



Fair Trading Commission

DECISION

Reference Interconnection Offer – International

No. FTC/UR/2005 - 05

Date: June 22, 2005

FAIR TRADING COMMISSION

REFERENCE INTERCONNECTION OFFER - INTERNATIONAL

INTRODUCTION

1. The Fair Trading Commission “Commission” established by the Fair Trading Commission Act, CAP. 326B, is the independent regulator of international and domestic telecommunications services and electricity services.

2. In carrying out its duties as an independent regulator, the Commission must operate in a transparent, accountable and non-discriminatory manner. Consultative documents and public consultation are the main ways in which the Commission discharges its responsibilities relating to transparency and accountability.

3. In addition, the Commission is specifically charged under the Fair Trading Commission Act, CAP. 326B to consult with interested persons when it is discharging certain functions. Section 4 (4) of the Fair Trading Commission Act states:

“The Commission shall, in performing its functions under sub-section (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.”

The Legal Framework

4. The telecommunications sector is regulated by the Commission as well as the Minister responsible for telecommunications.

5. The Telecommunications Act, CAP. 282B “Act” provides for the liberalization 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 February 21, 2005 and signalled the liberalization of international telecommunications services.

6. Section 26 (1) of the Act states that the dominant carrier is required to file a Reference Interconnection Offer “RIO” with the Commission, which sets out the terms and conditions for interconnection. These terms and conditions are set out in Section 26 (2) of the Act. 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.

7. 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.

8. Pursuant to Section 27 (3) of the Act, in deciding whether or not to approve the RIO - International, the Commission as required:

(a) consulted with the carrier providing the RIO - International and any other carriers likely to seek interconnection to that carrier's network; and

(b) had regard to:

- the interconnection principles set out in Section 25;
- the interconnection policy specified by the Minister;
- the need to promote competition;
- the long term interest of end-users; and
- the submissions, whether oral or written, of the carriers providing and seeking interconnection.

9. In arriving at its decision of whether or not to approve the RIO - International, the Commission also took into consideration the Fair Trading Commission's Interconnection Guidelines - Accounting, Costing and Pricing Principles Document No. FTC 03/03 and the Dispute Resolution Procedures Document No. 03/04 issued on July 01, 2003 as well as, those principles embodied in Section 25 of the Act.

The Approval Process

10. On June 10, 2004, the Commission requested that Cable & Wireless file a RIO – International containing the terms and conditions for competing international carriers to interconnect to the Cable & Wireless telecommunications network.

11. On July 30, 2004, Cable & Wireless filed the RIO – International v. 1. The Commission requested Cable & Wireless to amend this document. An amended version, RIO – International v. 2, was submitted to the Commission on November 15, 2004.

12. The Commission invited interested parties to provide written submissions to the document. Responses were received from Digicel, TeleBarbados and Reliant. On April 6, 2005 the Commission facilitated an oral consultation with all interested parties. Submissions were made by the parties and the dominant carrier.

13. An amended RIO – International v. 3, was submitted on May 9, 2005.

Issues of Concern

14. Issues of concern raised during the written and oral consultation processes pertained to:

- Tariffs for International Incoming Call Termination to PSTN;
- Tariffs for International Incoming Call Termination to PLMN;
- Explanation of the International Conveyance Assumption;
- Service Description and Tariffs for International Outgoing Calls;
- Use of Alternative Technologies;

- Carrier Pre-Selection – Indirect Access;
- Service Description and Tariffs for PSTN Transit Service;
- Removal of Access Deficit Charge;
- Cost Orientation of Tariffs; and
- Clarification of (a) routing restrictions and (b) definitions of Service Taker and Service Supplier.

15. The following represents an overview of the issues of concern in the RIO – International v. 2 and the conclusions drawn based on the analysis of the RIO – International v. 3.

Tariffs for International Incoming Call Termination to PSTN

16. RIO International v. 2 did not specify tariffs for the international call termination to PSTN service; however this was corrected in the RIO International v. 3. These tariffs are the same as those approved by the Commission in Cable & Wireless' RIO Domestic Fixed Wireless v.4 and Cable & Wireless' Interconnection Agreement with mobile carriers.

The Commission hereby approves this rate.

Tariffs for International Incoming Call Termination to PLMN

17. Cable & Wireless claimed that tariffs for this service were not included in RIO International v. 2 due to difficulty in specifying this rate. Those difficulties were subsequently resolved and rates were submitted in the RIO International v.

3. The Commission accepts the justification for the rates.

Explanation of the International Conveyance Assumption

18. Cable & Wireless has advised that this facility has been introduced in this RIO as a mechanism by which the parties to an interconnection agreement ensure that the amount paid to another party for terminating a call is not higher than the international settlement rate received in respect of that call. It is only intended to be applicable where the sum of costs to carry the call and mobile termination charge is greater than the international settlement received. Under such circumstances the termination charge will be adjusted to ensure that the party conveying the call to the terminating party recovers at least the international conveyance assumption. **The Commission accepts the explanation provided by Cable & Wireless and the inclusion of the International Conveyance Assumption.**

Service Description and Tariffs for International Outgoing Calls

19. The new market players questioned the omission of international outgoing services as an interconnection service. Outgoing international service has previously been provided to the new mobile carriers on a wholesale basis, therefore, there is no justification for a change in the treatment of this service in Phase 3 of the liberalization process. **The Commission does not consider that outgoing international service should be included as an interconnection service in the RIO – International.**

Use of Alternative Technologies

20. Concerns were raised that RIO International v.2 appeared to restrict the type of joining service and capacity of equipment to be used. Cable & Wireless has now included in RIO International v.3 the Service Description Part 1 – Joining Services (page 3 of 20), contains the following statement:

“C&W will consider an alternative 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 for the C&W network, or the interconnection, and (ii) is supportable by C&W from a technical and staff perspective”.

21. The inclusion of the above referenced clause and C&W’s assurance that new carriers will be able to negotiate capacity requirements should facilitate greater flexibility in the negotiation processes.

22. In the event that disputes arise the Commission will address them on an individual basis through the dispute resolution procedure. **The Commission hereby approves this section.**

Carrier Pre-Selection – Indirect Access

23. It was suggested by the other parties that Cable & Wireless should provide outgoing international service through “prefix 1010 dial around” or “carrier pre-selection” to facilities based operators. Cable & Wireless contends that such a provision would amount to indirect access. The definition of “indirect access” as outlined in the Telecommunications (Numbering) Regulations 2003 S.I. 2003 No. 96 specifically states that it is a facility that operates *“without the use of an access code or alternative dialling arrangement”*.

24. **In view of the complexity of this issue, the Commission considers that it should not be required that this service be included in the RIO – International. The Commission however reserves the right to consult on this matter at a future date.**

Service Description and Tariffs for PSTN Transit Service

25. RIO International v. 2 did not include provisions for the PSTN Transit Service. Cable & Wireless has subsequently indicated that such a service should be included as the service is required for international carriers where calls have to transit the fixed network of a service provider before terminating on the end user's mobile network.

26. Accordingly, RIO International v. 3 now includes a service description and tariff schedule for PSTN Transit Service. The service description and tariff schedule for this service are the same as that which was submitted in the RIO Mobile v.4 and the Interconnection Agreements. **The Commission agrees with the inclusion of PSTN Transit Service and associated charges.**

Removal of Access Deficit Charge

27. Cable & Wireless has stated that the inclusion of an ADC in RIO International v. 2 was inadvertent. Cable & Wireless has, in RIO International v. 3, removed the ADC in the tariff schedule and the associated footnotes as required. **The above revision has satisfied the Commission's specifications.**

Cost Orientation of Tariffs

28. Some interested parties questioned whether the charges in the RIO were cost oriented. The Telecommunications Act, CAP. 282B specifies that interconnection services *"be offered at charges that are cost-oriented."*

29. With respect to Incoming International Call Termination to PSTN Service, Cable & Wireless contends that these rates are cost oriented and are the same as those for domestic PSTN Terminating Access Service which was submitted in the RIO Mobile v. 4 and in the Interconnection Agreement which were both accepted by the Commission.

30. With respect to the Incoming International Call Termination PLMN Services, Cable & Wireless contends that the rate is cost oriented and that the rate was agreed through commercial negotiations between itself and the other mobile carriers. **The Commission is satisfied that, in general, the prices are cost oriented but will seek additional information on settlement rates where necessary.**

Clarification of Routing Restrictions

31. The Commission considered that clause 1.2.2 in RIO International v. 2 required clarification as its intent was not clear with respect to the obligations to route traffic.

32. Cable & Wireless has modified the language of the clause as follows: *“For the avoidance of doubt this does not preclude calls being conveyed through another correspondent relationship which may specifically allow the conveyance of calls from that Third Party International Telecoms Provider”*.

33. The Commission considers that this modification is acceptable.

Clarification of the Definitions of Service Taker and Service Supplier

34. The Commission asked Cable & Wireless to ensure that there was consistency with the use of these terms.

The Determination

35. While some further information is required on cost orientation of the International Incoming Call Termination rates to PLMN, it is considered that the RIO International v.3 has satisfied the principles of the Telecommunications Act.

The Commission hereby approves the RIO - International v. 3.

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