wireless complied on November 15, 2004.

Consultation with Cable & Wireless on Clauses not Approved

12. The Commission consulted with Cable & Wireless both orally and through written consultation in order to resolve the inconsistencies of the RIO Domestic Fixed Wireless v. 1.0.

13. The Commission required an explanation from Cable & Wireless on the issues listed in paragraph 10. The following is an overview of the matters of concern and the responses submitted on January 13, 2005 by Cable & Wireless in the RIO for Phase 2 of the Liberalization Process, Barbados PII RIO v. 4.0 (hereinafter referred to as the **RIO Domestic Fixed Wireless v. 4.0**) and related correspondence. It also includes the rationale for the Commission’s present decision.

Legal Framework Section – paragraphs 7.5

14. The Commission was concerned that this section would impose excessive costs on the operator seeking interconnection as the capacity requirements may be larger than that required by the operator. Cable & Wireless was therefore required to submit to the Commission proposed modifications to this paragraph to allow more flexibility and choice for the interconnection-seeking operator.

15. Cable & Wireless has indicated that Clause 7.5 refers to standards only. The Commission notes that the Joint Working Manual which is referenced in the paragraph refers to the technical characteristics of a specific network link namely a 1.544 Mbits/s network Link Characteristic. The Commission however accepts that clause 7.5 in itself does not refer to capacity requirements and **therefore approves paragraph 7.5 of the Legal Framework Section.**

Service Description-Optical In-span Joining Services, Paragraph 1.1.2 and Paragraph 1.1.5

16. The Commission in its decision considered the specification of joining services as optical fibre connections to be unduly restrictive with respect to the technology that is offered. The Commission required Cable & Wireless to amend this clause to reflect the fact that parties can negotiate alternative technologies in compliance with their commitments given to the Commission during consultation and as specified in their letter of July 9, 2004.

17. Cable & Wireless has now included the following footnote *“Cable & Wireless will consider alternatives to optical fibre as the physical means of interconnection pursuant to this Service Description provided that such alternative (i) does not compromise the overall integrity and quality of the Cable & Wireless network, or the interconnection, and (ii) is supported by Cable & Wireless from technical and staff perspective.”*

18. The Commission is satisfied that the inclusion of this statement should facilitate greater flexibility in the negotiation process.

19. In paragraph 1.1.5, the Commission directed Cable & Wireless to add “if this is more efficient and economical”. The intention was to allow for flexibility in the type of technology used whilst at the same time safeguarding the interest

of Cable & Wireless. Cable & Wireless subsequently indicated that given the fundamental technology of switching, interconnection at greater or less than T1 would never be *"more efficient and economical"*. The Company provided detailed explanation and justification for this position. The Commission accepts the arguments presented by Cable & Wireless to support their position that a modification of paragraph 1.1.5 is unnecessary and counter productive.

20. The Commission hereby approved Service Description Section - Optical In-span Joining Services paragraphs 1.1.2 and 1.1.5. The Commission however reserves the right to request amendment to this clause at a later date should circumstances warrant.

Service Description Section - Termination Services paragraph 1.1.4.

21. Cable & Wireless was required to provide the Commission with independent data that substantiates the claims made with respect to this clause. The Company was also required to indicate to the Commission whether it currently supplies or proposes to supply these services and the type of interconnection that is or will be employed for its own operations to deliver such services.

22. Considering that:

- (i) Nortel provided independent information which suggests that Cable & Wireless' switch is engineered as a TDM switch which is designed to exclusively support T1 level interconnection and that modification to facilitate IP connectivity would be very expensive;
- (ii) lack of international consensus on standards for packet interconnection; and

- (iii) operators ability to offer broadband service should could be facilitated through the use of the appropriate interface;

23. The Commission now accepts the provision of Paragraph 1.1.4 relating to Termination Services **and therefore approves it.**

Service Description Section - Part 2 PLMN to PLMN Terminating Access Service

24. In its decision the Commission indicated that this service is not applicable to a domestic fixed wireless operator and advised that it be removed from the RIO Domestic Fixed Wireless. Cable & Wireless complied to the recommendation of the Commission. **The Commission hereby approves the Service Description Section - Part 2 PLMN to PLMN Terminating Access Service.**

Parameter Schedule Section - PLMN to PLMN Terminating Access Service

25. In its decision the Commission indicated that this service is not applicable to a domestic fixed wireless operator and advised that it be removed from the RIO Domestic Fixed Wireless. Cable & Wireless complied with the recommendation of the Commission. **The Commission hereby approves the Parameter Schedule Section - PLMN to PLMN Terminating Access Service.**

Service Schedule Section - PLMN to PLMN Terminating Access Service

26. In its decision the Commission indicated that this service is not applicable to a domestic fixed wireless operator and advised that it be removed from the RIO Domestic Fixed Wireless. Cable & Wireless acceded to the wishes of the Commission. **The Commission hereby approves the Service Schedule Section - PLMN to PLMN Terminating Access Service.**

Joint Working Manual, Paragraphs 1.2.1.1, 1.2.2.1, 1.2.2.4, and 1.2.3.1

27. The Commission requested that Cable & Wireless submit proposed modifications to these paragraphs so that modes of interconnection, other than those listed in the document, may be utilized if such are technically feasible. The Commission stated that the principles as set out in these paragraphs are restrictive and may result in the outlay of unnecessary capital by new operators.

28. The Commission, in considering the responses provided for the previous issues, withdraws its request for modification of the Paragraphs pertaining to the Joint Working Manual.

29. The Commission however reserves the right to request amendment to this clause at a later date should circumstances warrant.

Tariff Schedule Part 5 Other Services – Domestic Fixed to Mobile Service

30. The Commission considers the explanation of the Tariff Schedule Part 5 Other Services – Domestic to Mobile Service, in which Cable & Wireless indicated that the transit charge that has now been included in the usage charge is the same as that identified as the “PSTN Transit Service” and in the rates already approved in the interconnection agreements of January 2004 with new mobile carriers. **The Commission has therefore accepted these changes.**

Tariff Schedule, PSTN Termination Access Service, PLMN to PLMN Terminating Access Service and PSTN Transit Service

31. The charges detailed in the PSTN Termination Access Service, PLMN to PLMN Terminating Access Service and PSTN Transit Service, were lower than those which were previously approved by the Commission in RIO Mobile v. 1. Additionally these charges and the revised 8.5 were those approved

interconnection agreements. **Therefore the Commission approves the charges applicable to the referenced services.**

Access Deficit Charge

32. The Commission considered that the ADC charge should be separate and distinct from the interconnection charge and, if prescribed, should be applied outside any interconnection agreement. **The Commission's request to remove the references to ADC has been satisfied.**

33. In arriving at its decision, the Commission took into consideration:

- (i) the provisions of the legislation;
- (ii) the Fair Trading Commission's decisions on Interconnection Guidelines - Accounting, Costing and Pricing Principles, the Dispute Resolution Procedures, and the Commission's decision with respect to the Reference Interconnection Offer Phase 1 "RIO Mobile"; and
- (iii) all submissions and related correspondence presented by all parties.

34. The Commission is satisfied that:

- (i) C&W has included a footnote which states that alternatives to the optical fibre may be considered on the condition that they do not compromise the integrity of the network and that the alternative is supportable by C&W from technical and staff perspective;
- (ii) C&W has submitted an independent confidential report from Nortel which states that its Nortel DMS Switch is designed to exclusively support T1 level interconnection; and

- (iii) The relevant paragraph referencing the ADC has been removed.

The Determination

35. The Commission having been satisfied that Cable & Wireless has resolved the inconsistencies specified above, hereby approves the following sections which were not approved in the decision of July 1, 2004.

Legal Framework Section – paragraph 7.5 and paragraph 8.4 **Approved**

Service Description Section – Optical In span Joining
Services paragraphs 1.1.2 and 1.1.5 **Approved**

Service Description Section – Termination Services
paragraph 1.1.4 **Approved**

Service Description Section – Part 2 PLMN to PLMN
Terminating Access Service **Approved**

Parameter Schedule Section - PLMN to PLMN
Terminating Access Service **Approved**

Service Schedule Section- PLMN to PLMN
Terminating Access Service **Approved**

Joint Working Manual - Paragraph 1.2.1.1,
1.2.2.1, 1.2.2.4 and 1.2.3.1 **Approved**

Tariff Schedule Part 5 Other Services - **Approved**

Domestic Fixed to Mobile Service

Tariff Schedule, PSTN Termination Access Service,
PLMN to PLMN Terminating Access Service
And PSTN Transit Service

Approved

**The Commission hereby approves all the sections of the RIO - Domestic Fixed
Wireless v. 4.0.**

Dated this day of June 2005.

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Neville V. Nicholls
Chairman

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Vivian-Anne Gittens
Deputy Chairman

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Floyd Phillips
Commissioner