

---

Office of Utilities Regulation

---

# **Clarification on Interconnection Pricing between Cable & Wireless Jamaica Limited's Fixed Network and Mobile Networks**

---

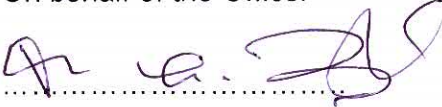
## **Clarification Notice**

---



OFFICE OF UTILITIES REGULATION

**June 5, 2009**

<b>DOCUMENT NUMBER: TEL 2002/04 : CLAR/01</b>
<b>DOCUMENT TITLE:</b>  Clarification on Interconnection Pricing between Cable & Wireless Jamaica Limited's Fixed Network and Mobile Networks.
<b>PURPOSE OF DOCUMENT</b>  To provide clarification on the intended effect of the Office's decision regarding setting of retail rates for call from Cable & Wireless Jamaica Limited's fixed network to mobile networks.
<b>ANTECEDENT DOCUMENTS</b>  Interconnect Pricing – Reference Interconnection Offer (RIO-4) Document No: Tel 2002/04 dated May 22, 2002.
<b>APPROVAL</b>  This document is approved by the Office of Utilities Regulation and applies as of June 5, 2009.  On behalf of the Office:  ..... Zia Mian <b>Director General</b>  <b>June 5, 2009</b> ..... Date

**CLARIFICATION ON INTERCONNECTION PRICING  
BETWEEN  
CABLE & WIRELESS JAMAICA LIMITED'S FIXED NETWORK AND  
MOBILE NETWORKS.**

**TO: All Carriers**

**WHEREAS** pursuant to **Part V. Interconnection** of the Telecommunications Act 2000 ("the Act") the Office issued Interconnect Pricing – Reference Interconnect Offer (RIO-4) Determination Notice Document No: Tel 2002/04 on May 22, 2002 which details the Office's decision regarding mobile termination charges for domestic and incoming international traffic. **AND**

**WHEREAS** by way of a letter dated May 6, 2009 to the Office of Utilities Regulation (OUR) Cable and Wireless Jamaica t/a LIME has sought "Clarification of the Fixed to Mobile (FTM) Regulation" and in particular what is intended by the Office with respect to its effect on the setting of retail rates for calls emanating on Lime's fixed network and terminating on mobile networks, **AND**

**WHEREAS** pursuant to the functions of the Office as set out in Section 4 of the Act, which states that:

*"4. - (1) The Office shall regulate telecommunications in accordance with this Act and for that purpose the Office shall - ...*

*(c) promote the interests of customers, while having due regard to the interests of carriers and service providers; ...*

*(f) promote competition among carriers and service providers; ...*

*(3) In the exercise of its functions under this Act, the Office may have regard to the following matters –*

*(a) the needs of the customers of the specified services;*

*(b) whether the specified services are provided efficiently and in a manner designed to -  
... (iii) afford economical and reliable service to its customers;*



The Office **HEREBY PROVIDES** the following explanations and **MAKES** the attendant clarifications in respect of the application of the interconnection pricing between LIME's fixed network and mobile networks.

1. In the Determination Notice titled Interconnect Pricing – Reference Interconnection Offer (RIO-4) issued May 22, 2002, at paragraph 1.4, the Office indicates that it “regulates the retail rates that C&WJ fixed (the wire-line portion of C&WJ) is allowed to charge its customers for fixed-to-mobile (FTM) calls.” The Office achieves this through its imposition of price-cap and interconnection regulation on C&WJ.

Determination 2.5 in Interconnect Pricing – Reference Interconnection Offer (RIO-4) Document No: Tel2002/04 states:

***“Determination 2.5***

***The price of FTM calls shall continue to be set by participating mobile carriers, subject to a cap. The cap for domestic FTM calls shall be the sum of the C&WJ's mobile termination costs plus the imputed cost of spectrum plus the retention for the fixed network costs, which includes an allowance for bad debt.”***

The Determination reflects the fact that the cap on retail rate for fixed to mobile (FTM) calls is calculated using the formula:

$$\text{FTM retail} = \text{Retention Rate} + \text{Mobile Termination Cost} + \text{Imputed cost of Spectrum}$$

Applying this formula it was intended that LIME could set its retention rate as approved by the Office and the mobile carrier would be free to charge any price for termination subject to the maximum FTM cap determined by the Office.

The Office assumed at the time of issuing its determination that LIME being a monopoly provider of fixed line services would always charge the maximum retention rate and as such the retail rates would be set by whatever rate a mobile carrier opted to charge for termination limited by the maximum FTM rate as stipulated by the cap. Thus LIME was expected to charge the maximum retention rate and so only the termination rate could change. Consequently it was assumed that any variation in the FTM retail rate would be a result of a change in the mobile termination rate. This explains the wording of Determination 2.5 viz. “the price of FTM calls shall continue to be set by participating mobile carriers, subject to a cap.”

2. The situation has now arisen where LIME has enquired if it were to opt for a charge on its network that is lower than that approved by the Office, whether the participating mobile carrier may simply insist on being paid the difference

4

between the retail rate charged and LIME's new retention rate plus the imputed cost of spectrum.

The Office wishes to make it clear that an interpretation of Determination 2.5 that would bring about such a result is anomalous to its intentions in issuing the Determination Notice regarding FTM termination and specifically Determination 2.5 and would be misguided. This should be clear from that fact that such an interpretation could result in:

- I. Levying multiple rates for termination of traffic to a single mobile carrier.
  - II. Denying consumers the benefit of a reduction in retention rate while providing a windfall to participating mobile carrier.
  - III. Anti-competitive advantage to the participating mobile carrier.
3. If a mobile carrier levies on LIME an increase in FTM rate, that mobile carrier is essentially charging a new termination rate as the difference between the FTM rate and the retention rate plus the imputed cost of spectrum is the termination rate. This is so since the Office has fixed the imputed cost of spectrum, therefore if LIME lowers its retention rate there must be a corresponding fall in the FTM rate. The Office has always indicated that carriers can only levy a single rate for termination of traffic to its network. Any interconnection agreement with the LIME's fixed network for the termination of traffic must specify a termination rate and LIME should pay only the termination rate to the Mobile carriers as specified in the interconnection agreement signed between LIME and mobile carrier.
  4. All other things remaining constant, any decrease in the retention rate charged by LIME should be passed to the consumer. The participating mobile carriers shall not claim the monetary equivalent of the decrease in retention rate as an additional payment.
  5. For the fixed network to be prevented by the participating mobile carrier from reducing rates to the benefit of customers is anti-competitive and is contrary to the intentions of the Office.

**In view of the above, THE OFFICE HEREBY EXPLAINS AND CLARIFIES ITS DETERMINATION as follows:**

- (a) LIME shall pay only the contractually agreed termination rate to participating mobile carriers.**
- (b) Any decrease in retention rate by LIME shall be passed on to the consumer.**

**In this regard, the OFFICE HEREBY CLARIFIES Determination 2.5 as follows:**

The Office sets the retail price of FTM calls subject to the cap. LIME and the participating mobile carrier are allowed to vary the retention and termination rate, respectively, subject to the FTM cap as stipulated by the Office. The cap for domestic FTM calls shall be the sum of the maximum approved mobile termination costs plus the imputed cost of spectrum plus the maximum approved retention for the fixed network costs, which includes an allowance for bad debt.

**THIS Clarification is provided as of 5 JUNE 2009**

By order of the Office



Zia Mian  
**Director General**

Dated the <sup>5th</sup> day of June, 2009