

March 2 2007

Mr Curtis N. Robinson  
Numbering Administrator  
3<sup>rd</sup> Floor  
PCJ Resource Centre  
P.O. Box 593  
36 Trafalgar Road  
Kingston 10

The RKA Building  
10 - 16 Grenada Way  
Kingston 5  
Jamaica, W.I.  
Tel: +1(876) 511-5000  
Fax: +1(876) 920-0948  
www.digicelgroup.com

Dear Mr. Robinson,

**RE: Uniform Domestic Dialling Plan – NPRM**

On behalf of Mossel (Jamaica) Limited T/A Digicel ("Digicel"), I hereby respond to the Consultation Document Uniform Domestic Dialling Plan – Notice of Proposed Rule Making (the "Consultation") that was circulated by the Office of Utilities Regulations ("OUR") on 25 January 2007.

**General remarks**

Digicel enquires as to the rationale for a consultation document on this issue. If as the OUR suggests the necessity for rulemaking in relation to a Uniform Domestic Dialling Plan (UDDP) has arisen due to complaints about anti-competitive behaviour by the dominant public voice carrier, Cable & Wireless Jamaica Limited (the "Dominant Carrier"), there are simpler and more straightforward ways to deal with this issue. For example, the OUR is empowered, without the need for any consultation, to determine that the use of the toll indicator by the dominant public voice carrier results in anti-competitive behaviour with detrimental effects on the Jamaican telecommunications market and prohibit its use.

In chapter 4.2 of the Consultation Document, the OUR gives the background to this Consultation and quotes from the following from the Dominant Carrier "C&WJ therefore recommends that the Office initiates a public consultation on the removal of "1" prefix dialling". It is very interesting to observe that the dominant public voice carrier has suggested that the Office initiate a consultation on an anticompetitive activity that has no basis under the Act and that the Office now seems to be following this suggestion.

It is obvious that the Dominant carrier is engaging in anti-competitive behaviour by requiring its end-users to dial "1" before all calls not to their own PSTN and or PLMN subscribers (section 5.30 of the Consultation). We do sympathize with and encourage the OUR's efforts to end any abuse of dominance by the Dominant Carrier. Regrettably by following the suggestions of the dominant public voice carrier to commence a consultation on this subject amounts to an endorsement and effective legitimization of the anti-competitive practice of the Dominant Carrier of requiring the "1" dialling prefix for calls to third party operators.

Digicel submits that the OUR should not permit this behaviour on the part of CWJ to continue and should take immediate action to remedy the situation. This behaviour is, as the OUR has concluded on numerous occasions in the referenced document, outrightly anti-competitive, as it amounts to discriminatory activity against third party carriers. This

behaviour to date has had the tacit approval of the OUR for the past years. The OUR's failure to repress this anti-competitive behaviour leads to the inescapable conclusion that the Dominant carrier is being permitted to violate an express prohibition in the Telecommunications Act 2000 ("the Act"). Section 30 of the Act is quite clear in its prohibition of anti-competitive behaviour. Additionally, the OUR has a statutory obligation to act against such behaviour, on its own accord or, as is currently the case, on the basis of (a) complaint(s).

Accordingly, Digicel submits that specifically in regards to the issue of the "1" dialling prefix, there is no basis for initiating a public consultation, and in lieu thereof, the OUR should forthwith exercise its statutory mandate and order the Dominant Carrier to immediately cease this unlawful and anti-competitive action by removing all prefix requirements on national calls from any of its subscribers' numbers.

### **Uniform Domestic Dialling Plan**

In general, Digicel is in favour of the outlaid Numbering principles and the dialling parity and UDDP that the OUR favours in the consultation document and Digicel awaits the future Consultation that the OUR is contemplating on the overall numbering plan or the National Dialling Plan. Digicel agrees with the Office that there is neither need nor valid reason for any company, let alone the dominant public voice carrier, to apply the "1" toll indicator: the Jamaican consumers do not need this 'protection' that the incumbent says it wants to provide. Mobile number ranges are separate and distinct from geographical numbers and special service numbers (888-range). The Jamaicans know quite well which numbers belong to which type of service and the expected charge that will be applied by the service provider per call. This paternalistic argument of the incumbent is fortunately not accepted by the OUR.

### **Refusal to offer any to any connectivity and end-to-end operability**

It is gratifying to see that the OUR seems to appreciate in the Consultation document that dialling parity is a competitive necessity. The OUR is even clear as to how this should be understood: equal dialling access provided to customers **on all networks to reach customers on other networks**. Apart from the anti-competitive "1" toll indicator that the Dominant Carrier is distorting competition with, it also engages in even more basic anti-competitive behaviour and blocks Digicel's Wireless BroadBand users access to Cable and Wireless Jamaica PSTN and PLMN subscriber numbers and basically make interoperability for these consumers impossible. In this regard, Digicel would like to reiterate the fact that for over half a year, the dominant public voice carrier bluntly refused to offer this basic access to the Digicel Wireless BroadBand customers. This refusal is a clear breach of sections 29 and 30 of the Act.

Now that the OUR has identified in this Consultation that this is a 'competitive necessity' Digicel anxiously awaits the Office's actions on dialling parity but even more so on the obligations for Cable and Wireless Jamaica under sections 29 and 30, to offer end-to-end operability and any-to-any connectivity to Digicel's Wireless BroadBand customers.

### **Scarce, necessary, Identifier**

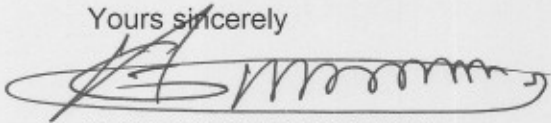
Digicel is of the view that numbers are one of the crown jewels of the telecommunication industry and numbers should therefore be administered efficiently and in a transparent manner always keeping in mind that the prime objective of good number management is the consumer's interest. The Jamaican consumers should be allowed to enjoy the maximum benefits of the Jamaican national number resources as it is ultimately a public resource.

Digicel like other telecommunications stakeholders wants to serve its customers to the maximum extent possible and provide the most competitive, cutting edge and modern services. Among the factors that will enable this to occur is the swift, honest and transparent allocation of numbering resources. A sensible and strict – but fair and user friendly number policy and administration is therefore vital to enable operators to deliver on their objectives. Numbers are by definition a scarce resource, because of international schemes e.g. NANP and the 10-digit plans, therefore the total available numbers in the Jamaican market are limited. An independent and fair regulatory policy as well as allocation and division of that scarce resource is absolutely necessary in every national telecommunications market including the Jamaican market.

Finally, the Office seems to quite rightfully identify the possibility of using numbers as an identifier for a certain type of services and the separate charging classes that are connected to those separate services. In that respect, the current numbering plan already foresees this need as there are geographical number ranges, mobile number ranges and special service number ranges. The Office also identifies that the widespread introduction of Voice over Internet Protocol services will raise some interesting and challenging issues in this regard and Digicel would like to question whether the exporting of Jamaican numbers to abroad (and the use as a virtual local number) should be endorsed or not, given the fact that the available numbers for Jamaica seem limited.

Digicel looks forward to the further development of the numbering plan for Jamaica and in the meanwhile sincerely hopes that the OUR will deal with all the flagrant infringements of third carrier's rights by the Dominant carrier.

Yours sincerely



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**Gregory Hamilton**  
**Regulatory Manager**  
**Mossel (Jamaica) Limited T/A Digicel**