



Digicel's comments

On Flow's submission

to

The Office of Utilities Regulation Consultation Document

on

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

12th April 2021

OFFICIAL STATEMENT

We thank you for providing this opportunity for Digicel to make observations on Flow's submission to the Office's Consultation on Cost Model for the Assessment of Fixed Infrastructure Sharing Rates. Digicel is, of course, available and would be happy to discuss our submission further.

The comments as provided herein are not exhaustive and Digicel's decision not to respond to any particular issue(s) raised in the other respondents' submissions or any particular issue(s) raised by any party relating to the subject matter generally does not necessarily represent agreement, in whole or in part nor does any position taken by Digicel in this document represent a waiver or concession of any sort of Digicel's rights in any way. Digicel expressly reserves all its rights in this matter generally.

Please do not hesitate to refer any questions or remarks that may arise as a result of these comments by Digicel to:

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General

Digicel notes Flow's continued characterisation of the Office's development of this model as an ex ante exercise in the regulation of infrastructure pricing.

While it is clearly an ex ante exercise in identifying costing methodologies and developing a tool to allow an assessment of the merits of pricing disputes should one be raised, the consultation does not purport to set or impose prices for infrastructure sharing.

The fact that a model exists would allow the timely resolution of disputes should they arise.

Many of the issues raised by Flow would be cured by the updating of input values to reflect the actual fact circumstances of any dispute. In this regard Digicel draws a distinction between the ex ante development of the model and its ex post deployment.

Commercial realities mean that the incumbent will point out areas where it believes that the model underestimates cost and access seekers will point out areas where they believe it overcompensates the incumbent.

To the extent that benchmarks or other assumed inputs provided by the Office's experts are used to populate the model this serves to allow an assessment of its correct operation and also provides both Access Providers and Access Seekers some indication of the likely range of pricing which such a model might produce.

OBSERVATIONS ON FLOW'S RESPONSE TO OUR QUESTION 1

Flow makes a distinction between the network of C&WJ and Columbus. Digicel notes that Flow has made a single response to the consultation covering both entities. It is not unreasonable therefore, to treat the Flow network as a single composite network under single decisive control.

Digicel notes Flow's position that the maximum loading on a pole is two cables. This supports a position whereby if pole routes are capacity expired and not available for sharing then access should be granted to dark fibre within the existing cables. This graduated access is akin to granting sub-duct access rather than access to full ducts.

Digicel notes that Flow has identified similar issues to Digicel in the percentage of aerial cable used.

Digicel notes that Flow states that it has no information regarding the capability of its existing networks to support sub-ducts. The logical extension of this is that Flow has no information on which to base the planning of its own network development in terms of new cables or sub-ducts. This is relevant to the issue of ancillary services and whether the commercial benefit of surveys accrues solely to access seekers or is shared or primarily accrues to Flow. This has a bearing on the apportionment of the cost of surveys.

Flow makes a number of observations in relation to the "unmanned" nature of cable landing stations. Shared Infrastructure access to these facilities does not change the essential nature of their operation, they are unmanned unless there is installation or maintenance work being carried out. The installation and maintenance of equipment racks by access seekers is fundamentally the same as the installation and maintenance of its own equipment. The only issue that arises is that there may be a requirement for accompanied access on those occasions when an access seeker requires access to the building. This could be a separate charge based on actual labour costs and should not affect the overall model.

In relation to the methodology of allocating the full cost of the building to the floor space associated with the active equipment rooms this is not an unreasonable approach and in the absence of specific design information from Flow, the use of typical values provided by the Office's consultant provides a useful baseline for the model development and to derive typical costing for the sharing of this type of facility.

Digicel notes the implication of Flow's submission is that pricing would depend in the specifics of the access sought on a case by case basis. The pattern for the pricing of mandated infrastructure access is to determine average network wide pricing for different forms of access. Contrary to Flow's position, Digicel believes that such an approach would create stable and predictable expectations on the part of infrastructure seekers and reduce needless conflicts.

OBSERVATIONS ON FLOW'S RESPONSE TO OUR QUESTION 2

Digicel notes that Flow has questioned the utility of the usage figures without providing any specific comments.

OBSERVATIONS ON FLOW'S RESPONSE TO OUR QUESTION 3:

Digicel notes that Flow has questioned the approach proposed by the Office and has suggested that further granularity is required in the model.

Specifically in relation to the issue of asset lives, this is a standard regulatory concept and Flow will be familiar with it from both Jamaica and other markets in which it operates. Digicel notes that Flow has not put forward any views on the specific treatment of asset lives.

OBSERVATIONS ON FLOW'S RESPONSE TO OUR QUESTION 4

Digicel notes that Flow has outlined that there may be other categories of ancillary services.

Digicel further notes Flow's position that it is impossible to estimate average costs or durations for these activities due to the bespoke nature of requests. Digicel disagrees with this. It should be possible to estimate the average cost of unitised activities, for example, the average cost of surveying 1 km of pole route. The cost of a "bespoke" request for access to 5 km of pole route for example would involve multiplying the unit cost by the quantity requested. While some non-variable charges or minimum quantities may be required to cover mobilisation costs Digicel believes that this can be readily determined.

OBSERVATIONS ON FLOW'S RESPONSE TO OUR QUESTION 5:

Digicel notes that Flow does not agree that the service results are reasonable.

However, Digicel believes that notwithstanding the issues ventilated by Flow, the use of international benchmarks provided by the Office's consultant has resulted in model outputs which are in line with other more detailed modelling exercises. In particular, Digicel notes the recently proposed regulated pricing of pole and duct access in Ireland.¹ These were approximately EUR20 per pole per annum on a nationally averaged basis and between EUR430 and EUR730 per annum for 1KM of sub-duct depending on surface type.

Digicel wishes to restate its view that the purpose of the model is not to directly set pricing but rather to assist the Office in determining pricing disputes that may arise in connection with infrastructure access requests.

To the extent that the access provider might have a cost orientation obligation it should have a basis for justifying any price it might propose. If it has such a justification then Digicel would expect that the dispute determination would focus on that. However, if the access provider could not demonstrate a robust pricing methodology it is not unreasonable that the Office should have at its disposal, a mechanism to form its own view.

¹ ComReg Document 20/81 pricing-of-eircoms-civil-engineering-infrastructure P161, 162
<https://www.comreg.ie/publication/pricing-of-eircoms-civil-engineering-infrastructure-cei-consultation-and-draft-decision>