



LIME'S RESPONSE
TO
THE OUR'S CONSULTATIVE DOCUMENT ON
**'PRINCIPLES OF LONG RUN INCREMENTAL COST MODEL
FOR THE JAMAICAN TELECOMMUNICATIONS MARKET'**

April 15, 2009

1. Introduction

1.1 LIME welcomes the opportunity presented by this consultation to discuss the approach to costing in the telecommunications market in Jamaica. In the preamble at page 3 of the consultative document, the OUR states that '*The Office's intention in issuing this Consultative Document is to obtain the views of stakeholders on the proposed principles of Long Run Incremental Cost (LRIC) for setting interconnection prices*'. LIME is pleased to present its views on the LRIC principles, however this should not necessarily be interpreted to mean that LIME is in support of the OUR's formulation of LRIC as the preferred methodology for costing.

2. Scope of Proceeding

2.1 In the abstract to the consultative document, the OUR makes reference to LRIC being used to determine the cost of providing interconnection and alludes to LRIC being used to determine termination rates. In the already referenced preamble on page 3, the Office specifically refers to LRIC being used to determine interconnection prices. However, there is some uncertainty as to what the OUR considers to be an "interconnection price", given the current regulatory framework. For the avoidance of doubt, it should be noted that LIME considers all call termination services on all types of networks, including the termination on a mobile network of calls originated on a fixed network, to be "interconnection services". LIME requests that the OUR clarify the extent to which LRIC is intended to be used in the Jamaican telecommunications market, and specifically state that it intends to use LRIC to determine the price for mobile call termination of fixed-to-mobile calls originating on LIME's landline network.

2.2 There is no mention of a LRIC methodology being applied to determine cost floors for retail prices of operators with significant market power. LIME notes that a decision to use LRIC in one context (interconnection prices) while not using it in other, clearly related contexts (retail imputation tests) could lead to inconsistencies and distortions in the regulatory framework that will ultimately harm consumers. This is not in the public interest and LIME requests that the Office ensure such a sub-optimal outcome not occur.

2.3 It is unclear as to who is expected to submit a LRIC model. In the "Legal Framework", at Chapter 1 of the consultative document, the OUR sets out the legal basis for determining the cost for interconnection for both dominant and non-dominant operators. The OUR, however, did not elaborate on the application of the legal framework. For the avoidance of doubt, LIME requests that the OUR clarify which operators in the market will be required to submit LRIC cost models, and on what legal basis.

3. The OUR Must Establish Specific Guidelines for Model Build

3.1 As a full participant in the ongoing consultative proceedings of two different regulators¹ who are developing their own LRIC models, LIME is well aware that this is not a simple process. In this regard, LIME is concerned that the OUR appears to be taking a too-high-level approach and glossing over necessary details. The ICTA in the Cayman Islands, for example, has adopted a principled approach to the development of its FLLRIC model, and began the process by establishing twelve principles and eight guidelines following an extensive consultation.² In contrast, the Office is proposing a handful of “requirements” based on an eight-page report of the IRG.

3.2 LIME notes that the OUR has taken the position as contained in paragraph 2.5 that operators are ‘...assumed to have the required knowledge on their own...’ While this allows operators to build unique LRIC models, the Office must be aware that without establishing detailed guidelines there is likely to be much variation and many inconsistencies in the LRIC models produced. In such a case, where the OUR has not developed detailed guidelines, there is no rational basis on which the OUR could assess or analyze any of the models developed. It may appear now to the Office that this approach will circumvent the time and complexity associated with developing and agreeing these guidelines and fine-tuning the model(s), which in other jurisdictions in the Caribbean like the Cayman Islands and the countries in the Eastern Caribbean has taken years and is yet incomplete. However, if this is not done, the OUR could possibly find itself unable to implement any of the models because of disagreements among operators *inter alia* on processes, procedures, treatment of assets and opaqueness of models and simply not liking the numbers that are produced. There could be resort to quasi legal and judicial proceedings.

3.3 The OUR acknowledges in the conclusion to the consultative document that ‘...it does not claim that it is providing a detailed account of how the LRIC cost exercise is to be carried out ...’ However at paragraph 5.1 the OUR asserts that ‘...the OUR may see the need to demand adjustments to the topology ...underlying the cost calculations if that structure obviously differs substantially from a reasonably efficient one.’ Yet, by not having established detailed guidelines at the very beginning, and by not having established what is “reasonably efficient” in the first place to inform itself or the operators, it would seem that the OUR would have no basis on which to claim that the structure of any network topology incorporated into a model departs from ‘...a reasonably efficient one’. The Office should also bear in mind that substantive amendments to a model can be costly, if they have to be made after the fact.

3.4 LIME does not wish to forge ahead to develop a LRIC model without having agreement with the regulator on specific guidelines for the model build nor would LIME consider it insignificant should it develop a model, without agreed guidelines from the

¹ The Information and Communications Technology Authority (ICTA) in the Cayman Islands, and the Eastern Caribbean Telecommunications Authority (ECTEL) in the OECS States.

² ICT Decision 2005-4, *Decision For The Forward-Looking Long-Run Incremental Costing Consultation (CD (2004) 1)*, 22 July 2005

regulator, only to have the model rejected at the end. This of course would be completely unacceptable, but based on the positions expressed by the OUR in the consultation document, it is exactly that risk that the OUR is exposing affected companies to. Nor has the OUR mitigated this risk, or discharged its obligation to the industry by referring operators in Jamaica to the websites of ‘...European operators that have been regulated according to this standard for some time that provide on their websites detailed accounts of how they carry out LRIC costing using the top down approach’.

4. Process for Determining Interconnection Prices

4.1 At paragraph 10, the OUR states that ‘...after each operator’s interconnection cost is submitted the Office will be in a position to determine which cost would be most efficient and / or which price could be the benchmark interconnect price...’ This would suggest that the OUR intends for all operators to submit LRIC models, and would pick a ‘winner’.

4.2 In LIME’s view, the process contemplated by the OUR is sub-optimal, particularly in the absence of detailed specific guidelines as discussed above. By asking each operator to submit a top down model based on a scorched node approach, the OUR’s approach will necessarily generate multiple and potentially very different cost figures. However, without robust means to assess the figures and the models, the OUR would essentially have to arrive at a price in some arbitrary way. This approach is flawed and will likely result in endless disputes.

4.3 The least appropriate method for determining interconnection prices would be to ascertain individual prices based on individual top down LRIC models. The effect of this method would be to penalize efficient operators by forcing them to pay the higher prices resulting from inefficiency, and to reward inefficient operators by allowing them to pay the low prices created by efficiency. This does not seem consistent with the intent of the *Telecommunications Act*. The only way to avoid this perverse situation is to ensure that interconnection prices are uniform and “reciprocal”, such that all operators pay and charge the same price for the same service.

4.4 The approach adopted in other jurisdictions to ensure that the uniform, reciprocal prices are “efficient” is to model the costs of a forward-looking, efficient operator, i.e., not necessarily the costs of any specific operator actually competing in the market. LIME recommends that the OUR consider this approach, although it is not entirely consistent with the OUR’s recommendation to require each operator to conduct a top down LRIC modeling exercise.

5. Conclusion

5.1 LIME recommends that the OUR clarify:

- the scope of the proceeding, in particular that LRIC will be used to determine the price for termination on mobile networks of calls originated on LIME’s landline network;

- the legal basis it is applying for requiring operators to provide LRIC models; and
- its intent that interconnection prices flowing from the LRIC model are to be uniform and reciprocal.

However, notwithstanding the foregoing, LIME submits that the OUR must establish detailed, specific guidelines for the development of the LRIC model, in order to ensure a robust, fit-for-purpose model that can actually be used for its intended purpose.

END DOCUMENT