Consolidated Reference Interconnection Offer (RIO) 2009.
Oral presentation to the Fair Trading Commission (FTC) panel of commissioners

June 19th, 2009.

Good Morning. Sir Neville Nicholls, Chairman of the Fair Trading Commission, other commissioners, staff of the FTC, parties to this hearing, members of the media, fellow consumers.

CARITEL asks that the three submissions, two written and one oral today, be treated as one complete submission on this matter. We would also like to take this opportunity to make a plea for more time for research, mindful that unlike Cable & Wireless which has a dedicated regulatory unit and international resources to call on new entrants and small entities such as ourselves do not have these advantages.

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RATES

CARITEL contends that the current rates under the RIO are outdated, highly inflated, provides Cable & Wireless (Barbados) Ltd with an inordinately unfair market advantage, are anti-competitive, put new entrants at a financial disadvantage, prevent consumers from reaping the benefits of competition and undermine the best efforts of Government and the business sector to aid the development of a more competitive economy.

We have cited updated, published academic research, international experts and institutions such as the International Telecommunications Union (ITU) and submitted data on international termination rates to support a case for a significant reduction in termination rates in a new consolidated Reference Interconnect Offer.

To avoid reciting much of the case provided in the written submissions we are therefore asking that the three submissions be consolidated into one presentation and accepted as such.

CARITEL reiterates that a proper allocation of costs and revenues would most likely show that the Fixed Line telephone network operates at a profit and is not subsidised. Declining equipment costs as noted by TeleBarbados, more than a decade of digital communications, written off network costs such as cable on the pole, the use of cost-reducing Voice Over The Internet (VOIP) technology, new services such as data (ADSL), an expanded mobile telephony market, interconnection, cost efficiencies such as staff lay-offs at a time when the company is making more profits than ever, outsourcing and much more contribute to a rosy bottom line.

Other Matters

At Section 5 (15) Cable & Wireless (Barbados) states in its written submission : "Caritel alleges that Cable & Wireless' customers have not benefitted from lower long distance rates in the face of lower 'incoming termination rates' to carriers overseas."

We are not saying we are unaware of lower rates under the Price Cap. The Commission is aware that CARITEL argued for lower rates in the three submissions provided and oral presentation to the consultants during the last Price Cap review session.
Yes we are also aware of some reductions from the entry of Blue Communications in the calling card business where not everyone is allowed to compete. We are also aware of statements by TeleBarbados Inc. of lower rates in those areas it has been allowed to compete in.
What we are saying is that this is just the tip of what true competition, in part driven by realistic termination rates, realistic competition and new services made available by setting rates for policies that have long been approved, should be.

Two Stage Dialing and Indirect Policies

1. These policies are intended to enhance competition and provide benefits to all consumers - domestic, business and Government. Successive governments have expressly stated their support for competition and opposition to monopolies which manipulate markets.
2. The Fair Trading Commission has a mandate in law to encourage competition and protect consumers from anti-competitive practices. To support government policies and their objectives the FTC's responsibility to set rates under the Utilities Regulation Act is a natural undertaking. It is the next step to getting these policies that have been in abeyance for two and a half years up and running.

3. There has been no indication from government that it intends to rescind the Two Stage and Indirect Access policies which have been implemented by so-called developing and developed countries.

4. The fact that an objection has been made by the Fixed Line monopoly is no justification to forego any determination of rates for an approved policy. In fact, such a determination could provide support or an impetus for policy implementation.

5. It is contradictory to argue that rates should not be set that are based on cost and are fair and in the same breath argue that wholesale service is being offered. It is the absence of reasonable rates and the ability of a dominant service provider to impose unjustifiable costs on new entrants and consequently high rates for all consumers that is a prominent issue in all submissions raised in this matter.

6. The claim or suggestion by Cable & Wireless (Ltd) that market forces are in place and functioning as they should is inaccurate and erroneous. In the absence of regulated, cost-based prices under the RIO as obtains today Cable & Wireless (Barbados) Ltd is able to manipulate the market from a position of dominance since it has an unchallenged monopoly in Fixed Line telephone service. This was underscored in our earlier submissions and the submissions of other parties to this consultation provide compelling empirical evidence that this is the case.

7. There is no prejudice to any complaint about an aspect of a policy if the Fair Trading Commission determines rates for Two Stage Dialing and Indirect Access. The matter is not sub judice nor should it be considered as such since a court is not involved.

In sum Cable & Wireless (Barbados) Ltd is suggesting that the Fair Trading Commission renege on its legal responsibility to determine rates and (is) proposing that it should be unjustifiably derelict in its responsibility to support Government's policy and keep both consumers and the economy shackled by this company's ability to effectively use its monopoly power in the Fixed Line telephone sector.

Access Deficit Charge

CARITEL is asking the Fair Trading Commission to reject the proposal by Cable & Wireless (Barbados) to include an Access Deficit Charge in the matter to hand. We agree with the argument by Digicel that there is no need for one.

Our objections are based on the following points :

1. Barbados does not have a policy on Access Deficit Charges. We therefore consider it inappropriate for the Fair Trading Commission to provide rates for a policy which the Government and Cabinet of Barbados may not wish to implement.

2. The Fair Trading Commission has no responsibility to design and implement policy. This is the responsibility of the Minster responsible for Telecommunications who would instruct his/her Permanent Secretary to have a policy drafted, possibly with the assistance of a committee. This draft is open for public comment and the proposed draft is then considered and eventually approved by Cabinet. CARITEL is unaware that such a process has begun. Once a policy is approved for which the Fair Trading Commission has responsibility for setting rates then the Commission would launch a consultation into the matter.

3. A policy which would result in a determination of an Access Deficit Charge is one of a suit of options which governments and those regulators mandated to do so may consider to allow for Universal Service funding. The Access Deficit Charge has increasingly become one of the most unpopular options. Other options as cited by the ICT Regulation Toolkit (www.ictregulationtoolkit.org) are : (a) Cross-subsidies between international and national services (b) A Universal Service Obligation mark-up to interconnection charges and (c) Receipts from a fund. Some governments are also looking at other alternatives.

4. As noted in the ICT Regulation Toolkit Access Deficit Charges are at the lower rung of options used and several countries are in fact phasing them out. In discussing Access Deficit Charges at Section 3.1.4, it is noted: "ADCs are generally regarded as a poor idea because of the wrong incentives that they create. They are being phased out in most countries where they were previously adopted." Our research concurs with that of Digicel Barbados which in its submission noted that Britain has abandoned Access Deficit Charges. The ICT Regulation Toolkit also notes that India is another example of a country where ADCs are being phased out.

5. The ICT Regulation Toolkit notes that, “The term access deficit is defined as the loss made by a telephone company on providing access lines if this is regarded as a stand-alone business. It is the difference between the fully-allocated costs of providing access lines and the revenue attributed to providing access lines. Typically, this is calculated as regular line rentals plus installation charges.”

We suggest that :
(a) Ahead of identifying a tool or finance mechanism to fund universal service or a Universal Service Obligation it is necessary to determine a definition for Universal Service and also determine whether Universal Service is needed. Traditionally, Universal Service has been determined as access to basic telephone service or access to a working telephone. We are unaware that a new definition has been approved by the Government of Barbados. Universal Service may be determined as a country considers its state of development.
The Telecommunications Unit of Barbados notes the following statistics at its website www.telecoms.gov.bb under the section “ICT Statistics for Barbados” :
Total fixed lines (residential and business) of 134, 261 and total Cell Phones of 257, 596 (pre-paid and post-paid). The above data relates to April 27th, 2007. It is very likely that these numbers may have increased during the past two years.
It is argued, consequently, that Barbados’ Universal Service is already being met, based on a traditional definition of Universal Service.

6. The submission by Cable & Wireless (Barbados) on the need for an Access Deficit Charge and the submission in general is devoid of data and data-based or empirical analysis. The submission overall provides notions, claims and anecdotal comment rather than evidence. We believe it is for Cable & Wireless (Barbados) to provide evidence to support its case. The Fair Trading Commission has in the past questioned the veracity of Cable & Wireless’ Cost Allocation Models.

7. In the context of new services utilizing the Public Switched Telephone Network and the copper pairs which entire the offices and residential homes of Barbados it is very likely that basic telephone service is providing net revenue to Cable & Wireless (Barbados), hence there is no justification for the unsubstantiated claim that cost rebalancing is a necessity.

8. Access Deficit Charges, as suggested by the submission of Digicel (Barbados) can be flawed. The design of such charges require considerable, complex data from the incumbent carrier which is often difficult to verify. Consequently, Access Deficit Charges can prove to be uncompetitive because they may place an undue and unjustified burden on new entrants. In such a scenario new entrants are hamstrung to pass on the benefits of competition to consumers. We note here the mandate of the Fair Trading Commission to protect consumers from anti-competitive practices.

M2M termination rates

1. Mobile to Mobile and termination rates in general, local and international, are perceived by consumers to be grossly inflated and a factor explaining the existence of high retail mobile rates. A carrier that is prevented from obtaining reasonable rates from a monopoly operator presumably has to pass on some of these costs to its customers. CARITEL supports the submissions made by Digicel on the matter of M2M and the request for a comprehensive hearing on this matter. We are heartened that data and arguments presented by Digicel, TeleBarbados Inc. and Blue Communications converge with our research, data and conclusions.

The continuing case of market abuse by Cable & Wireless (Barbados) Ltd with regard to excessively high termination rates contribute in no small way to the high retail rates which consumers, Government and business are required to pay.

2. Caribbean governments are implementing e-Government services and their bureaucrats, led by CARICAD (Caribbean Centre for Development Administration) are formulating a regional policy. Mobile telephone communications provided at reasonable cost to the consumer, Government and business are essential to e-Government services being taken up at a nationwide scale. This is just one implication of having termination rates that are cost-based which would allow service providers such as Digicel to pass on the benefits of competition to the citizens of Barbados.

Implications for national competitiveness

In March this year the Eastern Caribbean Telecommunications Authority (ECTEL) announced a series of reductions and caps on termination rates designed to enhance competition and bring greater benefits to consumers (a pdf file from the Eastern Caribbean Telecommunications Authority was submitted in the second written submission).

As a result of the actions of the regulator, ECTEL, wholesale mobile termination rates will, for example, be reduced by up to 40 per cent in the first year and 60 per cent over the next three years.

We mention this development as one example of Caribbean governments moving to make their economies more attractive to investors through lower costs and a responsive regulator. Barbados has to compete with its neighbours in the region and international countries to attract foreign business, for example call centres, where telecommunication costs are one major consideration. We are seeing from our 17 years of following this industry that new investors such as cable providers of Triple Play are allowing our neighbours to position themselves to offer business and the ordinary consumer upstream and downstream bandwidth options that could be far faster and more affordable than what Barbadian consumers currently have.

Our hotel sector is also held back by the problem of a monopoly which opposes policy changes and is able to manipulate the market while claiming that we are seeing the benefits of competition and liberalisation.

The hotel sector needs to be able to offer visitors the quality and types of services which tourists are accustomed to elsewhere. If we don’t do it our neighbours will certainly seize the opportunity and do it to our disadvantage.

Consequently, the consolidated RIO could not only be a boon for all consumers, but it will have positive or negative implications for the future of the Barbadian economy depending on the extent of the changes made by the Commission to transform the existing arrangements.

Thank you Mr. Chairman for your patience and time to hear this submission and for consideration of our complete presentation.

Hallam Hope
CARITEL

Emailed June 18, 2009