



LIME's Response to the OUR's Consultation Document
On
Jamaican Common Short Code Scheme

May 2012

Introduction

1. LIME welcomes the opportunity to participate in the OUR's public consultation on the "**Jamaican Common Short Code Scheme**". LIME understands that this is the first of two consultative documents that the OUR intends to publish on this issue, and trusts that its responses will positively impact the deliberations.
2. LIME accepts that the current "short code arrangements" require appreciable improvement and is committed to assisting the OUR to settle on a Scheme that will allocate such codes efficiently and fairly to the benefit of all stakeholders.
3. Notwithstanding, LIME maintains that an appropriate "Scheme" ought to be one that avoids the imposition of needless bureaucracy, complexity, and additional costs to stakeholders. This is of utmost importance in the context that other pressing and disruptive numbering initiatives are yet to be resolved, such as, the changing of the National Numbering Plan to one having a 10-digit dialling format, an improved toll-free numbering scheme and most of all the consultation on Number Portability. It is against this background that LIME's responses are made.
4. LIME's failure to respond to any of the OUR's questions as set out in this consultation should not be construed to mean that LIME is in agreement with the OUR's proposal. LIME 's reserves its rights to comment on these in the future.

LIME's Response to the OUR's Questions

Q1. What premium services do you think will be of interest to this market?

5. LIME is in general agreement that the premium services referenced in its document are also of interest in the Jamaican market and are appropriately captured under the headings of:
 - Entertainment
 - Advertising
 - Commerce
 - Marketing and
 - Information

Some of these services are already being offered in the market. It is expected that as innovation continues over time, new categories are likely to emerge.

Q2. What issues do you find presently that are affecting access to mobile and fixed networks for access seekers?

6. LIME considers this question to be very broad in nature and somewhat vague. Notwithstanding, it can be said that the combined access to voice services via mobile and fixed line networks is very widespread and it is widely accepted that access to voice services is not an issue. However, there are some areas, albeit relatively few, where fixed line and or mobile access may be limited. Also, the OUR is well aware of the issue of high mobile termination rates in the market and the need for lower cost based MTRs, which will lead to lower mobile retail calling rates in the market.

Q3. What other considerations do you believe are necessary to facilitate the interoperability of networks?

7. Countries such as Jamaica, and the Carriers therein, merely import and install network components that are made abroad, usually in North America or Europe. They thus benefit from interoperability to the extent that such components adhere to technical standardization guidelines and by design can “speak” to each other, a process which is being driven by the convergence of entities, services and the platforms over which these services are provided. Of course, the purchasing decisions of a Carrier will be informed not just by costs but by the extent to which the components of its network will be compatible with its existing and potential partners. As technology progresses to be more IP driven then interoperability is more easily facilitated.

Q4. Do you believe that there are some entities that may need short code numbering resources that are not being catered to by the existing regulatory framework? In this regard what changes do you feel would be necessary to facilitate them?

8. In the existing regulatory framework, it is the Licensed Carriers/Service Providers that are eligible to apply for and be assigned short codes. From time to time they apply for the use of short codes to promote their own services and/or services offered in conjunction with a partner(s). Due to the very limited number range from which a short code can be selected, from time to time the initially desired number may not be available and a “less advantageous” number has to be selected, in that it may be harder for customers to recall for use. This scenario can be minimized, if not eliminated, by significantly expanding the range of numbers from which a short code can be selected.

Q5. What are your views on a short code registration system for newer providers? How would you like to see this system run?

9. LIME is not in a position to make a specific recommendation at this time. However, any such system should avoid needless complexity and bureaucracy. The information from any such registry should be readily available to the Industry.

Q6. Do you believe that premium rate services should be designated a specified service?

10. A "Premium Rate" service is not defined as a specified service in the Telecommunications Act 2000.

Office has sought to "make the case" that premium rate services "ought" to be designated as a "specified service", by setting out that;

1. Telecommunications is *"the transmission of intelligence by means of guided or unguided electromagnetic, electrochemical or other forms of energy, including but not limited to intelligence:*

a. *In the form of:*

i. *Speech, music and other sounds;*

ii. *.....*

iii. *Data or text;*

iv. *Any type of signal;*

b. *.....*

c. *.....*

d. *Transmitted between persons and persons, things and things or person and things;*

2. Telecommunication services;

"are service provided by means of a telecommunications network to any person for the transmission of intelligence from or within Jamaica without change in the content or form"

3. A specified service is a *"telecommunications service or"* and that a specified service is provided to the public if :

a. It is *supplied, directly or indirectly, for a fee* to a person....

11. Based on the foregoing LIME would not in principle object to the OUR issuing a formal consultation on this issue such that the matter is thoroughly explored in the market context. However, more significantly, LIME is of the view that there is no urgency to designate premium rate services as a "specified service" as currently subscribers to

same, are being protected under the Act as their interests are being promoted. Given the many critical issues on the OUR's Work Plan and the limited resources available to execute these and the fact that several of the promised deadline dates for implementation have been missed, LIME strongly urges the OUR to prioritize those matters and not devote man hours to investigating whether or not a premium service should be designated as a "specified service" at this time.

Q7. What considerations should be given to the issue of tariff transparency?

12. In principle, LIME supports initiatives that will help subscribers of premium services (and other services) to better understand the level of tariff that they will be required to pay in exchange for the services that they consume. In the case of a short code scheme, this goal must necessarily be balanced against the efficient use of the numbers which are a scarce resource. Hence, LIME does not favour an approach that will try to match a particular NXX number range with specific tariff levels, since this will inevitably lead to an inefficient assignment of numbers to service providers. In that, unused codes within a certain "tariff range" will be rendered unavailable to another service provider that would otherwise be able to use one of them but for the fact that its proposed tariff level is not compatible with the one assigned to the number range.

Q8. What particular arrangements should be made to facilitate tariff transparency in services that will be utilizing short codes (for example price points, tariff dependent numbering ranges etc.)?

13. The service provider should be required to publicly advertise the tariffs that it will charge for its service in a clear and unambiguous manner. The OUR should also utilize its radio programme, news magazine and appropriate workshops to educate the public that premium rate services attract a higher than normal tariff and that they should ascertain the rate being charged before using the service. Given that premium rate services are already being offered in Jamaica for some time now, LIME has formed the view that many Jamaicans are already aware that the premium rates services attract a higher charge. The Industry will simply need to build on this foundation. Service providers should provide avenues to inform the public as to the applicable tariffs for its services for example on its website, advertisements, in store flyers, and text blast.

Q9. What prospective services do you envisage will require special tariff considerations?

14. See LIME's response to questions 7 and 8.

Q10. What particular mechanisms should be put in place to protect subscribers who may wish to participate in premium rate subscription services that utilize short codes?

15. In addition to ensuring that the level of tariff is known by the user of the service, service providers should put in place clear and unambiguous communication regarding the service that is being provided and the terms and conditions which govern its use. It is well known that even the best of telecommunications service network and service is not infallible and that the technology itself does not guarantee that all messages will be delivered or the time frame in which they will be delivered. The terms and conditions should make any limitations of the service known to the subscriber, such that he may have realistic expectation of what his experience using the service is likely to be.

Q11. Should specific charging limits be set for premium rate subscription services purchased by subscribers during a given timeframe (You may refer to Annex 3 for data on the charging policies in selected countries)? Jamaican Common Short Code Scheme Consultation Document Document No: TEL2012002_CON002 March 23rd, 2012 Office of Utilities Regulation.

16. LIME is not clear on why the OUR would be seeking to impose price regulation on premium rate services at this time as the regulatory basis for so doing has not been explored but for the fact that this is being done in some other jurisdictions. The OUR appears to be concerned that subscribers could be abused by the retail rates set for the services to which they subscribe. While this is possible, the same is true for a number of other retail rates offered by Mobile Operators. In fact the OUR has failed to investigate and implement retail regulation of the super-dominant mobile operator in the market, whether by price cap regulation or otherwise. It seems consistent with economic regulatory principles that before seeking to impose retail rate regulation to all suppliers of premium rate services, the OUR would investigate which supplier is Dominant, such that it can act independently of or without constraint from its customers and competitors, in the market for premium rate services.
17. LIME is of the view that it is inappropriate for the OUR to be exploring price regulation for premium rate services before agreeing on how the Short Code Scheme will work and the market in which it will be implemented.

Q12. What are your views on the privacy of consumer data and what should be done to protect it, especially where 3rd parties are involved in the provision of these services?

18. LIME supports the principle that the consumer data ought to be kept private and should not be disclosed to third parties without the consent of the consumer except as explicitly provided for in the Telecommunications Act 2000. On the other hand, LIME accepts that it is reasonable and permissible for a Service Provider to utilize data on its own customers to market new products and services to them or to otherwise understand their behaviour.

Q13. What are your views on SPAM and what measures are being taken to protect consumers against SPAM?

19. LIME accepts that were it to give a third party stakeholder access to its gateways for the purpose of sending SMS to its mobile customers, then there could be an issue of SPAM on the network. This could occur in circumstances where the third party sends messages above and beyond what subscribers agree to accept when they “sign up” for a service, which the third party plays a role in delivering. In such a case, the third party is incentivized to bombarding the subscriber with messages to buy the product or service since it stands to profit should the product or service be purchased by the subscriber.
20. As a consequence Service Providers monitor the messages sent to its subscribers over the network to ensure that they are not the victim of SPAM. Should this be detected then the service providers engage the third party to immediately desist, in keeping with clear guidelines governing the basis on which access to the gateway was allowed, one being that sending SPAM to subscribers is prohibited. In some agreements, the Service Provider and Third Party may agree on penalties that would be incurred if SPAM was sent to subscribers and that repeated offences would result in the termination of its access to the gateway.

Q14. What measures do you believe should be put in place to monitor connected agents (aggregators etc.) that terminate messaging volumes to the carrier’s gateway?

21. LIME is of the view that there are inherent network controls available to monitor connected agents and only need to be utilized. Therefore there is no need to ‘put in place’ any measures.

Q15. Do you believe that mobile content should be rated? If so, what system should be used to classify mobile content be rated?

22. LIME is of the view that the issues raised by this question is outside of the remit of the OUR. Any treatment of the rating of content would of necessity have to be consistent with established guidelines as set out by the appropriate Content Regulator. Further, the imposition of any “rating system” would as a practical matter have to be technically feasible and commercially viable for Service Providers to implement.
23. It is also useful to note that a mobile phone is a very personal device and at the point of sale is registered as being sold to an adult. Minors are not sold mobile service in the normal scheme of things. Hence, it may be adequate to give notice of the rating of the content when it is being purchased by the said adult and not on a recurring basis.
24. Whereas LIME accepts that it has a role to play in protecting the vulnerable in the society, such as children, from harmful content (provided via a premium service), this responsibility largely lies with the adult subscriber to the service and not the service provider.

Q16. What measures should be used to protect against content that could be considered to be offensive for vulnerable groups such as children etc.?

25. See LIME’s response to question 15.

Q17. Do you believe that the short code numbering range should be used to classify content categories as a means of protecting the consumer?

26. No, since too many scarce numbers are likely to become inaccessible for other uses. LIME believes that the principles presented in its response to questions 7 and 8 would also apply here. Instead of setting aside number ranges for this purpose, the Service Provider should be required to notify the public regarding the services offered via each assigned short code. This information should be accessible.

Q18. Should a time limit be set on how long customers should have in lodging a complaint? How long should this be?

27. LIME shares the OUR's concern that customer complaints need to be promptly resolved "one way or the other" when brought to the attention of Service Providers. Notwithstanding, LIME is not entirely clear regarding the intent of this question. LIME is of the view that the issue as to the length of time permissible or allowed for a customer to lodge a complaint in relation to his service, after which time he can no longer do so is outside of the scope of this consultation document, and indeed to OUR's powers to determine.
28. LIME is of the view that this issue falls under the Fair Competition Act and thus the purview of the Fair Trading Commission (FTC). Indeed, unresolved complaints of one kind or another are currently being handled by the FTC (on an ongoing basis). LIME can only presume that the length of time allowed would of necessity be dependent on (among other factors) the;
- a. nature of the complaint
 - b. the extent of harm suffered
 - c. the extent of material loss incurred and
 - d. the provisions of the law
- Also impacting the matter would be the extent to which the limitation of the service was known to the customer based on the terms and conditions of the service. Please see the principles shared in LIME's response to question 10.

Q19. What measures do you think should be put in place by operators and 3rd party service providers, who may be utilising their networks to provide a premium rate service, to treat with consumer complaints?

29. Service Providers (3rd party or not) should make the Terms & Conditions (Ts & Cs) of the service clear to their customers and be responsible to resolve customers legitimate complaints. The Ts & Cs should be read and accepted by the customer prior to subscribing to the service. Service providers should also make their contact numbers and business address available to their customers.
30. Network Operators (that are not also themselves the Service Provider) also have a responsibility to address the complaints of the Service Provider facilitated on its network. Such a partnership should of necessity be governed by a commercial contract that outlines the roles and responsibilities of each party and their attendant obligations and liabilities to each other.

Q20. What barring measures and facilities do you think should be provided to the users of any service?

31. LIME does not believe that phones should be barred from making calls to short codes or premium services as a general rule. However, should a customer wish to bar his phone from making calls to a premium rate service, LIME would have no objection to facilitate this request on a case by case basis, providing that it is technically feasible and commercially practical to carry out.
32. It should be noted however, that LIME does not accept that in principle its has an obligation to provide barring services to customers. As a business, LIME offers a wide range of services to its customers, from which they have the ability to make choices of their own free will. These services include:
 - a. fixed to mobile domestic calls
 - b. mobile to mobile domestic calls
 - c. international calls to any destination in the world
 - d. data services
 - e. SMS services
 - f. premium rate services etc.
33. LIME is of the view that it is the primary responsibility of the subscriber to choose the service it requires and to protect his phone from abuse as he would for example protect his credit card. In fact, this is what mobile subscribers presently do. For several years in response to the fact that a certain mobile service provider charged very high cross-net rates, a significant number of subscribers carried two mobile handsets in order to benefit from the much lower on-net rates offered by another service provider. Instead of seeking to bar the ability to use their phones to make cross-net calls, they simply chose not to call certain mobile numbers from a given phone. Subscribers have clearly demonstrated their ability to choose and the case of premium services should be no different.
34. In this technologically advance century and worldwide economic downturn, it is understandable that Service Providers (in principle) would invest their resources to facilitate the ease with which their services can be accessed by customers and not the very opposite.

Q21. Do you think that consumers should have the option for universal barring for all chargeable premium services?

35. See LIME's response to question 20.

Q22. What service categories do you believe will be relevant to the Jamaican market for the purpose of defining service ranges?

36. LIME envisions that the following services:

- market and advertise goods/services
- facilitate voting by subscribers
- provide information
- enable gaming
- facilitate banking services or money transfer
- e-government transactions

are likely to be accessed more and more via short codes in Jamaica, it cautions the OUR to avoid the creation of unnecessary service categories.

37. Since Jamaica is a small market and the demand in each category is likely to be modest, the imposition of categories is likely to render large blocks of numbers unusable by other categories of service. Given the value and scarcity of short codes (in particular vanity codes), LIME is of the view that this is unnecessary for Jamaica. This is the same principle applicable to assigning short codes according to tariff, content and now service categories. If all these were to be applied just imagine how many numbers would become unusable!

38. What is needed is that customers be fully educated that certain short codes will attract a premium charge and that the information as to the charges be made readily available.

39. LIME endorses the approach taken in the United States and Latin America, thus leaving the range open for full use.

Q23. What approach do you support for the management of short codes; should it be through an industry group or simply left to the regulator?

40. LIME fully supports that numbers must be assigned in an efficient and non-discriminatory manner. LIME also appreciates the cited approaches taken in Canada, United Kingdom and the United States given the size of their markets and the diversity of both stakeholders and services.
41. Notwithstanding, LIME is of the view that such approaches are inappropriate for Jamaica given the limited scale and scope of its market for short codes relative to Canada, United Kingdom and the United States. LIME considers formulation of an Industry Group to be unnecessary bureaucracy, which will add complexity and costs to the process, rather than the efficient assignment of short codes.
42. As a consequence LIME recommends that the OUR in its role of Numbering Administrator, continue to play the role of assigning short codes to applicants. LIME can see no objective reason to change this framework. When LIME reflects on the significant amounts that it pays for regulatory fees, it does not consider it prudent to incur any additional cost (whether in man hours or otherwise) to carry out a function that the OUR is currently managing and will be able to manage in the foreseeable future (even if the framework for managing the short code scheme were to change)

Q24. If you support the formulation of an Industry group: who should comprise this body; what specific issues would you like them to consider as a body? Jamaican Common Short Code Scheme Consultation Document Document No: TEL2012002_CON002 March 23rd, 2012 Office of Utilities Regulation

43. LIME does not support the formation of an Industry Group. See LIME's response to question 23.

Q25. What information do you believe that prospective applicants should provide as well as what other information do you believe should be considered from the list given above?

44. LIME accepts that the information outlined by the OUR in section 5.30 is appropriate and offers no suggestion as to additional information required at this time.

Q26. What other considerations do you feel are relevant to the CSC as described?

45. LIME will endeavour to comment further (as it considers appropriate) on this during the course of the consultation process.

Q27. What further requirements should there be for services utilising short codes?

46. LIME will endeavour to comment further (as it considers appropriate) on this during the course of the consultation process.

Q28. What particular features of the Industry experiences highlighted do you think will be applicable in Jamaica?

47. LIME found the cited industry experiences helpful but limited. LIME is indifferent to the use of a five digit or six digit short codes or the use of both a five and six digit short code for the mobile network.
48. LIME however, does have some concerns about the implementation of such codes in the fixed network and the required translations, given the timing differences involved when dialling a five digit number versus a seven digit number and for the network to recognise that the user has in fact completed dialling in each case. In the case of the fixed network, the use of YYY numbers for short codes would make the translation work significantly easier. LIME will continue to investigate and research what approach is most appropriate for the fixed network. Such issues do not arise in the case of the mobile network, since after the short code is dialled, the user simply presses send to signal to the network that the dialled digits (short or long) constitutes the number to be dialled.
49. LIME has already indicated that it rejects the idea of setting up an Industry Management Group in the case of Jamaica and that OUR, as the Numbering Administrator, should make the assignments and maintain the registry of short codes and not delegate this to any group or agencies.

50. LIME also accepts that some elements of the short code guidelines referenced or cited could be adopted for use in Jamaica but each would need to be explicitly considered to ensure appropriateness.
51. LIME considers with interest the proposal to lease short codes to service providers for varying lengths of time. LIME is concerned that this will introduce a further layer of costs in particular to Network Operators who are also Service Providers. Consider, Mobile Operators over whose network short code services are predominantly provided, currently;
- a. pay tens of millions for spectrum licence and regulatory fees each year
 - b. pay tens of millions for OUR fees each year
 - c. incur higher levels of GCT on telecommunications services
 - d. incur a USO levy on incoming international calls
 - e. face the prospect of paying fees for rights of way

and now the prospect of paying fees to lease short codes for a period of three, six or twelve months is being proposed. LIME considers that any attempt to use short codes as a revenue generator for the OUR is most inappropriate. To further complicate the matter the OUR is suggesting that it would be minded to consider the imposition of price cap regulation on premium rate services. LIME considers this to be inappropriate, as discussed earlier.

52. LIME appreciates that this is the first of two consultation documents on a common short code scheme for Jamaica. LIME respectfully asks that the OUR gives due consideration to its recommendations and concerns.

End