

Abstract

Effective competition in the supply of telecommunications services confers benefits to customers as well as carriers and service providers. For customers such benefits usually take the form of improved service quality and reliability, choice among suppliers, and lower prices. In such a scenario, carriers and service providers are also given incentives to make improvements in their efficiency and to exploit opportunities for growth and innovation, thereby leading to a more operationally efficient telecommunications sector.

A well-structured regulatory framework for indirect access regime can serve as a catalyst for effective competition in Jamaica's liberalized telecommunications market. In this Consultative Document the Office examines the benefits of indirect access, sets out the major principles that it considers should govern an indirect access regime and makes proposals for the introduction of indirect access in the Jamaican telecommunications sector. Stakeholders are invited to submit comments on the various issues addressed in the document. Comments are due by June 30, **2003** and comments on responses by July 21, **2003**. All correspondence should be sent to: -

Franklin Brown
Office of Utilities Regulation
36 Trafalgar Road,
Kingston
Telephone: (876) 968-6053/6057
Facsimile: (876) 929-3635
Email: fbrown@our.org.jm

This Consultative Document is not a legally binding document and does not constitute legal, commercial or technical advice of the Office of Utilities Regulation. This consultation is engaged without prejudice to the legal position of the Office and its duties under relevant legislation.

Additional copies of this document may be downloaded from the OUR's Web site at <http://www.our.org.jm>

Contents

| | Page |
|--|------|
| Comments From Interested Parties | 3 |
| Chapter 1: Legislative Framework..... | 5 |
| Purpose and Scope of Public Consultation | 6 |
| Chapter 2: Introduction..... | 7 |
| Public Voice Carrier to Whom Indirect Access Obligation Applies | 8 |
| Benefit/Cost Analysis | 9 |
| Unfair Burden..... | 10 |
| Conclusion | 10 |
| Chapter 3: Proposed Indirect Access Regime For Jamaica | 11 |
| Forms of Indirect Access..... | 11 |
| Carrier Selection | 11 |
| Carrier Pre-Selection (CPS)..... | 11 |
| Proposed Indirect Access Regime for Jamaica | 11 |
| OUR's Position on Toll Free Lines | 13 |
| Customer Billing..... | 15 |
| Public Voice Carriers Eligible For Indirect Access..... | 15 |
| Call Options under CPS | 15 |
| Conclusion | 17 |
| Chapter 4: Consumer Protection | 18 |
| Abuse of Dominance and Discriminatory Behavior..... | 19 |
| Chapter 5: Numbering..... | 20 |
| Introduction | 20 |
| Assignment of Codes | 20 |
| Withdrawal of Codes | 21 |
| Chapter 6: Charging for Indirect Access..... | 22 |
| Introduction..... | 22 |
| Cost Recovery Principles | 22 |
| Conclusion | 24 |
| Chapter 7: Proposed Rules for Carrier Pre Selection with Call by Call Override | 25 |
| Introduction..... | 25 |
| Definitions | 25 |
| Part I | 28 |
| Part II Customer Contracts..... | 29 |
| Part III Authorization and/or Verification of Request for Change of Operator..... | 30 |
| Part IV Indirect Access Operator Liability for Slamming..... | 31 |
| Part V Reporting Requirement for Slamming Complaints..... | 32 |
| Part VII Complaint Handling And Enquiries | 33 |
| Part VIII Contact With Customer | 33 |
| Part IX Unauthorised Provisions of Indirect Access Services | 34 |

Comments From Interested Parties

Persons who wish to express opinions on this Consultative Document are invited to submit their comments in writing to the OUR. Responses to this Consultative Document should be sent by post, fax or e-mail to: -

Franklin Brown
P.O. Box 593, 36 Trafalgar Road, Kingston 10
Fax: (876) 929-3635
E-mail: fbrown@our.org.jm

Responses are requested by June 30, 2003. Any confidential information should be submitted separately and clearly identified as such. In the interests of promoting transparent debate, respondents are requested to limit as far as possible the use of confidentiality markings. Respondents are encouraged to supply their responses in electronic form, so that they can be posted on the OUR's Website (or a link included where the respondent wishes to post its response on its own website).

Comments on responses

The OUR's intention in issuing this Consultative Document is to stimulate public debate on the important regulatory issues pertaining to indirect access. The responses to this Consultative Document are a vital part of that public debate, and so as far as possible, should also be publicly available. The OUR considers that respondents should have an opportunity both to have access to the evidence and opinions submitted in other responses, with which they may disagree, and to comment on them. The comments may take the form of either correcting a factual error or putting forward counterarguments.

Comments on responses are requested by, July 21, 2003.

Arrangements for viewing responses

To allow responses to be publicly available, the OUR will keep the responses that it receives on files, which can be viewed by and copied for visitors to the OUR's offices. Individuals who wish to view the responses should make an appointment by contacting Lesia Gregory by one of the following means: -

Telephone: (876) 968 6053 (or 6057)
Fax: (876) 929 3635

The appointment will be confirmed by a member of the OUR's staff. At the pre-arranged time the individual should visit the OUR's offices at:

3rd Floor, PCJ Resource Centre, 36 Trafalgar Road, Kingston 10

The individual will be able to request photocopies of selected responses at a price, which reflects the cost to the OUR.

Timetable

The timetable for the consultation on indirect access is summarised in the table below, which includes an indicative timing for the determination notice.

Summary of the timetable for the consultation

| <i>Event</i> | <i>Date</i> |
|---|-----------------------|
| Response to this document | By June 30, 2003 |
| Comments on respondents' Responses | By July 21, 2003 |
| Publication of Second Consultative Document | By August 29, 2003 |
| Response to this document | By September 25, 2003 |
| Comments on respondents' Responses | By October 21, 2003 |
| Publication of Determination Notice | By November 21, 2003 |

Chapter 1: Legislative Framework

1.0 Phase III of the liberalization of the telecommunications sector in Jamaica commenced in March 2003. To date several carrier and service provider licences have been issued for the establishment and operation of international telecommunications facilities. The process of liberalization started in March 2000 and has as its primary goal the establishment, overtime, of a competitive market for the telecommunications sector in Jamaica. Underpinning the liberalization process is the Telecommunications Act 2000 (the Act). Some of the key objectives of the Act are listed below: -

- (a) to promote and protect the interest of the public by-
 - (i) promoting fair and open competition in the provision of specified services and telecommunications equipment;
 - (ii) promoting access to specified services;
 - (iii) providing for the protection of customers
- (b) to promote the telecommunications industry in Jamaica by encouraging economically efficient investment in, and use of, infrastructure to provide specified services in Jamaica.

1.1 Various provisions of the Act seek to engender the development of a competitive regime for Jamaica's telecommunications sector. This includes provisions related to number portability and indirect access. The Act provides for the Office to require a public voice carrier who is dominant to offer a form of indirect access to its network to other interconnection providers. Sections 36(1) and (2) of the Act, provide that:

“(1) The Office may make rules subject to affirmative resolution imposing on a dominant public voice carrier, the responsibility to offer a particular form of indirect access to its network to other interconnection providers, if the Office is satisfied on reasonable grounds that such rules are necessary in the interest of customers and that-

- a. the benefits likely to arise from the requirement to provide a particular form of indirect access outweigh the likely cost of implementing it; and
- b. the requirement to provide the particular form of indirect access will not impose an unfair burden on any carrier or service provider.”

(2) In section 36, subsection (1) “indirect access is said to mean the method whereby customers are able to select the services of any

service provider who uses a public voice carrier's network to provide specified services".

- 1.2 There are also specific provisions in the Act which relate to the supply of interconnect services by a dominant public voice carrier, in particular those cited at sections 28, 29, 30, 31, 32, 33, and 34. Other provisions of the Act pertinent to the consultation on indirect access are set out at Section 8, which provides the legislative framework for the management, assignment and use of numbering resources. The assignment and use of short prefixes and other relevant numbering resources are critical issues to be considered in the consultation on indirect access regime in Jamaica.

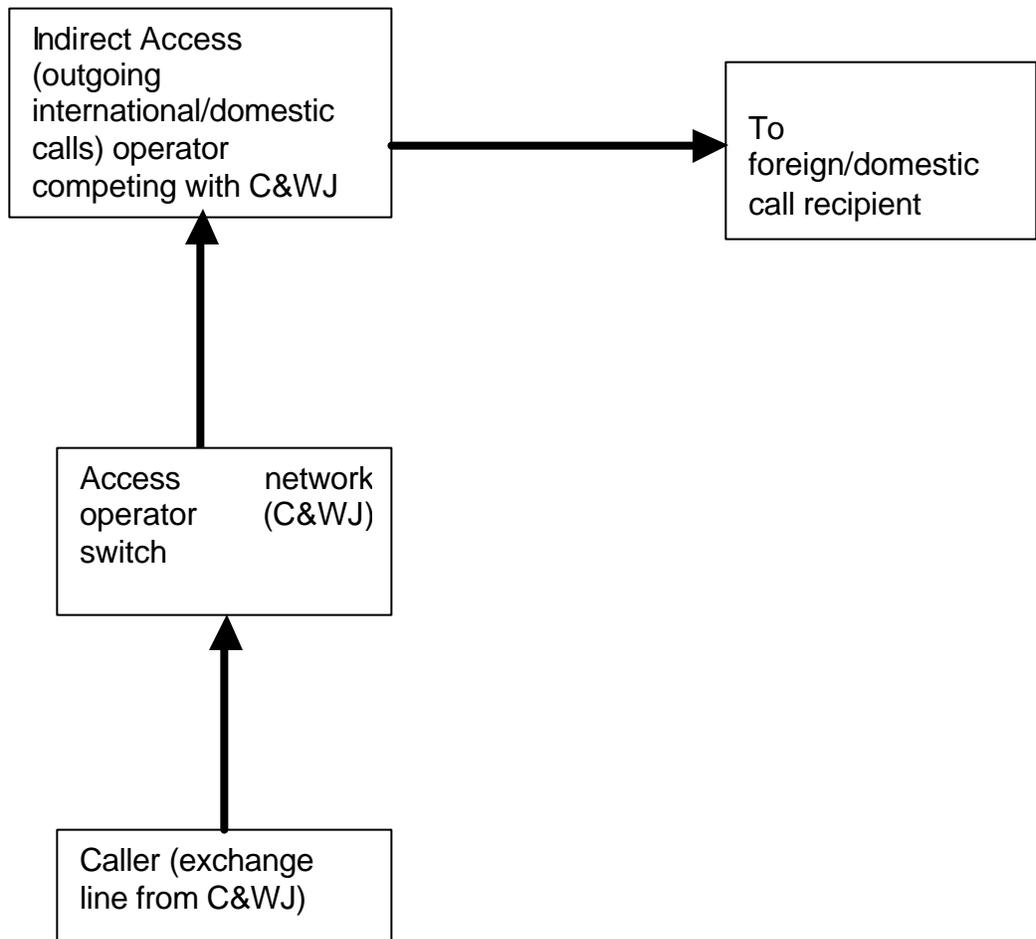
Purpose and Scope of Public Consultation

- 1.3 Indirect access is presently unavailable to telecommunications customers in Jamaica. Based on experience in other jurisdictions the Office is of the view that indirect access could engender greater competition in the telecommunications sector, and hence the need for public consultation on the matter. In this Consultative Document the Office sets out its preliminary position with regard to the development and implementation of an indirect access regime in Jamaica's telecommunications sector. The document addresses the following issues: -
- ?? entities to which indirect access is applicable, benefits cost of indirect access, and the notion of unfair burden (Chapter 2)
 - ?? proposed indirect access regime for Jamaica (Chapter 3);
 - ?? consumer protection (Chapter 4)
 - ?? assignment of carrier identification and carrier access codes (Chapter 5);
 - ?? principles for cost recovery for indirect access (Chapter 6); and
 - ?? Chapter 7 containing the proposed rules for purposes of indirect access.
- 1.4 Interested parties and stakeholders are invited to submit comments on all issues raised and to bring to the Office's attention any other issue relevant to the consultation process. Submissions are due by June 20, 2003.

Chapter 2: Introduction

2.0 Indirect access, as commonly understood, involves the purchase of call origination by competing interconnecting operators, who then provide the remainder of the call between caller and recipient on their own network (or they may terminate on another network). With regard to the latter the indirect access operator would have to purchase call termination to deliver the call. Figure 2.0 below provides an illustration of the typical route of an indirect access call.

Figure 2.0: Illustration of Indirect Access for Domestic and Outgoing International Calls



- 2.1 Note that the call originates on the consumer's exchange line provided by the dominant public voice carrier (Access Network Operator) and is handed over to the competing carrier from the ANO's switch.

Public Voice Carrier to Whom Indirect Access Obligation Applies

- 2.2 The Act limits the obligation to offer indirect access to public voice carriers that have market dominance. Section 32 of the Act, also treats C&WJ as a dominant public voice carrier imposing on it the obligations that are mandatory for a dominant voice carrier. The Office takes the view that the Act recognizes that by a combination of legal and resulting legacy arrangements C&WJ is a dominant public voice carrier and this is particularly evident at section 32 where C&WJ is specifically required to submit a RIO a condition only applicable to dominant public voice carriers.
- 2.3 The Act also requires the Office to make declarations of dominance and to hear applications from a dominant voice carrier to be declared non-dominant. The OUR has commenced a process of public consultation on dominance at the onset of full liberalization. The preliminary indications from that analysis is that C&WJ's dominant position particularly in respect of the markets for fixed interconnect and fixed retail services is yet to be eroded by the entry of competition.
- 2.4 The legislative provisions do not exempt mobile operators (including C&WJ) from offering a form of indirect access to other interconnection providers. In some countries even dominant mobile carriers are required to provide indirect access to other interconnection providers while in others this is not the case. One argument against the imposition of indirect access obligations on mobile carriers is that indirect access is not necessary as there is intense competition among mobile carriers for retail subscribers, and thus the imposition of indirect access is not expected to reap significant benefits. Another argument is that the cost of switching between mobile carriers is less significant than on the fixed network. Finally, mobile carriers have substantial build out obligations, which would be undermined by indirect access.
- 2.5 Mobile subscribership in Jamaica has experienced exponential growth since liberalization with increasing geographic coverage and subscribership. Nevertheless, there is still scope for increased penetration and more competitive prices. Notwithstanding, the Office does not propose at this time to give considerations to the issue of indirect access to mobile carriers.

Benefit/Cost Analysis

- 2.6 A public voice carrier who is dominant is not automatically obligated to offer indirect access to other interconnection providers. At the same time, there is nothing precluding a carrier from offering indirect access even without regulatory intervention by the Office. Sections 36(1)(a) and 36(1)(b) of the Act set out additional factors to be considered by the Office. Section 36(1)(a) mandates the Office when prescribing a particular form of indirect access to undertake a benefit/cost analysis of a particular form of indirect access, while (1)(b) provides that the requirement to offer indirect access should not impose an unfair burden on a particular carrier or service provider.
- 2.7 Within the context of Section 36(1)(a) for a particular form of indirect access to be feasible it must generate positive net benefits. The most obvious benefits likely to obtain from the implementation of a particular form of indirect access include: -
- ?? cost efficiency improvements by C&WJ retail,
 - ?? increased choices for C&WJ's fixed line customers;
 - ?? innovation in the supply of retail services;
 - ?? reduced call prices thereby stimulating demand; and
 - ?? greater efficiency in the utilization of network investment.
- 2.8 The implementation of indirect access may require modifications to operators' processes and in some instances development of new support systems. Experience in other countries shows that modifications and or additions to the following inter-operator processes are usually required: -
- (i) handling of requests for service and the provisioning of services;
 - (ii) handling of customer complaints and faults;
 - (iii) inter-operator billing; and
 - (iv) management information statistics.
- 2.9 Item (i) encompasses the identification of invalid orders as well as the process for the exchange of orders to allow for the setting up, changing and removal of service on a customer line. Item (ii) involves customer recognition and verification and appropriate steps for responding to faults reported by customers. Inter-operator billing, i.e. item (iii) has to do with changing and removal of specified services on customer lines plus the recovery of Carrier Pre-Selection CPS costs. Item (iv) involves the provision of management information statistics to measure inter-company performance and to demonstrate achievement of agreed service levels.

2.10 In carrying out a benefit cost analysis the Office would need to give consideration to the relevant time period over which to quantify the benefit and costs of the proposed form of indirect access. Also of relevance would be the appropriate discount rate. With regard to the imposition of an obligation on C&WJ to provide indirect access to its fixed network the Office envisages that the appropriate discount rate would be the weighted average cost of capital used in the determination of the Company's price cap plan. The Office believes that this would be the appropriate discount rate since competition will be taking place at the level of the retail market. The Office welcomes comments on these issues from stakeholders. The Office also welcomes comments on the factors to be considered in its benefit cost analysis and any available data that will be useful to the process.

Unfair Burden

2.11 The Act stipulates that the requirement to offer indirect access to other interconnection providers must not impose an unfair burden on any carrier or service provider but is silent as to what constitute unfair burden. As part of this consultation, the Office will explore the issue of unfair burden and invites submissions (including data on costing and revenue) from stakeholders on this issue.

Conclusion

2.12 C&WJ has enjoyed a legal monopoly position in respect of Jamaica's telecommunications sector for many years and the Telecommunications Act at the outset recognized this reality by imposing on the Company obligations associated with a dominant carrier. The Office is not convinced that competitive developments since liberalization have been enough to erode C&WJ's dominance. Moreover the preliminary indications from the Office's consultation on dominance is that C&WJ retains its dominance with respect to the markets for fixed interconnection and fixed retail services. In this regard, C&WJ falls within the category of carriers that could be required to offer indirect access to other interconnection providers.

2.13 Investigation into the feasibility of mobile carriers offering indirect access to other interconnection providers is not considered in this document.

2.14 As part of this consultation on indirect access the Office is examining the issue of unfair burden and benefit cost analysis. To this end the Office invites interested parties to make available to it relevant information and data to enable both issues to be explored.

Chapter 3: Proposed Indirect Access Regime For Jamaica

Forms of Indirect Access

3.0 Two technical alternatives can be distinguished for implementing indirect access: Call-by-Call Selection; and Carrier Pre-Selection. In some jurisdictions consumers can override the pre-selected carrier on a call-by-call basis. A description of each alternative is set out below.

Carrier Selection

3.1 With call-by-call selection the customers connected to the incumbent operator avail themselves of the services offered by competing operators on a per call basis when dialling. The selection would be made by the customer dialling a Carrier Access Code (CAC) before the sequence of telephone digits. The Access Network Operator (ANO) who provides the exchange line would receive a one-time fee for line installation and the monthly line rental for supplying access to its network. Where no selection is made by a customer then the ANO becomes the default carrier, i.e. deliverer of all the customer's calls (including inter-parish and international outgoing) to the receiver.

Carrier Pre-Selection (CPS)

3.2 Under this arrangement, customers of the incumbent avail themselves of the services offered by competing operators by pre-selecting one or more operators for some or all of their calls. Having pre-selected an operator the customer would not be required to dial a CAC or follow any other special procedure to activate such routing of inter-parish calls and outgoing international calls. Calls from the customer will be routed to the pre-selected operators until the customer changes the selection. The customer is required to pay the one-time installation fee and the monthly line rental, to the incumbent operator. All that the customer has done is to pre-select an alternative operator for his/her inter-parish and outgoing international calls. In the absence of pre-selection the incumbent operator would serve as the default provider, i.e. deliverer of all the customer's calls (including outgoing international) to the receiver.

Proposed Indirect Access Regime for Jamaica

3.3 A well-structured indirect access regime can be a catalyst for effective competition in a liberalized telecommunications environment. Indirect access allows service providers to sell domestic and/or outgoing international calls to consumers in competition with the incumbent. The incentive to avail one's self of the services offered by competing service providers are lower prices and improved service quality. Furthermore,

indirect access motivates incumbent operators to reduce cost, improve efficiency, and introduce new services more rapidly, thus leading to a more efficient and competitive telecommunications market. These outcomes are consistent with the objects of the Jamaican legislation.

- 3.4 In considering the question of whether indirect access is to be required and the form of such access that would be appropriate for Jamaica the Office is mindful of the likely benefits of indirect access as well as its responsibility under the Act to promote competition among carriers and service providers. To this end, the Office takes the view that the CPS option with the facility to override the pre-selected carrier would be most appropriate for Jamaica as this will give consumer choice and engender the development of an effective competitive market for specified services. Customers need not pre-select a carrier to be able to have call-by-call selection and vice versa.
- 3.5 The arrangement for CPS with call by call override would be provided as part of the list of standard interconnect services to be offered by a dominant carrier and set out in its Reference Interconnect Offer. It would also be subject to the relevant provisions of the Act including the Office's power to assess a RIO where one of the parties is dominant and arbitrate pre-contract disputes, among other things.
- 3.6 Some of the essential requirements for CPS with call-by-call override include: -
- ?? availability of trunk-side interconnection with the ANO.
 - ?? switch software features to identify customer selections and pre-selections.
 - ?? a numbering plan that allocates equivalent codes to the ANO and providers of indirect access services.
 - ?? provision of basic signaling services by the ANO including Calling Line Identification (CLI).
 - ?? answer and disconnect supervision.
 - ?? appropriate arrangements to permit billing and auditing between carriers.
- 3.7 The Office is aware that C&WJ is of the view that the supply of toll free line constitutes a form of indirect access. The Office is not persuaded by this view however, and has already made its position on this public. That position is reproduced below in this document and the Office invites comments on all aspects of this position.

OUR's Position on Toll Free Lines

- 3.8 A number of service providers have brought to the attention of the Office the difficulties they are experiencing in launching or varying their pre-paid calling card products because they are unable to obtain toll free access from Cable & Wireless Jamaica (C&WJ). In keeping with the full liberalization of the telecommunications sector, pre-paid cardholders should now be able to access the pre-paid platforms of all domestic and international service providers, including C&WJ, by a toll free number. The agreements between C&WJ and the service providers, which were made prior to March 2003, require calls to be routed back to C&WJ. Since March 1, 2003, service providers are no longer obliged to re-sell international outgoing minutes purchased solely from C&WJ. These service providers have now been requesting toll free lines from C&WJ so that they can provide service to their customers utilizing carriers of their choice. C&WJ has indicated that it considers this to be indirect access and is therefore awaiting directions from the Office in this regard before providing the service.
- 3.9 The Office does not consider the provision of toll free lines by C&WJ to service providers, through which they provide a service to their customers using competing carrier networks, as indirect access (Subscriber Carrier Selection). With indirect access, operators buy call origination from the Access Network Operator (ANO) and call termination from alternative carriers. Call origination is not an end-to-end call, but a segment of a call (e.g. up to single tandem). In addition, call origination is an interconnection service and as such is to be cost-based as stipulated by the Telecommunication Act, 2000.
- 3.10 When the ANO provides call origination and routing, either by pre-selection or on a call-by-call basis, to the competing operator, the customer has basically the same experience as if the total service was provided by the ANO. In other words, only one call is made. The billing for the separate segments of the call would be done according to the indirect access billing arrangement.
- 3.11 Toll free lines involve the provision of end-to-end calls. When a member of the public buys a prepaid calling card for local or international calls and places a call to the prepaid calling card service provider, typically using a toll free number, the card provider pays for the toll free call. The Pre-Paid Calling Card Service Provider authenticates the card using the caller's personal identification number. If the customer's account is in good standing, calls can then be made by the customer to the location of preference - domestic or international - via the service provider's platform.

Here two different retail services are combined, namely, the toll free call and the domestic or international call. The situation is similar to dial-up Internet access except that, in this case, the callers pay for the access.

- 3.12 Toll free service is merely the reversal of the billing arrangement for calls. Currently, this service is available only from C&WJ, because of historical arrangements. The Office will be embarking on a public consultation shortly in order to make a determination on the arrangements for the management of toll free numbers. In the meantime, this service should not be operated in a manner, which gives an unfair advantage to C&WJ. This is a retail service and must be provided to all customers on a non-discriminatory basis.
- 3.13 Another characteristic of toll free lines vis-à-vis indirect access is that in the latter case, it is the customers of the ANO (originating caller) who choose the carrier. The ANO does the routing subject to an interconnect agreement. With the toll free scenario it is the Pre-Paid Calling Card Service Provider (not the originating caller) who chooses the carrier.
- 3.14 The Office's position is that the provision of a toll free call and the selling of domestic or international minutes are separate services. Consequently, a carrier must not tie the provision of one with the other particularly when one is subject to competition. There are therefore no regulatory impediments preventing C&WJ from providing service providers with toll free lines to their platforms.
- 3.15 In any event, the Office is of the view that the issue of whether or not the provision of toll free lines represents a form of indirect access is of no moment to the above controversy. The Telecommunications Act allows the Office to mandate a form of indirect access. The specification of one form of indirect access does not prevent C&WJ from offering other forms. In this regard, even if it were to be accepted that offering toll free lines represents a form of indirect access, C&WJ does not require the Office's imprimatur to offer the service. Moreover, given that C&WJ currently offers the service to itself and to its resellers, the Office is of the view that it would be anti-competitive for it to refuse to supply the service to competitors, tie the sale of the service to other C&WJ services or apply dissimilar conditions to the sale of the service. The Office would therefore be obliged to refer such conducts for the attention of the Fair Trading Commission.

Customer Billing

3.16 The arrangement for customer billing may permit direct billing by the ANO and competing operators or billing by one and remission to the others. For example, the ANO might do all billing and remit call charges to competing operators. The advantage of single billing is that the customer receives one bill. An alternate arrangement would be for ANO to only bill for access to its network while competing operators bill separately for call charges. Under this scenario the customer would receive more than one bill. This may serve to deter customers of the incumbent from availing themselves of the services offered by competing operators. To prevent this from happening the Office would prefer single billing.

Public Voice Carriers Eligible For Indirect Access

3.17 A carrier that is required by the Office to offer indirect access would be obligated to offer this to other interconnection providers who meet certain eligibility criteria. The eligibility criteria for an operator to be provided with indirect access vary across jurisdictions. In some jurisdictions it is only those operators who have attained certain levels of network infrastructure deployment that are required to offer CPS services to customers.

3.18 The Office proposals at this stage are that CPS facilities should be provided to all operators satisfying the four criteria listed below:-

- ?? should be holders of service provider licences which allow for the supply of voice retail services to customers;
- ?? must provide services over a network which has points of interconnection with the dominant public voice carrier's network;
- ?? should be able to deliver calls to all destinations in accordance with the service option(s) determined by the Office; and
- ?? should be in receipt of relevant numbering codes from the Office.

Call Options under CPS

3.19 Essential to the implementation of CPS is the service options that should be offered to the ANO's exchange line customers. The Act does not specify the number and types of calls (services) to be offered by competing operators. In considering this issue the Office is mindful of the following: -

- ?? the regime must be simple and easily understood by stakeholders. A regime that is unduly complex and lacks clarity is unattractive for customers and is unlikely to serve the purposes for which it was established;

- ?? competitive margin on a certain call type. Carrier select and pre-select operators should have the incentive to offer services where the margin of profitability is attractive and which allows them to compete on the basis of price.
- 3.20 In the Jamaican context the retail services supplied by C&WJ fixed retail that would be attractive to competing operators are likely to be domestic long distance, i.e. inter-parish and outgoing international calls. Competitive pressure on inter-parish calls is likely to come from fixed wireless or fixed wire line operators. For outgoing calls the source of the likely competitive pressure will be competing international carrier and service providers.
- 3.21 The Office believes that the following options should be available under an indirect access regime: -
- ?? Option 1: inter-parish calls; and/or
 - ?? Option 2: outgoing international calls.
- 3.22 Under Option 1, residential and business customers would be permitted to purchase inter parish calls from competing operators. Similarly, Option 2 enables residential and business customers to purchase outgoing international calls from competing operators. In both instances customers may override the pre-select carrier on a call-by-call basis. A customer may pre-select any option individually, or a combination of the two, with either the same operator or different ones.
- 3.23 Options 1 and 2 would be unavailable to customers who opted for a discount tariff plan. For example customers of C&WJ's low user package would not be eligible for indirect access services. This is to prevent a customer from taking lower line rental but lower call charges from competing operators. Calls for which the customer does not pre-select an operator would continue to be routed by C&WJ. In the case of option 1 for example C&WJ would continue to route outgoing international, inter-parish, mobile, directory enquiries and emergency calls, etc. In the absence of pre-selection C&WJ will be the default operator. This means that the customer's services and billing arrangements with C&WJ will not be affected by the introduction of carrier pre-selection. Existing facilities on the customer's line such as call management services (e.g. call waiting) should not be affected by the addition of CPS facility. The process of initially enabling CPS on a customer's line must also support continuity of primary telephone service for the customer during the switchover. There should be no noticeable degradation in service quality by the addition of CS and CPS, e.g. call set-up time.

3.24 The regime should also provide that in keeping with changing industry conditions the Office may from time to time either on its own initiative or at the request of an interested party undertake reviews and make modifications where appropriate. This is in keeping with international experience (Ireland and the UK for example) where the CPS regime was modified overtime in order to take account of the changing market conditions.

Conclusion

3.25 Indirect access involves the purchase of call origination and is not an end-to-end call. The Office preference at this point would be to implement CPS with the facility to override the pre-selected carrier on a call-by-call basis. However, a customer need not pre-select a carrier to have Carrier Selection.

3.26 Indirect access is a interconnect service and charges are based on costs. The Office therefore anticipates that offers for this service will be made through the relevant RIO, which may have to be amended to incorporate the determination of the Office.

3.19 Two service options are proposed: -
?? Option 1 inter-parish calls, and/or
?? Outgoing international calls.

Chapter 4: Consumer Protection

- 4.0 Experiences in other countries have shown that indirect access procedures and rules are needed to ensure that operators develop adequate customer information and consumer protection mechanisms to guide the public on understanding the choices they will have, and how the new services will work. The need to shield consumers from the misuse of information by operators is also of concern to regulatory agencies. “Slamming” is one of the most frequently cited examples of misuse of customer information. Slamming refers to any modifications and or amendments of a customer’s indirect access arrangement without the consent or knowledge of the customer. Slamming is a problem for millions of phone customers in the US. Slamming methods include “free trials” and offers for credit cards that offer prize or give away points for each dollar of charges from a given carrier. Phone solicitors often get approval from children, baby sitters, and domestic workers.
- 4.1 It is also important to protect customers from cramming. “Cramming” is the practice of placing unauthorized, misleading, or deceptive charges on customers’ telephone bills. Whether it is done intentionally, or accidentally the effect is that inaccurate billing data is included on the customer’s telephone bill. Cramming also occurs when an operator does not clearly and accurately describe all of the relevant charges to the customer when marketing the service. Hence, although the customer did authorize the service, the charge is still cramming because the customer was misled.
- 4.2 Southwestern Bell reported that in 1997 it received calls about slamming from 558,000 customers. Each year state Public Utilities Commissions (PUCs) receive complaints from several thousand telephone customers. This has prompted the FCC’s Enforcement Bureau to take action against slammers. In November 2000 new slamming liability rules came into effect. The new rules sought to provide a remedy for customers who have been slammed and seek to take the profit out of slamming. In addition, state PUCs have been empowered to punish companies taking part in this practice.
- 4.3 In Ireland, as a pre-condition of service, operators are required to be signatories to a Code of Practice governing the provision of CPS services. The rationale for a Code of Practice is to offer adequate protection to consumers and to help them in understanding the choices they will have and how the services will work. The Office envisages that it would be necessary to make rule as authorized by section 36 of the Act to protect consumers against slamming and other unethical practices.

Abuse of Dominance and Discriminatory Behavior

- 4.4 In provisioning for CPS information, it will be necessary for competing operators' information to be passed to C&WJ's Carrier Services Division. This information should be used solely for the purposes for which it was supplied. Information of this kind should not be available to C&WJ's retail arm for purposes that might be construed as being anti-competitive. This would be a clear breach of section 19 of the Fair Competition Act, 1993.
- 4.5 Discriminatory and other unfair practices in the provisioning of indirect access would be in breach of the Fair Competition Act. It would also be in breach of provisions of the Act. A requirement of the Act is that terms and conditions governing interconnection services offered by a dominant carrier should be non-discriminatory. Additionally, the Office intend as part of its general rule making power under section 35 to establish rules to guard against discriminatory practices by a dominant public carrier.

Chapter 5: Numbering

Introduction

5.0 The OUR has the mandate to develop a national numbering plan for Jamaica as well as to manage and allocate the numbering resources. These duties include the assignment and regulation of the use of Carrier Access Codes (CAC) and Carrier Identification Codes (CIC), both of which are relevant to the provision of CPS with the facility to override the pre-selected carrier. The proposed numbering plan for Jamaica provides for the use of CACs in the formats 950-XXX and 101-XXX, where XXX is the Carrier Identification Code (CIC) and X represents digits 0 through 9. CICs provide routing and billing information for calls from end users via trunk-side connections to connecting carriers. 950-XXXX is associated with a service access arrangement called Feature Group B. 101-XXXX is associated with Feature Group D access arrangements which provide access to both pre-subscribed and non-prescribed customers, and enables the over-ride of carrier pre-selection.

Assignment of Codes

5.1 CIC are assigned directly by the North American Numbering Plan Administration. Holders of carrier and service provider licences issued by the GOJ must apply through the OUR for such assignments. Assignments of codes shall be governed by the following principles: -

- (i) CIC will be allocated to carriers licensed under the Act. Application for CIC should be made to the Office and applicants will be required to justify their requirement for such codes by reference to the provision of telecommunications services to the public. All eligible carriers will have equal access to the available CIC. The Office will publish details of which codes have been allocated and to which carriers.
- (ii) Allocation of codes grants the right to use the allocated codes but is not a property transfer. Therefore, a code shall not be transferable, and may only be used to route telecommunications services to the carrier to whom it has been allocated by the Office.
- (iii) Qualifying carriers will be given the option to indicate their preferred choice from the available codes. Carrier Access Codes shall only be used for providing access to selected carriers; use for any other purpose other than that described at (i) above may result in the withdrawal of the code.

Withdrawal of Codes

5.2 In keeping with its statutory powers under the Act the Office may withdraw CIC and CAC: -

- ?? when they are not being used to provide a telecommunications service to the public;
- ?? if the operator to whom it has been allocated is found to be in breach of the conditions of allocation,
- ?? if the operator is bankrupt, or
- ?? if withdrawal is in the public interest. The Office will consult the applicant before the code is withdrawn.

Chapter 6: Charging for Indirect Access

Introduction

- 6.0 In general there are three broad categories of costs relating to the provision of indirect access: (i) system set-up costs; (ii) per operator set up costs, and (iii) per line set up costs. System sets up costs (otherwise known as general system provisioning costs) are the one-time expenses incurred by the Access Network Operator for making changes to the network infrastructure and support system. Per operator set up costs (otherwise known as operator specific enabling costs) are expenses incurred for any individual operator, including expenses incurred in establishing the necessary electronic transfer of customer orders. Finally, per line set up costs are the administrative costs of implementing indirect access for a particular customer line.
- 6.1 The Office has set out in the next section the principles that it would be disposed to adopt with regard to the recovery of each cost category. Interested parties are invited to make comments on these principles affirming their appropriateness or suggesting other principles that are applicable

Cost Recovery Principles

- 6.2 An essential regulatory issue for the Office and on which it is seeking inputs from stakeholders is how the system set-up costs, per operator set-up-costs, and per line set-up-cost ought to be recovered. Regulatory bodies in other countries and consultants have applied the principles below in allocating the costs of indirect access. The Office believes that the adoption of these principles in Jamaica would be consistent with the objectives and statutory provisions of the Telecommunications Act.
- (i) **Effective competition:** cost allocation system should encourage competition.
 - (ii) **Cost Minimization:** the cost allocation system should encourage operators to minimize costs and in particular to adopt technically efficient solutions.
 - (iii) **Cost causation:** the operator responsible for causing cost should bear the direct burden of such cost.
 - (iv) **Distribution of benefits:** The costs of the proposed regime should be recovered from those who directly and indirectly

benefit from indirect access. This means that where feasible, consideration ought to be given to the externalities associated with the provision of indirect access.

- (v) **Practicability:** the mechanism for cost recovery needs to be practicable and relatively easy to implement while at the same time not acting as a barrier to the development of the indirect access regime. In other words practicability and ease of implementation should not over-ride the goal of competition.

- 6.3 The principle of cost causation suggests that both the per line set-up-costs and the per operator set-up-costs be recovered from providers of indirect access services. This implies that such costs ought not to be recovered through interconnection charges. Providers of indirect access services cause the per line set-up-costs incurred by the ANO by signing up new customers and should therefore be borne by them. The operator specific enabling costs are incurred by the ANO due to requests from providers of indirect services that the facility be enabled for them on the ANO's network. In both instances the providers of indirect access services should bear the cost directly. Moreover, only the costs of an efficient operator using an efficient technical solution should be recovered. Providers of indirect access services may pay the per line cost on behalf of its customers and recover it in some other way other than a direct charge to the customer. This is a commercial decision for each provider of indirect access services to make.
- 6.4 Of the three broad cost categories, the system set up cost is the most difficult to allocate. No clear consensus has emerged internationally as to how the system set up costs should be recovered. In some jurisdictions this category of costs are allocated entirely to the ANO whilst in others the cost has been shared between all operators, with shares determined by the Regulator.
- 6.5 The cost causation principle offers very little guidance on how to recover such cost. This is because the ANO's general system provisioning costs are caused by compliance with a regulatory obligation rather than a voluntary activity. The Office preference would be for the recovery of the general system provisioning cost to be shared between the ANO and the providers of indirect access services. This is because the benefits of having an indirect access regime will be distributed across all customers, inclusive of the ANO. The Office invites specific suggestions from interested parties on the recovery of this cost category.

Conclusion

- 6.6 The Office would be disposed to adopting the following with regard to the recovery of per line set-up costs: -
- ?? Per line set-up costs to be recovered from indirect access carriers directly, and not through interconnection charges.
 - ?? Carriers should be free to pay the per line enabling costs on behalf of the consumer, and recover it in some way other than through a direct charge to the customer. This would be a commercial decision for each indirect access operator.
 - ?? Per line charges should recover only the costs of an efficient operator using an efficient technical solution.
- 6.7 With regard to the recovery of per operator set-up costs the Office is disposed to adopting the following approach: -
- ?? Per operator set-up costs should be recovered from indirect access carriers directly, and not through interconnection charges.
 - ?? Per operator set-up costs charges should recover only the costs of an efficient operator using an efficient technical solution.
- 6.8 The benefits of having an indirect access regime should be distributed across all customers, inclusive of the ANO. For this reason the Office would favour a system whereby the recovery of general system provisioning cost is shared between the ANO and providers of indirect access services.

Chapter 7: Proposed Rules for Indirect Access

Introduction

7.0 In keeping with the requirements of section 36 of the Act the Office set out in this Chapter rules to govern the implementation and operation of CPS with the facility to override the pre-select operator on a call-by-call basis. It is expected that as the consultation process progresses there will be need to make modifications to the proposed rules.

Definitions

- 7.1 **“Authorized operator”** means any operator that submits a request for change, on behalf of a customer, in the customer’s choice of a operator specified service with the customer’s authorization verified in accordance with the procedures for authorization and verification.
- 7.2 **“Act”** means the Telecommunications Act, 2000
- 7.3 **“Access Network Operator”** means a person who is granted a carrier licence pursuant to section 13 of the Act to own establish and operate a fixed network and or mobile network and providing specified service including access to customers.
- 7.4 **“Carrier Pre-Selection”** means the facility offered to customers which allows them to opt for certain defined classes of call to be carried by an operator selected in advance and having a written contract with the customer, without having to dial a routing prefix or follow any other different procedure to evoke such routing.
- 7.5 **“Call by Call Selection”** means the facility, which allows customers to opt for certain, defined classes of call by dialing a routing prefix or any other different procedure in order to evoke such routing.
- 7.6 **“Cramming”** is the practice of placing unauthorized, misleading, or deceptive charges on customers’ telephone bills. Cramming also occurs when an operator does not provide clearly or accurately describe all of the relevant charges to the customer when marketing specified service(s).
- 7.7 **“Customer”** means a person who is provided with a specified service by a service provider and includes the end user of that service.

- 7.8 “Determination”** means determination, decision, directives, instructions, consents, by the Office on matters relating to its regulatory duties, obligations and responsibilities under the Act.
- 7.9 “Determination Notice”** means the document with that title which sets out the Office’s determination(s) on matters relating to its regulatory duties, obligations and functions under the Act.
- 7.10 “Fixed network”** means a telecommunications network that is not a mobile network.
- 7.11 “Gaining Operator”** means the operator which the ANO’s customer has pre-select and/or select on a call-by-call basis to provide indirect access services.
- 7.12 “Indirect Access Facilities”** means those facilities which enable the IAO to provide to the customer requesting CPS Service and call-by-call selection in that request and comprise of: -
- ?? system setup facilities,
 - ?? per operator set up facilities, and
 - ?? per customer line set up facilities.
- 7.13 Indirect Access”** means the method whereby customers are able to select the services of any service provider who uses a public voice carrier’s network to provide specified services.
- 7.14 “Indirect Access Service(s)”** means Carrier Pre-Select service, and or call-by-call selection.
- 7.15 “Interconnection”** means the physical or logical connection of public voice networks of different carriers.
- 7.16 “Losing Operator”** means the operator which the Access Network Operator’s customer has pre-select and/or select on a call-by-call basis to provide indirect access services prior to the customer electing to change to the Gaining Operator.
- 7.17 “Mobile network”** means a telecommunications network used to provide specified services that-
- ?? permits a user to move continuously between places (including places accessing that network through different mobile base facilities) during the provision of a single calls; and

?? does not require physical contact between the network and the customer equipment.

- 7.18 Operator**” means a person who is granted a carrier licence and or service provider licence pursuant to section 13 of the Act, 2000 and includes Access Network Operator(s), and Indirect Access Operator(s).
- 7.19 “Per operator set up facilities”** means the indirect access facilities required from the ANO by an individual IAO for routing of calls specified in a subscriber’s request for indirect access service and include activities similar to data management amendments and the setting up of arrangements for the electronic transfer of customer orders.
- 7.20 “Per operator set up costs”** means the costs incurred by the ANO in providing per operator set up facilities.
- 7.21 “Per customer line set up facilities”** means the indirect access facilities required by an IAO for a particular customer line in order to meet that customer’s request for indirect access service.
- 7.22 “Per customer line set up costs”** means the costs incurred by the ANO in providing per customer line set up facilities.
- 7.23 “Reference Interconnect Offer”** means an offer document setting out matters relating to the price and terms and conditions under which a public voice carrier will permit interconnection to its public voice network.
- 7.24 “Slamming”** means the practice by operators of switching customers to their service without the customer’s knowledge or authorization.
- 7.25 “Specified service”** means a telecommunication service or such other service as may be prescribed.
- 7.26 “System set up facilities”** means the software and any alterations needed on the ANO’s switches and the modifications required for the ANO support systems to enable the ANO to provide indirect access facilities.
- 7.27 “System set up costs”** means the costs incurred by the ANO in developing and implementing the system set up facilities.
- 7.28 “The Office”** means the Office of Utilities Regulation established under the Office of Utilities Regulation Act.

- 7.29 “Take up of service date”** means no less than 5 business days from the date of signing of the contract during which time the customer who has request to change his or her operator could decide to reverse this decision at no cost.
- 7.30 “Telecommunications service”** means a service provided by means of a telecommunications network to any person for the transmission of intelligence from, to or within Jamaica without change in the content or form and includes any two way or interactive service that is provided in connection with a broadcasting service or subscriber television service.
- 7.31 “Unauthorized Provisioning of Indirect Access Service”** means any activity undertaken by an operator that dishonestly attempts to initiate an indirect access service change without the explicit permission of the customer (e.g. slamming).
- 7.32 “Unauthorized operator”** means any operator that submits a request for change, on behalf of a customer, in the customer’s choice of operator but fails to obtain the customer’s authorization verified in accordance with the specified authorization and verification procedures.

Part 1

- 7.33** Following public consultations the Office shall issue determinations detailing:
- (a) the designated Access Network Operator(s);
 - (b) a list of indirect access facility to be offered by operator designated at (a) above as part of its Reference Interconnect Offer.
 - (c) criteria for selecting operators eligible to offer Indirect Access Services to ANO(s)’s customers.
 - (d) assignment of numbering codes for purposes of CPS and call by call selection;
 - (e) directing any carrier designated as Access Network Operator to make modifications to the indirect access regime and the carrier shall comply in full.
- 7.33** In making any such determination or amendments to any such determination the Office shall have regard to the provisions of the Act and rules made pursuant to the provisions of the Act.
- 7.34** Charges for interconnection related to the provision of indirect access facilities shall be cost oriented and direct charges to customers, if any, should not present deterrence to the use of the services.

- 7.35** In assessing and or arbitrating a pre-contract relating to charges the Office shall have regard to the following principles: -
- ?? **Effective competition:** cost allocation system should encourage competition
 - ?? **Cost minimization:** the cost allocation system should encourage operators to minimize cost and in particular to adopt technically efficient solutions
 - ?? **Cost causation:** the operator responsible for causing cost should bear the burden of such cost. Considerations should be given however, to mitigating such cost by assessing and setting off the attendant benefits to other users.
 - ?? **Distribution of benefits:** the costs of the proposed regime should be recovered from those who directly and indirectly benefit from indirect access. This means that where feasible consideration should be given to the externalities associated with the provision of indirect access
 - ?? **Practicability:** the mechanism for cost recovery needs to be practicable and relatively easy to implement while at the same time not acting as a barrier to the development of the indirect access regime.
 - ?? Any other matter, which the Office consider relevant, from time to time, to the development of an effective competitive market for specified services.

Part II Customer Contracts

- 7.36** In order to offer indirect access service(s) to a customer, the Indirect Access Operator must enter into a contractual arrangement with the customer. The contract shall be in writing and shall contain at least the following: -
- ?? the take-up of service date,
 - ?? provisions for the customer to terminate the contract.
 - ?? any minimum period during which the contract will remain in force (which must not be more than three months) and explicitly state the penalties for breach of the minimum contract period.
 - ?? any upfront charge to the customer.
 - ?? tariffs, payment options and billing frequency.
 - ?? Means for informing the customer of variations to the contract, including any tariff changes and the notice period they will be given before these come into effect.
- 7.37** The contract for indirect access shall also:
- ?? be fair and reasonable.
 - ?? Provide a detailed description of the indirect access service(s) to be provided.

- ?? include an option for the customer to reject unsolicited communications and confirm that usage of all customer data shall comply with Jamaican laws.
- ?? include a customer service contact number.
- ?? set out what compensation or refund arrangements are in place if service level commitments are not met.
- ?? set out mechanism for resolution of disputes.
- ?? indicate the rights which the Indirect Access Operator has to terminate the contract with the customer (e.g. for persistent non-payment) and the circumstances in which calls will revert to the Access Network Operator(s).
- ?? exclude all reference to promotions or incentives.
- ?? require operators to inform customers clearly and accurately in writing in advance of any changes to tariffs or discount schemes as published in advance by the operators from time to time.

Part III Authorization and/or Verification of Request for Change of Operator

- 7.38 An operator shall not submit or execute a request for change of operator on the behalf of a customer in the customer's selection and or pre-selection of a IAO service unless it is in receipt of authorization from the customer and verification of that authorization of the customer's request to change his or her operator.
- 7.39 The submitting IAO shall maintain and preserve records of verification of customer authorization for a minimum period of two years after obtaining such verification.
- 7.40 Where the IAO is selling more than one type of specified service (e.g. outgoing international calls, inter-parish calls) that IAO must obtain separate authorization from the customer for each specified service. Each authorization must be verified separately from any other authorizations obtained.
- 7.41 Authorization and or verification of a customer's request shall take the form of a written letter.
- 7.42 The written letter shall be a separate document or an easily separable document or located on a separate screen or web page containing only the authorizing language and having the sole purpose of authorizing a operator to initiate a change. The letter must be signed and dated by the customer to the telephone line(s) requesting the change.

- 7.43 The letter shall not be combined on the same document, screen, or web page with inducements of any kind.
- 7.44 The letter must be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language that confirms: -
- ?? The customer's billing name and address and each telephone number to be covered by the request for change.
 - ?? That the customer designates [insert the name of the operator] to act as the customer's agent for the change.
 - ?? That the customer may consult with the operator as to whether a fee will apply to the change.
- 7.45 Any operator designated in a letter as agent as a gaining operator must be the operator directly setting the rates for the customer.
- 7.46 The letter shall not suggest or require that a customer take some action in order to retain the customer's current operator.
- 7.47 An operator shall submit a request for change on behalf of a customer within no more than 60 days of obtaining a written signed letter.
- 7.48 If problems arise in the order handling processes, operators should not attribute fault or blame for delay to another operator.
- 7.49 The Losing Operator should not state to the customer that the delay is a good reason for maintaining the existing service and to cancel the switch.
- 7.50 An operator must not release misleading or derogatory information about another operator's service.

Part IV Indirect Access Operator Liability for Slamming

- 7.51 Where a customer's choice of indirect access operator is changed, adjusted, or amended without authorization and verification in accordance with the procedures set out in Part III the unauthorized operator shall be liable to pay to the authorized an amount equal to 150% of all charges paid by the customer to the unauthorized operator.
- 7.52 Within ten business days of receipt of the amount the authorized operator shall provide a refund or credit to the customer in the amount of 50% of all charges paid by the customer to the unauthorized operator. The customer

- has the option of asking the authorized operator to re-rate the unauthorized operator charges based on the rates of the authorized operator and, on behalf of the customer, seek an additional refund from the unauthorized operator, to the extent that the re-rated amount exceeds the 50% of all charges paid by the customer to the unauthorized operator.
- 7.53 If an authorized operator incurs billing and collection expenses in collecting charges from the unauthorized operator, the unauthorized operator shall reimburse the authorized operator for reasonable expenses.
- 7.54 If the authorized operator has not received payment from the unauthorized operator as required under this section the authorized operator is not required to provide any refund or credit to the customer.
- 7.55 Where applicable the authorized operator must reinstate the customer in any premium program in which that customer was enrolled prior to the unauthorized change, if the customer's participation in that program was terminated because of the unauthorized change. If the customer has paid charges to the unauthorized operator, the authorized operator shall also provide or restore to the customer any premiums to which the customer would have been entitled had the unauthorized change not occurred. The authorized operator must comply with the requirements of this section regardless of whether it is able to recover from the unauthorized operator any charges that were paid by the customer.

Part V Reporting Requirement for Slamming Complaints

- 7.56 Each Indirect access Operator shall submit to the Office via e-mail, post or facsimile a slamming complaint report form identifying the number of slamming complaints received during the reporting period inclusive of the following: -
- ?? the number of slamming complaints received during the reporting period that the IAO has investigated and found to be valid.
 - ?? the number of slamming complaints received during the reporting period, investigated or not, that the IAO has directly resolved with consumers.

Part VI Misuse of Customer Information

- 7.57 Any use by an operator of customer information must be restricted so as to ensure compliance by that operator with their obligations, for the time being, at law. These obligations include but are not limited to obligations under:

- ?? All relevant Jamaica laws and any other applicable domestic and/or binding non-domestic laws concerning the protection of personal information/data;
- ?? All Competition legislation and any other applicable domestic and/or binding non-domestic laws concerning anti-competitive behavior and/or abuse of dominance position.
- 7.58 Operators must take all reasonable steps to safeguard the privacy and confidentiality of customer information such as names, addresses, telephone numbers, calling patterns and telephone bills. This information must only be used or disclosed to the extent that this is necessary for providing the telecommunication service or used in the provision of telecommunication services (e.g. directories).
- 7.59 Operators must disclose available customer information, to the extent permitted by law, when requested in writing by the customer, to that customer within 5 working days of receiving the request. The customer may then pass it to another operator or other third party.
- 7.60 A Losing Operator may disclose customer information to the Gaining Operator or Access Provider, subject always to the provisions of Jamaican laws and any other related provisions concerning the protection of personal data.
- 7.61 An operators must use bona fide efforts to achieve compliance by its employees, agents, contractors and dealers with the provisions of the rules herein.

Part VII Complaint Handling And Enquiries

- 7.62 Operators must inform customers clearly whom they are to contact in the event of a query or fault with the service and this should be prominently displayed on the contract and on bills.
- 7.63 An Access Network Operator who is contacted by customers regarding a problem with an Indirect Access Operator service provided by another Indirect Access Operator must transfer the query to the customer service staff of that operator.

Part VIII Contact With Customer

- 7.64 Subject to obligations otherwise at law, following notification by the Access Network Operator of loss of service, the Losing Operator has five (5) days within which it may make one unsolicited contact with the customer. The

Losing Operator shall refrain from making further unsolicited contact with the customer thereafter until a reasonable period of time has elapsed.

Part IX Unauthorised Provisions of Indirect Access Services

- 7.65 Operators shall not engage in unauthorised provisioning of indirect access services of any form whatsoever.
- 7.66 Where an incident(s) of unauthorised provisioning of indirect access service is detected by an Indirect Access Operator or the Access Network Operator, the incident(s) shall be notified to the Operator who has gained as a result of the unauthorized provisioning.
- 7.67 All Operators who are party to the incident(s) complained of shall use their best endeavours to resolve the matter. Where the matter is resolved the Gaining Operator shall notify the Access Network Operator to reinstate the customer's service to the status prior to the disputed provisioning.
- 7.68 Where complaints concerning incident(s) of unauthorized provisioning of indirect access service cannot be resolved in accordance with paragraph 7.67 or within ten (10) working days of the Operator who has gained as a result of the unauthorized provisioning being notified per paragraph 7.66, the Operator claiming loss as a result of the alleged unauthorized provisioning of indirect access service shall have the option of requesting arbitration as per their Interconnection Agreement.