

BEFORE THE TELECOMMUNICATIONS APPEAL TRIBUNAL

**IN THE MATTER OF THE TELECOMMUNICATIONS
ACT (2000) OF JAMAICA**

AND

**IN THE MATTER OF THE OFFICE OF UTILITIES
REGULATION ACT (as amended)**

AND

**CLARO'S DIVERSION OF DIRECT CALL TERMINATION
FROM DIGICEL NUMBER 1-876-619-5000 TO
VOICEMAIL BOXES ATTACHED TO NUMBERS ON
CLARO'S NETWORK**

AND

**IN THE MATTER of an Application by OCEANIC
DIGITAL JAMAICA LIMITED for a Stay of
Implementation of the Decisions by the Office dated June
14, 2010.**

AND

**IN THE MATTER of an Appeal by OCEANIC DIGITAL
JAMAICA LIMITED trading as CLARO Pursuant to
Sections 62(1) (3) of the TELECOMMUNICATION ACT,
2000.**

BETWEEN OCEANIC DIGITAL JAMAICA LIMITED APPELLANT
T/A CLARO

AND OFFICE OF UTILITIES REGULATION RESPONDENT

INTERESTED PARTY: DIGICEL

DATE OF HEARING: 25, OCTOBER, 2010

APPEARANCES: Mr. Harold Brady and Ms. Kayann Anderson for the Appellant
Mr. Alan Wood and Ms. Daniella Gentles for the Respondent
Ms. Georgia Gibson-Heulin for Digicel (Interested Party)

DECISION

1. This is an appeal brought by Oceanic Digital (Jamaica) Limited T/A (CLARO) against a decision of the Office of Utilities Regulation (Office) dated 14th June, 2010, which said decision was subsequently reconsidered by the Office and decision made thereupon 5th August 2010.

The Office made the following determinations based on a complaint by Digicel to the OUR on May 22, 2010:

- (1) The decision of CLARO to terminate calls made from the Digicel number 18766195000 on the voicemail box of the customers on CLARO's network is a flagrant breach of both the interconnection agreement between CLARO and Digicel as well as the Telecommunications Act 2000 – in that CLARO is preventing “any-to-any connectivity” between CLARO's network and that of any other public voice carrier, including Digicel;
 - (2) CLARO is in breach of Section 29 (2) of the Telecommunications Act, that is to say that all CLARO customers are not able to make and receive calls to and from anyone, pursuant to the provisions of Section 29 of the Telecommunications Act;
 - (3) CLARO is in breach of its License, which mandates that CLARO must comply with regulations made pursuant to the Telecommunications Act and the Laws of Jamaica;
2. The Office in making these determinations was acting within the provisions of the Telecommunications Act 2000, and the amended OUR Act. Section 4-(1) and (3) of the Telecommunications Act 2000 provides:
 - (1) The Office shall regulate telecommunications in accordance with this Act and for the purpose the Office shall :
 - (a) regulate specified services and facilities;

