



CABLE & WIRELESS
JAMAICA

**APPLICATION TO BE CLASSIFIED AS NON-DOMINANT
IN THE
PROVISION OF PUBLIC VOICE TELEPHONY**

January 25, 2007

Application for Review of Jamaican Voice Telephony Market

Section I

Review of Voice Origination Market

The continued regulation of the PSTN voice network is premised on the historical development of regulation in developed countries, which while not reflected in the Jamaican reality is considered tried, tested and true. In the USA, mobile penetration is approximately 65%¹. In European countries the penetration is higher. In all these countries there is virtually 100% fixed line penetration.

At the beginning of liberalization, fixed line penetration in Jamaica was 22%. Fixed line penetration in Jamaica is now at 13%. In contrast the penetration of mobile phones is greater than 80%. With the mobile boom in Jamaica, Jamaicans who previously could not get fixed line service had their need to make and receive calls satisfied. Indeed in its Recommendations on USO² to the Minister of Commerce, Science and Technology with Energy, the Office stated that:

Since the entrance of the first new operator in the mobile market in April 2001, the number of mobile subscribers have increased significantly, from approximately 0.33M to well over 1.5M up to March 2004. Information received by the OUR reveals that over 90% of these subscribers are on a prepaid plan. In addition, these customers enjoy the benefit of staying connected to a mobile network for up to sixty (60) days before being disconnected without making and/or receiving a call. Further, the customer now has almost total control over his bill based on the current options offered

The Act does not place any limitation on the technology to be used in the provision of single line voice telephony service. To date, both fixed and mobile operators are providing this service. A recent study conducted by the OUR revealed that approximately 86% of the households across the Island have at least one single line voice telephone (fixed or mobile) in their homes. Households with both fixed and mobile account for 38%; mobile only represents 55%; and fixed only 7%. These results demonstrate the need for the acceptance of technology neutrality in the provision of single line voice telephony services.

Recommendation 3: *The Office recommends that the provision of single line voice telephony services should be considered from a technology neutral perspective and therefore the fulfillment of the single line voice telephony objective should not be limited to any one technology. Hence, given recent development in the fixed and mobile voice markets since liberalization, the Office recommends that no regulatory intervention is required at this time with respect to single line voice telephony service objective.*

The Telecommunications Act 2000 speaks to provision of single line voice telephony services throughout the Island to persons irrespective of residence or work. The Office interprets this to

¹ www.mobileaccord.com/mobile.universe.htm

² Universal Service/Access Obligation for Telecommunication Services in Jamaica: A Recommendation, Published May 14, 2004
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mean that the provision of single line voice telephony service should be technology neutral, that is, any technology that can be used to provide the service at the least possible cost, based on specified requirements, should be the one of choice. Currently, both fixed and mobile technologies are being used to provide single line voice telephony services.

In none of the developed countries does mobile penetration surpass fixed line penetration, as is the case in Jamaica. In those markets mobile has always been complementary to fixed voice. In the case of Jamaica, the majority of Jamaicans have had no experience of having a fixed line at home. Their only experience of voice telephony is mobile telephony, particularly prepaid. Indeed, C&WJ experienced dramatic churn on its fixed network, particularly in the first three (3) years of competition in the mobile market, as fixed line customers who refused to pay their bills merely switched to using a mobile phone. In the case of Jamaica, for voice origination, both mobile and fixed are substitutable and supports Recommendation 3 that voice origination is being satisfied by both mobile and fixed service.

Nor is the price differential between fixed and mobile service an issue for customers. With prepaid service, customers are able to control their total voice telecoms spend. The phenomenal growth of mobile service in Jamaica indicates that the most important variable to customers is the control of total spend rather than the absolute cost of each call.

It is true that Jamaica is considering implementing additional regulatory mandates that America and Europe used to pry open the market for voice services on the legacy infrastructure of a single firm. In the UK, Carrier PreSelection opened the door for competition in the long distance and international calling markets. By the end of the 1990s, Carrier PreSelection was the main form of competition in Europe. However, all these regulatory approaches predated VoIP and were undertaken in markets with relatively low mobile penetration, at the time, compared to Jamaica.

Moreover, most regulatory agencies are now backing away from much of the traditional incumbent voice regulation. Therefore the approach to the voice market, in Jamaica, cannot be the conventional regulatory paradigms historically applied in developed countries, given the significant differences in the development of the fixed and mobile networks in Jamaica compared to other countries. Consideration must be given to the specific characteristics of Jamaica.

OUR Management and WorkPlan 2006 - 2009

C&WJ notes the following extract from the OUR's Workplan for fiscal 2006 – 2009:

Mobile carriers continued to expand their operations and increase their customer³ base during the year as evidenced in the numbers for calendar year 2005. At the same time the fixed sector continues to decline in total number of fixed line reported at the end of the year. Mobile subscribers are now rapidly approaching

³ OUR Management Plan, Fiscal Years 2006 – 2009, August 2006

the total population figure, a factor which indicates not just a high level of penetration but a substantial incidence of multiple phone ownership.

Table 1 below shows OUR's compilation of data for mobile and fixed lines over the six-year period 2000 – 2005.

Table 3.1
Telephone subscribers by categories 2000 - 2005 (number of lines)

	2000	2001	2002	2003	2004	2005 ^P
Fixed lines	507,107	511,302	434,772	450,000	423,000	319,000
Mobile^R lines	249,842	597,826	1,244,976	1,576,360	2,006,632	2,084,355
Total Lines	756,949	1,109,128	1,679,748	2,026,360	2,429,632	2,403,355

The table below shows a listing of licences issued in the various categories during the course of calendar year 2005 and the total numbers of such licences that have been issued to December 2005.

Table 3.3
Number of Telecoms Licences Granted

Licences	2000	2001	2002	2003	2004	2005	Total Issued
ISP		45	12	3	14	2	77
ISP STVO)		7					7
IVSP		31	10	6	5	1	53
DC		11	8	8	7	2	36
DVSP		17	8	13	6	2	46
DSP		22	2	5	1	2	32
FTZC	1	6	2	1			10
FTZSP	1	6	1				8
IC				48	20	5	73
INTL.SP				41	21	7	68
Total Issued	2	145	43	125	74		410

Determination on Accounting Separation

In the OUR's Determination Notice, "*Accounting Separation for Cable and Wireless Jamaica*"⁴, the Office states that:

"International Outgoing Calls should be removed, as there now exists effective competition for this service. Publication of costing information for this service would place C&WJ at a competitive disadvantage, as other operators would be able to adjust their strategies given this information without C&WJ being privy to any reciprocal information from these operators."

⁴ Published March 29, 2006. Page 28, footnote 4.

Section II

OUR's Determination Notice on Dominant Public Voice Carriers

In its Determination Notice on Dominant Public Voice Carriers⁵, the OUR made, inter alia, the following Determinations:

Determination 2.1

“Fixed telephony access and the⁶ associated domestic calling markets are separate markets from mobile telephony access and associated calling markets”

Determination 2.3

“Mobile and fixed telephony access are complements rather than substitutes.”

Determination 2.4

“...The OUR finds that Cable & Wireless Jamaica remains dominant in the market for fixed telephony access and associated domestic calling markets”

In Determination 3.0, the OUR identified C&WJ as being dominant in the following markets:

- (a) *Fixed Access*
 - (i) *Business access: This includes installation and rental of ordinary business lines and direct inward dialling (DID). Relocation and reconnection should also be included.*
 - (ii) *Residential access: This includes installation and rental of ordinary residential lines and direct inward dialling (DID). Relocation and reconnection should also be included.*
- (b) *Domestic Retail Services*
 - (i) *Intra-parish Calls: These are calls originating from a fixed access line (residential or business telephone) in one parish to a fixed access line in the same parish.*
 - (ii) *Inter-parish Calls: These are calls originating from a fixed access line (residential or business telephone) in one parish to a fixed access line in another parish.*
 - (iii) *Public Pay Phones*
 - (iv) *Other Domestic Retail: These include call waiting, three way dialling, call forwarding, automatic busy redial, priority ring, automatic call back, selective*

⁵ Published August 14, 2003

call rejection, selective call forwarding, directory assistance and freephone services.

(c) *International retail services*

(i) *Outgoing International Calls: These are calls on a fixed access line and wholesale minutes (including sales to mobile service providers) to points outside of Jamaica.*

(ii) *Incoming International Calls*

(d) *Fixed Network Interconnection Services*

(i) *These carrier interconnection services are sold by C&WJ to other operators and downstream Businesses. They include switching, transmission, termination and other apparatus and system used in supplying telecommunications services.*

Notably at paragraph 3.12, the OUR states that “...the markets for international transit and switching facilities and the associated markets for international voice minutes could be the first markets where C&WJ’s dominant market position is likely to be eroded significantly..”

In this regard C&WJ is pleased that in its later⁷ Determination Notice on Accounting Separation, the OUR recognized that the market for international outgoing calls is competitive and therefore C&WJ is not dominant in that market.

C&WJ is also pleased that in its later⁸ Recommendation on Universal Service, the Office has recognized that indeed both fixed and mobile service are providing voice origination services to Jamaican consumers. As such the Office has identified both services as being in the same market.

Section III

Volume Data

Table 1 below shows domestic calls origination for C&WJ’s fixed network, bmobile and third party mobile operators, which demonstrates that 49.57% of all domestic minutes originate on the fixed network and 50.43% of all domestic minutes originate on mobile networks.

Table 1: Total Domestic Originated Minutes (September 1, 2005 – August 31, 2006)

	'000 Minutes			
	Fixed	Mobile	Of which bMobile	Of which 3rd Party Mobile
Total Minutes	xxxxxxx	xxxxxxx	xxxxxxx	xxxxxxx
<i>As %</i>	49.57%	50.43%	xxxxx	xxxxx

⁷ Later in time in relation to the Determination Notice on Dominant Public Voice Carriers

⁸ Later in time in relation to the Determination Notice on Dominant Public Voice Carriers
Cable & Wireless Jamaica

	'000 Minutes			
	Fixed	Mobile	Of which bMobile	Of which 3rd Party Mobile
On-net	xxxxxx	xxxxxx	xxxxxx	xxxxxx ⁹
<i>C&W Fixed to Mobile</i>		xxxxxx	xxxxxx	xxxxxx
<i>bMobile to Fixed</i>	xxxxxx			
<i>bMobile to Third Party Mobile</i>		xxxxxx		xxxxxx
<i>Third Party Mobile to Fixed</i>	xxxxxx			
<i>Third Party Mobile to bMobile</i>		xxxxxx	xxxxxx	

Domestic Calls:

- % fixed minutes of total minutes is overestimated as MiPhone's on net minutes are not included in the mobile on net minutes.
- % mobile minutes of total minutes is underestimated as MiPhone's on net minutes are not included.

International Incoming:

For the period, September 2005 to August 2006, the volume of international incoming traffic minutes was:

3rd Party Mobile (to 3rd Party via C&WJ)	
xxxxxx	
Direct to 3rd Party Mobile (Carried by Other Mobile)	
xxxxxx ¹⁰	
bmobile (to C&WJ Mobile)	
xxxxxx	
Direct to C&WJ Fixed	
xxxxxx	
Indirect (From 3rd Party Carriers to C&W PSTN)	xxxxxx

- 42% of international calls are carried into the island by C&WJ fixed network.
- Only 6% is carried by bMobile

⁹ Extrapolated from Digicel's Bond Offer made in July 2006

¹⁰ Estimated that volumes for direct to third party mobile is twice the traffic handled by C&WJ for third party mobile operators.

- 54% of all international calls into the island are carried by third party mobile networks and International Service Providers.

International Outgoing

At December 2006, the breakout for outgoing international traffic in millions of minutes was as follows:

<p>C&WJ fixed xxxxxM</p> <p>C&WJ Mobile xxxxxx M (approximately)</p> <p>3rd Party Mobile xxxxxxM (estimate)</p>

The estimate for traffic carried by third party mobile operators is conservative and could be as much as 40M minutes. Third party mobile operator’s share of the international outgoing market is between 65.2% - 75%.

The decline in outbound international minutes from the fixed network is as much as 70% at the current xxxxxxxM minutes carried in December 2006.

Section IV

Application for Reconsideration

Section 28 (3) of the Telecommunications Act, provides that:

“ A dominant public voice carrier may at any time apply to the Office to be classified as non-dominant “

In accordance with section 23 (8) of the Telecommunications Act 2000, C&WJ applies to the Office of Utilities Regulation to be classified as non –dominant in the provision of public voice telephony services.

Specifically, C&WJ applies to be classified as non-dominant in the supply of the following services, which have previously been defined as markets by the OUR:

Fixed Access

- (i) Business access: This includes installation and rental of ordinary business lines and direct inward dialling (DID). Relocation and reconnection should also be included.
- (ii) Residential access: This includes installation and rental of ordinary residential lines and direct inward dialling (DID). Relocation and reconnection should also be included.

(b) Domestic Retail Services

- (i) Intra-parish Calls: These are calls originating from a fixed access line (residential or business telephone) in one parish to a fixed access line in the same parish.
- (ii) Inter-parish Calls: These are calls originating from a fixed access line (residential or business telephone) in one parish to a fixed access line in another parish.
- (iii) Public Pay Phones
- (iv) Other Domestic Retail: These include call waiting, three way dialling, call forwarding, automatic busy redial, priority ring, automatic call back, selective call rejection, selective call forwarding, directory assistance and freephone services.

(c) International retail services

- (i) Outgoing International Calls: These are calls on a fixed access line and wholesale minutes (including sales to mobile service providers) to points outside of Jamaica.
- (ii) Incoming International Calls

(d) Fixed Network Interconnection Services

- (i) These carrier interconnection services are sold by C&WJ to other operators and downstream Businesses. They include switching, transmission, termination and other apparatus and system used in supplying telecommunications services.

As discussed above, and in summary, this is on the basis that these markets are now wider and should include substitutable services provided over the mobile networks in addition to the services provided over the fixed network.

END DOCUMENT