



**FLOW's Response to**

**The Office of Utilities Regulation Consultation Document**

**on**

**Cost Model for the Assessment of Fixed Infrastructure**

**Sharing Rates - Draft Model (Document No:**

**2021/TEL/001/CON.001)**

**22 March 2021**

## I. INTRODUCTION

1. This response is submitted on behalf of Cable & Wireless Jamaica Limited and Columbus Communications Jamaica Limited (jointly hereinafter referred to as “**Flow**”). Flow welcomes the opportunity to respond to the Consultation Document of the Office of Utilities Regulation (“**OUR**”), *Cost Model for the Assessment of Fixed Infrastructure Sharing Rates—Draft Model*, dated 18 January 2021.
2. In our response to the previous consultation—Update of the Fixed Cost Model and Assessment of Fixed Infrastructure Sharing Costs – Principles and Methodology—we highlighted our concern with the approach the OUR was adopting with respect to fixed infrastructure sharing costs. Our primary concern was that the proposed Infrastructure Sharing Rules (the “draft Rules”) anticipate an ex-post approach to costing only if and when there is a dispute concerning pricing among parties negotiating an infrastructure sharing arrangement.
3. Our argument in the previous consultation was based on *procedural* terms, i.e., the draft Rules envisaged an ex-post approach, which runs contrary to the OURs setting reference prices through a cost modelling exercise ex ante. The current consultation and the model developed therewith underscore the *practical* problem with the OURs approach. The OUR has developed a model that is overly simplistic and useless to address the realities of pricing infrastructure sharing arrangements, which typically involve numerous bespoke elements. It does not represent “a reliable means by which to determine and validate fixed infrastructure sharing charges” nor does it estimate “...in a robust way, the costs of sharing infrastructure elements based

on the operational reality of the operators in Jamaica” as the OUR intended.<sup>1</sup> We illustrate this problem in responding to the OUR’s specific consultation questions below.

4. Thus, the OUR is best served to confirm costing *principles* in its consultative process on infrastructure structure sharing and leave the *actual costing exercise* to when specific instances of its need arises.
5. The other concern Flow has with this consultative process is that the OUR, in contradiction to best practice, allowed stakeholders, who made no comments in the initial round, to make comments in the reply round. Furthermore, the OUR allowed reply round comments that were not in “reply” to comments made in the initial round. Thus, the OUR allowed positions to be newly introduced and argued without other stakeholders being able to reply to them. Indeed, in this instance, in its Determination the OUR adopted a substantive position that the other stakeholders had been unable to reply to.
6. In particular, in its “Assessment of Fixed Infrastructure Sharing Costs – Principles and Methodology – Determination Notice” (Document No. 2020/TEL/021/DET.005), the OUR has adopted the removal of fully depreciated assets from the cost base -- a facet of methodology that was not discussed in the initial comment round and newly introduced by Digicel, who did participate in the initial comment round.
7. A third concern we have is that Flow supplied a list of questions to the OUR regarding the model--required clarifications to key attributes and features of the model. The OUR has yet to respond to those questions—a circumstance

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<sup>1</sup> Paragraph 3.11 in the Assessment of Fixed Infrastructure Sharing Costs – Principles and Methodology Determination Notice (2020/TEL/021/DET.005), hereafter referred to as the “Assessment Determination”.

that influences how we can respond to the questions posed in this consultation. We have included these questions in this response.

8. Finally, we raise a number of additional questions regarding the modelling and assumptions that went into this effort. The OUR should have anticipated these questions and discussed the relevant issues in depth in the consultation document or descriptive manual. Alternatively, the OUR should now fully respond to these questions and allow stakeholders to review and comment on those responses.

Please direct any questions you may have to Charles Douglas at [charles.douglas@cw.com](mailto:charles.douglas@cw.com).

## **II. FLOW'S RESPONSE TO OUR QUESTION 1: "DO YOU AGREE WITH THE PARAMETERS INCLUDED WORKSHEET '2A INP NW' OF THE FIXED INFRASTRUCTURE SHARING COST MODEL?"**

9. The Infrastructure sharing parameters, as the OUR describes them, are "inputs... to characterize the network of the modelled operator...". The modelled operator, is presumably the "reference operator" defined in the Assessment Determination, which is "the combination of C&WJ and Columbus". As such, we certainly cannot agree: these parameters do not "characterize" the network of either one of these entities. Both networks have ducts in areas that are located within a city or a town and ducts that are located outside, but whether the average duct per trench of either of these is "4" is unclear without the benefit of a national survey of both infrastructures. Similarly, without knowing what the average duct size is we cannot say what its capacity is for subducting. Further, we are unable to confirm how many cables and the number of strands that fit into the subducts on average.
10. We can comment on those parameters that are related to more generic, stable network design criteria. These are:

- Average distance between manholes, in the model currently is much too long. It is on the order of 150m for an urban setting and 200m for an interurban setting.
  - Average distances between poles look reasonable.
  - # of cables per wood and concrete pole generally look reasonable but should in no case exceed “2”.
11. There are specific assumptions for these infrastructure parameters that appear to be particularly problematic. These include:
- Do we assume that since “100% of fibre cable” are aerial, no fibre cables are buried? How would this be reasonable?
  - Changes in number of cables per subduct do not appear to influence the results of the model.
12. Also, what are the “International benchmarks” that have been used as sources?
13. As to parameters that are related to depreciated infrastructure elements, we understand that this percentage removes assets from the cost base for infrastructure sharing. Without prejudice to our views on the general appropriateness of this assumption, which the OUR did not give us an opportunity to comment on in the methodology consultation (see our comments in the Introduction), it is not clear how this percentage is related to the useful lives assumption or the opex assumed. What is “fully depreciated” in this context? Is there no useful value left to the asset, or is there no book value left to the asset? By excluding the asset from the cost base it appears that all opex associated with the asset is also excluded as is the attributed G&A overhead. It is our view that procedural fairness requires that the OUR to disclose its basis for this approach and allow all stakeholders challenge its merits, especially given the profound implications of its approach.

14. With respect to staff-related parameters, what are “total personnel costs that are due to the salary”, which the OUR reports in percentage terms in F63 of sheet 2A INP NW? Are those additional personnel costs those in excess of the actual wages that are incurred in the employment of engineers and administrative personnel? Apparently, the OUR is seeking a fully-loaded cost of involving staff in various ancillary activities specified in 5C Calc Oth Serv, but where are non-personnel and non-material costs included in the model or are they part of this mark-up? The OUR has a responsibility to clarify and allow for a rebuttal of its approach.
15. Finally, with respect to cable landing station parameters, a single parameter is included in model—one related to space available for collocation. We understand that this percentage is intended to form the basis of costs related to power, cooling, security, access, etc. But not all of the appropriate costs are space related. Moreover, the non-space related costs are numerous and usually specific to customer requirements and the cable landing station itself.
16. Furthermore, some of these costs are as actually not yet known because the activity of infrastructure sharing changes the nature of the facility. For example, some of these stations were built to be largely unmanned. Thus, additional cost would be required to make them accessible in a controlled manner. These can be very significant in the case of cable landing stations, which are Critical National Infrastructure.
17. Furthermore, even the percentage of total space available for collocation will differ depending on 1) what station is being considered, 2) what use the customer has for the space in question, 3) how many potential customers may be involved, 4) what are the controlled access requirements and 5) the other uses currently unoccupied space may be dedicated for, e.g., further capacity expansion, new SLTE vendors and power feed equipment replacement.

18. It is unclear what the basis for the 20% figure is and whether it takes any of these factors into consideration. The OUR should clarify.

19. In addition to highlighting the oversimplistic nature of this parameter sheet and the fact that the information therein raises more questions than it answers, our comments should indicate that there are a multiplicity of factors that are specific to the arrangements that will be under negotiation for infrastructure sharing. The likelihood that the assumptions and inputs currently in the model will be relevant is extremely low. In fact, these assumptions are more likely to create misplaced expectations on the part of infrastructure seekers and needless conflicts.

**III. FLOW'S RESPONSE TO OUR QUESTION 2: "DO YOU AGREE WITH THE RELATIONSHIPS AND USAGE FACTORS DEFINED BETWEEN THE DIFFERENT RESOURCES AND THE SERVICES INCLUDED IN THE FIXED INFRASTRUCTURE SHARING COST MODEL?"**

20. The "relationships" and "usage factors" are set out in the 3A Map Usage Factors. Given the uniformity of values assumed, there are only ten of discrete factors:

- i. "1" when the entire "service" is leased by the access seeker
- ii. % of used ducts
- iii. % of ducts per trench
- iv. Distance between manholes
- v. # of subducts per duct
- vi. % concrete vs. wood poles
- vii. % of cables on a wood pole

- viii. % of cables on a concrete pole
  - ix. % of strands in a cable
  - x. % of strands that are lit
21. Based on the assumptions made in 2A INP NW there is very little difference between urban and inter-urban parameters, and where there is a difference it is not explained and appears arbitrary.
22. Regarding the usage factors, we agree that what is described in the manual description is what is reflected in the formulas. However, this is of no consequence since the formulas are simply just multiplications of ratios that are defined in the 2A INP NW, and these ratios are problematic as discussed in our response to Question 1. The usage factors in the model are highly likely to be completely irrelevant to any actual infrastructure sharing arrangement.

**IV. FLOW'S RESPONSE TO OUR QUESTION 3: "DO YOU AGREE WITH THE UNIT COSTS AND USEFUL LIVES CONSIDERED IN THE FIXED INFRASTRUCTURE SHARING COST MODEL?"**

23. Flow does not agree with the unit costs because most of the unit capex costs are for items that are too aggregated to comment on. There is no price for a "duct", a "trench", a "manhole". Questions such as: What kind of bore of duct? What type of trenching, (e.g., verge, footway, carriage)? What size of manhole? Among others need to be addressed. Hence our request that the OUR for clarify its basis for these averages. It is reasonable to expect that the OUR will now provide the answers.
24. We similarly asked for the "international benchmarks" and "external studies" cited by the OUR as sources for their figures so that we could at least judge their appropriateness. And we are yet to receive this information.



25. A similar comment can be made in respect of OpEx. What is this OpEx ratio to CapEx meant to represent? The Descriptive Manual only refers vaguely to “operation and maintenance”. Does it cover costs associated with theft and vandalism? Does it cover cases of relocation?
26. With respect to useful asset lives, we note that OUR has not defined what exactly it is referring to. Is it the actual useful life of the asset? If so, as the name implies, then how can this be consistent with an assumption of writing off of 20% of assets?
27. Finally, how does the model treat the import content of any of this passive infrastructure?
28. Again, there are more questions than answers.

**V. FLOW’S RESPONSE TO OUR QUESTION 4: “DO YOU AGREE WITH THE INPUTS INCLUDED IN THE FIXED INFRASTRUCTURE SHARING COST MODEL REGARDING THE ANCILLARY SERVICES?”**

29. We note that in its Assessment Determination, the OUR summarized Flow’s response to the OUR proposed set of ancillary service by saying that “Flow... agreed with the implementation and testing service proposed by the model.” To be more accurate, Flow agreed that should a costing exercise be necessary under Section 7 of the draft Rules, it would be reasonable to include the ancillary services that the OUR listed. However, this proposed set of ancillary services is not exhaustive and, indeed, would not be fully representative of the likely ancillary that would be required for infrastructure sharing arrangements. There are surveys, asset clearing, project design and implementation activity, and others that are very typical and very specific to customer requirements.
30. Thus, the ancillary services that are listed are insufficient to capture all the activities that will be common to infrastructure sharing arrangements.

31. Furthermore, it is impossible to estimate, an average time and resource required for these activities, given the bespoke nature of each request.
32. Finally, please see our response to Question 1 in relation to the OUR's proposed costs of personnel and other costs associated with these activities.

**VI. FLOW'S RESPONSE TO OUR QUESTION 5: "DO YOU AGREE THAT THE SERVICES RESULTS OBTAINED IN THE FIXED INFRASTRUCTURE SHARING COST MODEL ARE REASONABLE REFLECTION OF THE INPUTS OUTLINED AND THE METHODOLOGY DETERMINED?"**

33. In light of the foregoing, we do not agree that the service results are reasonable. The inputs are themselves too flawed and the application of the methodology too simplistic to reflect the reality of infrastructure sharing.
34. Moreover, the model does *not* represent "a reliable means by which to determine and validate fixed infrastructure sharing charges" nor does it estimate "...in a robust way, the costs of sharing infrastructure elements based on the operational reality of the operators in Jamaica" as the OUR intended.
35. Ultimately, the model serves as evidence of the impracticality of the OUR is seeking to do. Not only should the OUR respect the *procedure* that the draft Rules envisages, which runs contrary to the OUR's attempt to set reference prices through a cost modelling exercise *ex ante*, but it should also recognize the *practical* problem with attempting to do so.. The OUR has developed a model that is overly simplistic and useless for addressing the realities of pricing infrastructure sharing arrangements.
36. The OUR is best served to rely on the cost principles in its consultative process on infrastructure structure sharing and leave the actual costing exercise to when specific instances of its need arises.

**End of document**