



# **FAIR TRADING COMMISSION**

## **DECISION**

**In the Merger of**

**Digicel (Barbados) Limited and  
Cellular Communications (Barbados) SRL**

## FAIR TRADING COMMISSION

The Fair Trading Commission (hereinafter referred to as the “Commission”) pursuant to Section (20) of the Fair Competition Act CAP 326C gave consideration to the formal merger application filed on October 25<sup>th</sup> 2005, by Digicel (Barbados) Limited (hereinafter referred to as “Digicel”) and Cellular Communications (Barbados) SRL (hereinafter referred to as “Cingular Wireless”) (collectively the “Applicants”) for the Commission’s consent to Digicel acquiring all the shares of Barbados Wireless Holdings Limited, an intermediary holding company that owns a majority interest in Cingular Wireless which provides telecommunications services in Barbados.

The Commission having conducted an investigation into the proposed merger in accordance with Section 20 (7) of the Fair Competition Act, has satisfied itself that the merger will not affect competition adversely or be detrimental to consumers or the economy, provided that and insofar as the benefits that the Applicants claimed will result from the merger are delivered.

The Commission therefore grants its consent to the application subject to the following:

1. As soon as is practicable and in accordance with any directives given by the Ministry of Energy and Public Utilities, the Applicants relinquish such spectrum allocation, as is required by the said Ministry.
2. Digicel undertakes to maintain the same level of service quality as is currently received by the customers of Cingular Wireless, such that in the event that any post-paid Cingular Wireless customer during the initial

term of their existing post-paid contract, receives a materially inferior or reduced quality of service, compared to that provided prior to the acquisition of Cingular Wireless, Digicel will waive any penalty, any claim of liquidated damages and any early termination fees payable by the affected post-paid contract customer. In the event that a dispute arises between the customer and Digicel, the Commission reserves the right to intervene and make a decision on the dispute, pursuant to the Fair Trading Commission Act, CAP 326B or any other legislation which the Commission enforces.

3. Within seven (7) business days of completion of the acquisition, Digicel undertakes to notify in writing all current Cingular Wireless' post-paid contract customers of the new ownership of Cingular Wireless indicating the undertaking given with regard to service quality.
4. Digicel undertakes to implement its proposed reduction in local call rates for charges to make a call between the Digicel and Cingular networks as set out confidentially in Annex A within six (6) weeks of the completion of direct inter-connection of the Digicel and Cingular Networks. The said local call rates will not be increased for a period of [REDACTED] from the date of reduction.
5. Digicel undertakes to maintain for its Barbados subscribers:
  - (i) its regional DigiRoaming rates for countries in which Digicel currently has network operations; and
  - (ii) its international roaming rate within the USA on the Cingular network

at rates not higher than the existing levels for a period of at least [REDACTED]. The rates and countries referred to herein are set out confidentially in Annex B.

6. Digicel undertakes to submit to the Commission documentation demonstrating its compliance with the above conditions on a half-yearly basis.
7. Where in the opinion of the Commission, Digicel has demonstrated that compliance with the foregoing:
  - (i) is prevented by the laws of any jurisdiction;
  - (ii) is technically impossible having regard to the existing state of Digicel's network; or
  - (iii) a material change in circumstance that was not within the knowledge of Digicel at the time of the application for the merger.

The Commission may permit Digicel to deviate from the above.

Dated this 19<sup>th</sup> day of December 2005

*Original signed by*

---

Neville V. Nicholls  
Chairman