
Office of Utilities Regulation

Structure of Quarterly Telecommunications Report

Determination Notice



OFFICE OF UTILITIES REGULATION

October 10, 2008

DOCUMENT TITLE AND APPROVAL PAGE

DOCUMENT NUMBER: TEL 2008/13 : DET/03

DOCUMENT TITLE: Determination Notice for Structure of Quarterly Telecommunications Report.

1. PURPOSE OF DOCUMENT

This document contains the main Decisions of the OUR regarding the structure of the Quarterly Telecommunications Report.

ANTECEDENT DOCUMENTS

Document Number	Description	Date

APPROVAL

This document is approved by the Office of Utilities Regulation and the decisions therein become effective **October 10, 2008**.

On behalf of the Office:



.....
George C. Wilson
Director General (Acting)

October 10, 2008

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CHAPTER 1: INTRODUCTION

- 1.0 The Office issued a Consultative Document on the ‘Structure of the Quarterly Telecommunications Report’ on July 9, 2008. The purpose of the Consultative Document was to give telecommunications service providers and other interested parties an opportunity to voice their opinion on the aggregation of information, format of the report, and the type of information to be published in the forthcoming Quarterly Telecommunications Report.
- 1.1 The Consultative Document indicated the Office’s intention to publish and analyse aggregated information relating to the three main service areas of the local telecommunications sector that is, fixed call services, mobile services, and internet services. The proposed structure of the report also includes a section for the calculation of market penetration and concentration. Finally, there is also a section for a discussion of telecommunications issues arising on the international scene during the review quarter.

Responses to Consultation

- 1.2 Responses to the Consultative Document were received from:
- i. Cable and Wireless Jamaica (C&WJ) and
 - ii. Digicel Jamaica.
- 1.3 The Office subsequently issued a Clarification on August 13, 2008 titled ‘Clarification on Structure of Quarterly Telecommunication Report’ arising from the submission of Digicel. The Office was of the opinion that the clarification was necessary in order for interested parties to properly assess the Consultative Documents and give informed responses.
- 1.4 This Determination Notice summarises the concerns raised by the respondents which were not dealt with in the Clarification and gives the Office’s considered judgement on these issues.

SUMMARY OF CLARIFICATION

The main points of the Clarification are summarised below:

- The use of the word subscriptions in the Quarterly Telecommunications Report is meant to refer to the number of subscribers under the particular category of telecommunications service.
- Revenues will generally be presented on an aggregate basis.
- Revenue from mobile subscription is in reference to voice traffic as there are separate breakouts for revenues resulting from DQ/IDQ, SMS, WAP, and the other revenue generating aspects of a mobile service operation.

- Data communications revenue refers to earnings from the installation and rental of domestic and international leased lines and frame relays to customers.
- Both on-net and off-net VOIP calls should be included under fixed call service if they are provided over the fixed network.
- Given the limited amount of the data on ‘other services and other mobile data services’ (DQ/IDQ, MMS, and WAP and Mobile Internet), it will be omitted from the report.
- Under the internet services category, fixed connections are with reference to broadband internet service. Pay-as-you-go service is a form of dial-up service offered by some Internet Service Providers (ISPs) which allows users to access pre-paid internet services.
- The OUR will report on the number of licensed and active Internet Service Providers (ISPs).
- On-net calls and off-net calls relate to domestic calls as there are separate breakouts for international calls and calls while roaming.

LEGISLATIVE FRAMEWORK

1.5 The Office is guided by the Telecommunications Act 2000 (the Act) when carrying out its functions and responsibilities with regard to regulating the telecommunications sector.

1.6 One of the primary objectives of the Act as stated in Section 3 (a) is “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) *ensuring that services are provided to persons able to meet the financial and technical obligations in relation to those services;*
- (iv) *providing for the protection of customers;*
- (v) *promoting the interests of customers, purchasers and other users (including, in particular, persons who are disabled or the elderly age) in respect of the quality and variety of telecommunications services and equipment supplied;”*

1.7 Section 4 of The Act details the functions of the Office with regard to regulating telecommunications and indicates that “the Office shall ...

- ... (c) *promote the interests of customers, while having due regard to the interests of carriers and service providers;*
- ... (e) *make available to the public, information concerning matters relating to the telecommunications industry;*
- (f) *promote competition among carriers and service providers; ...”*

1.8 For the Office to carry out its functions and ensure that the objectives of the Act as mentioned above are being met, the Office decided to commence publishing a Quarterly Telecommunications Report.

CHAPTER 2: MARKET CONCENTRATION

- 2.0 Concentration speaks to an indicative measure of the level of competition within a market or industry. As part of the functions of the Office, it must provide the public with information on the telecommunications industry as well as promote competition. The use of the Herfindahl-Hirschman Index (HHI) to calculate concentration is intended to help fulfil this purpose.
- 2.1 There are several ways of measuring concentration, however the HHI is generally regarded as the most complete method¹. This is due to the fact that the HHI not only focuses on the number of competing firms but also the relative size and distribution of the firms. This feature is especially important when measuring concentration in the Jamaican telecommunications industry which is relatively small and not expected to be able to accommodate a large number of entrants.
- 2.2 C&WJ in their response to the Consultative Documents on the Structure of the Quarterly Telecommunications Report has taken issue with the Office's proposed use of the HHI to assess market concentration. In its response C&WJ states that -

“This approach to defining markets is inconsistent with the OUR's own approach for defining markets in the telecommunications industry. There is no homogeneous, fixed, broadband or mobile market to which the OUR can ascribe an HHI. The use of the HHI in this manner will present misleading information on the telecommunications market in Jamaica.”

- 2.3 The Office accedes to the point being raised by C&WJ as the use of the HHI was never intended for defining markets but instead to indicate the level of concentration in the industry. As such, the Office will use the HHI to calculate industry concentration instead of market concentration as was posited in the Consultative Document. In this regard, separate HHIs will be reported for the fixed, broadband, and mobile segments of the industry as indicated in the Appendix.

Determination 2.0

The Office will report HHIs for the fixed, mobile, and broadband segments of the telecommunications industry.

- 2.4 The Office also takes this opportunity to assure all licensees that Determinations 2.0 and 2.1 from the 'Telecommunications Markets Information Requirement' Determination Notice published April 8, 2004 still remain in place. The respective determinations are as follows:

¹ <http://www.quickmba.com/econ/micro/indcon.shtml>

“Determination 2.0

Before each half yearly publication, each licensee that has supplied relevant data will be allowed two weeks to make reasoned correction to the draft publication”

Determination 2.1

Where the Office does not agree with a suggested amendment to the proposed half yearly publication, the licensee will be given fourteen days notice of the proposed disclosure, as indicated in Section 7(3)(b) of the Act.”

- 2.5 C&WJ in its submission also suggested that the Office provides a list of all operators who have provided information for the sake of completeness. The Office is also amenable to this suggestion as it will help readers to view the report in its right context.

Determination 2.1

The Quarterly Telecommunications Report will specify the licensees that provided information.

CONFIDENTIALITY

- 2.6 The Office is aware of the potential competitive damage that a company could suffer if sensitive information is disclosed to rival companies. Against this background, the Office has always done its utmost to ensure that this does not occur. It has always been the Office’s position that it will not publish sensitive company specific information. Such information will only be published in an aggregated form, except where the interest of the public outweighs the need for confidentiality as indicated by Determinations 1.1 and 1.2 in the Determination Notice entitled ‘Telecommunications Markets Information Requirement’. As customary, the Office in regulating the telecommunications sector is guided by the Act, of which Section 7 obligates the Office to secrecy and states that –

“(1) Every person having any official duty or being employed in the administration of this Act shall regard and deal with as secret and confidential all confidential information relating to applicants and applications for licences, licensees and the management and operation of licensees and shall, upon assuming such duty or employment make and subscribe a declaration to that effect before a Justice of the Peace.

(2) Subject to subsection (3), a person who, by reason of his capacity or office has by any means access to the confidential information referred to in subsection (1) shall not, while his employment in or, as the case may be, his professional relationship with the Office continues or after the termination

thereof, communicate any confidential information to any person.

- (3) *Subsection (2) shall not apply where –*
- (a) *the confidential information is disclosed -*
 - (i) *with the consent in writing of a licensee or an applicant for a licence;*
 - (ii) *on the written directions of the Minister to the police who require such disclosure for purpose of the investigation of a criminal offence;*
 - (iii) *to the Minister, an agent of the Office or the Fair Trading Commission; or*
 - (iv) *subject to paragraph (b), to any person who is authorized by the office to receive it;*
 - (b) *in the opinion of the Office or the Minister, disclosure is necessary in the public interest, so, however, that before such disclosure is made, the Office or the Minister shall give not less than fourteen days' notice of the pro-posed disclosure to the applicant or licensee concerned who shall, upon receipt of that notice, be entitled to apply to a Judge in Chambers for an order prohibiting the disclosure on the ground that it would be harmful to the interest of the applicant or licensee;*
 - (c) *subject to subsection (4), pursuant to a court order.*
- (4) *Where an application is made to a court for disclosure of confidential information, the party claiming confidentiality has a right to require that the information be first disclosed only to the Judge for the purpose of determining the extent of and the necessity for the disclosure.*
- (5) *A person who contravenes subsection (2) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.*
- (6) *In this section "confidential information" means any information classified as such and includes information that a reasonable person would regard as confidential having regard to the nature of the information."*

APPENDIX

The section below indicates the format and data to be included in the Quarterly Telecommunications Report.

KEY DATA: *SUBSCRIBER MOBILE, FIXED & INTERNET*

	Q4 2006	Q3 2007	Q4 2007	% Change Q4'07/ Q3'07	% Change Q4'07/ Q4'06
Fixed call services					
Subscriptions for fixed telephony (thousands)					
Household					
Business					
Revenues from fixed call services					
Average Revenue Per User (ARPU)					
Mobile call services					
Mobile subscriptions (thousands)					
Revenues from mobile subscriptions, calling					
SMS					
ARPU					
Number of SMS sent (millions)					
Revenues from SMS					
Data communications services					
Revenues from data communications services to end-user					
Frame Relay					
Leased lines					
International leased lines					
Internet services					
Internet-access customers (thousands)					
Dial-up connection					
Fixed connection					
Revenues from Internet access					
ARPU					

FIXED CALL SERVICES

	Q4 2006	Q3 2007	Q4 2007	% Change Q4'07/Q3'07	% Change Q4'07/Q4'06
Subscriptions ('000)					
National Calls ('000 Minutes)					
Calls from fixed networks to mobile networks ('000 Minutes)					
International Calls					
Outgoing ('000 Minutes)					
Incoming ('000 Minutes)					
Revenue (J\$million)					

MOBILE SERVICES

	Q4 2006	Q3 2007	Q4 2007	% Change Q4'07/Q3'07	% Change Q4'07/Q4'06
Subscriptions ('000)					
On-Net Calls ('000 Minutes)					
Off-Net Calls ('000 Minutes)					
International Calls					
Outgoing ('000 Minutes)					
Incoming ('000 Minutes)					
SMS Traffic					
Revenue (J\$million)					

INTERNET SERVICES

	Q4 2006	Q3 2007	Q4 2007	% Change Q4'07/Q3'07	% Change Q4'07/Q4'06
Subscriptions ('000)					
Broadband (\geq 256K)					
Dial-up					
Pay-as-you-go					
Other (< 256K not Dial- up)					
On-Net Calls ('000 Minutes)					
Off-Net Calls ('000 Minutes)					
Revenue (J\$million)					
Licensed Service Providers					
Active Service Providers					

INDUSTRY PENETRATION AND CONCENTRATION

Table 1: Penetration Rates for Mobile, Fixed Line and Broadband Industry Segments Based on Subscription

Year

Population

Mobile

Fixed

Broadband

PENETRATION

Mobile

Fixed

Broadband

P = Preliminary

Table 2: Fixed Line Segment HHI Calculation Based on Subscription

Q1-06 Q2-06 Q3-06 Q4-06 Q1-07 Q2-07 Q3-07 Q4-07

Fixed Subscriber HHI

Table 3: Cellular Mobile Segment HHI Calculation Based on Subscription

Q1-06 Q2-06 Q3-06 Q4-06 Q1-07 Q2-07 Q3-07 Q4-07

Mobile Subscriber HHI

Table 4: Broadband Segment HHI Calculation Based on Subscription

Q1-06 Q2-06 Q3-06 Q4-06 Q1-07 Q2-07 Q3-07 Q4-07

Broadband Subscriber HHI

Source: OUR estimates

INDUSTRY REVIEW

DOMESTIC

This section will cover domestic issues that arose during the quarter or became public during the quarter.

INTERNATIONAL

This section will cover international issues that arise during the quarter or became public during the quarter.