

**Abstract**

This document represents the Office's summaries of and its preliminary positions on the important interconnection issues in respect of fixed interconnection in Reference Interconnect Offer (RIO-5). The Office's last published document on a RIO was "Interconnect Pricing (RIO-4)" Document No: Tel 2002/04 published May 22, 2002. Since then court actions initiated by Digicel et al has kept the Office from issuing further pronouncements on RIOs. The Courts issued a partial ruling in the last half of 2003 however and this has cleared the way for the Office to assess the current RIO.

This Document highlights the major changes that are proposed in RIO-5 both in respect of non-pricing and pricing issues, the reasons provided by C&WJ for the proposed changes, and the Office's initial positions on these issues. At the same time, interested parties are invited to provide the Office with comments on, matters of specific interest and the reasonableness of the proposal by C&WJ. Additionally, respondents are invited to provide the Office with, or point the Office to any information that they consider to be of relevance in assisting it with its determination.

Additional copies of this document may be downloaded from the OUR's Web site at [www.our.org.jm](http://www.our.org.jm).

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### **Comments from Interested Parties**

Persons who wish to express opinions on this Consultative Document are invited to submit their comments in writing to the Office. Comments are invited on all aspects of the issues raised. Responses to this Consultative Document should be sent by post, fax or e-mail to:-

Ansord Hewitt  
P.O. Box 593, 36 Trafalgar Road, Kingston 10  
Fax: (876) 929-3635  
E-mail: [ahewitt@our.org.jm](mailto:ahewitt@our.org.jm)

**Responses are requested by August 5, 2004.** Any confidential information should be submitted separately and clearly identified as such. In the interests of promoting transparent debate, respondents are requested to limit as far as possible, the use of confidentiality markings. Respondents are encouraged to supply their responses in electronic form, so that they can be posted on the OUR's Website (or a link included where the respondent wishes to post its response on its own website).

### **Comments on Responses**

The OUR's intention in issuing this Consultative Document is to stimulate public debate on the important regulatory issues surrounding current interconnection offerings. The responses to this Consultative Document are a vital part of that public debate, and so as far as possible, should also be publicly available. The OUR considers that respondents should have an opportunity both to examine the evidence and views put forward in other responses, and to provide further comment. The comments may take the form of either correcting a factual error or putting forward counter arguments.

**Comments on responses are requested by August 13, 2004.**

### **Arrangements for Viewing Responses**

To allow responses to be publicly available, the OUR will keep the responses that it receives on file, which can be viewed by and copied for visitors to the OUR's Offices. Individuals who wish to view the responses should make an appointment by contacting Lesia Gregory by one of the following means:-

Telephone: (876) 968 6053 (or 6057)  
Fax: (876) 929 3635  
E-mail: [lgregory@our.org.jm](mailto:lgregory@our.org.jm).

The appointment will be confirmed by a member of the OUR's staff. At the pre-arranged time the individual should visit the OUR's offices at:

3<sup>rd</sup> Floor, PCJ Resource Centre, 36 Trafalgar Road, Kingston 10

The individual will be able to request photocopies of selected responses at a price, which just reflects the cost to the OUR.

### **Timetable**

The timetable for the consultation is summarised in the table below which includes an indicative timing for the Determination Notice.

### **Summary of the timetable for the consultation on interconnection**

<i>Activity</i>	<i>Date</i>
Issue of this consultative document	July 20, 2004
Response to consultative document by interested parties	August 5, 2004
Comments on Respondents' Response	August 13, 2004
Issue of Determination Notice	August 20, 2004

## CHAPTER 1: INTRODUCTION

### Background

- 1.0 Over the last four years the Office has consulted on and has issued determinations on a number of Reference Interconnection Offers (RIO) submitted by Cable and Wireless Jamaica Limited (C&WJ). These have been designated as RIO-1, RIO-2, RIO-3 and RIO-4. The last such decision which precipitated a court action was issued by the Office in May 2002. That decision was issued in respect of mobile interconnection charges proposed by C&WJ in RIO-4 and indicated *inter alia* that “fixed interconnection charges would be reviewed consequent on the Office’s approval of new asset values submitted by C&WJ (using MEA principles). Until that process is completed the Office ruled that the rates established as part of the approval process for RIO-3 would remain in effect”. The proposed tariffs in RIO-5 are therefore expected to reflect the MEA asset values as at March 2001 as agreed by the Office.
- 1.1 The Office was unable to complete its assessment of RIO-4 however, as a result of legal challenge mounted against its May 2003 Determination Notice. Subsequently, C&WJ on March 1, 2003, submitted a new RIO with accompanying tariff schedule (RIO-5). The issuance of RIO-5 coincided with the completion of Phase Two of the liberalization process and was consistent with the Office’s previously expressed position that it expects a new RIO to be issued at the start of each phase of the liberalization process.
- 1.2 In the absence of an approved RIO, the Office expressed the view that operators should endeavour to negotiate commercial arrangements with C&WJ on the basis of the terms and conditions set out in RIO-5 and subject to subsequent approval of a RIO by the Office. Thus a number of entrants have entered into commercial agreements with C&WJ which has allowed for the competitive entry of a number of players especially with regard to the market for international telephony.
- 1.3 Since the issuance of RIO-5, the Office has issued a determination notice titled, Principles and Methods of Asset Valuation for C&WJ (Document No: Tel 2003/06, August 7, 2003) in which it outlined the approved principles for asset valuation for C&WJ and how the MEA values should be updated. The Determination Notice in question specifically indicated that the principles and method approved by the Office and the asset values determined by these principles would be used in calculating cost-oriented rates for RIO-5 and subsequent RIOs<sup>1</sup>.

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<sup>1</sup> See Determination 6.1, page 38.

- 1.4 In keeping with the above mentioned ruling on asset valuation, C&WJ submitted to the Office in January 2004 an updated schedule of asset values for the financial year ending March 2003. Subsequently in May 2004 the Company submitted a new tariff schedule labelled Reference Interconnect Offer, Tariff Schedule, RIO/5A replacing the schedule initially submitted with RIO-5 and purporting to incorporate the principles and methods approved by the Office. The schedule was submitted to the Office under confidential cover but the Office has since ruled that C&WJ shall publish this schedule by making it available to the public on its web site. The Office as part of the review of RIO-5 will review these rates with a view to verifying their compliance with the approved method and principles. Interested parties are also invited to visit C&WJ's website to view the proposed tariff and submit relevant comments to the Office.
- 1.5 C&WJ has also met with representatives of the Office's and has submitted under confidential cover information which the Company claims will demonstrate to the Office that the proposed charges in the new tariff schedule are consistent with directive issued by the Office and the methodologies previously approved by it for computing such cost. The Office has accepted the need for confidentiality with regard to some of the information submitted by C&WJ but has advised C&WJ that it proposes to make aspects of this presentation available as part of its consultation document. Moreover the Office has also requested that C&WJ provide additional information on traffic pattern and further costs disaggregation. The Office has also provided in this document an overview of the costing system employed by C&WJ, and a summary of the approaches and costing methodology previously approved and published by the Office.
- 1.6 The Office's staff is also reviewing the tariff schedule proposed by C&WJ to determine if they are in compliance with the agreed principles and methodology approved by the Office. The result of that review along with justification for any changes requested will be published as part of the Office's final determination notice

### **Purpose of this Document**

- 1.7 In an effort to expedite the process of RIO-5 review and to anticipate the issues that are likely to be raised the Office has consistently invited parties to submit to the Office any issue of concern regarding the terms and conditions on offer in RIO-5. To date, the Office has not received much by way of written responses to this invitation but is renewing its call herein for such submissions.
- 1.8 In this consultation document the Office restates its understanding of the RIO process, summaries the work that has been done on arriving at cost oriented fixed interconnection rates to date, provides a general overview (subject to claims of confidentiality) of the accounting system employed by

C&WJ to derive its rates, highlights the important outstanding issues that arise in RIO-5 and sets out the principles and processes that the Office proposes to engage in at a final determination on RIO-5 fixed interconnection charges.

- 1.9 The office seeks the views of all parties on any or all of the points mentioned above. Additionally the Office invites parties to make additional submission on any other matter of relevance to the assessment of RIO-5.

### **Related Publications**

1.10 The following represents a list of other publications by the Office to which document relates:

1. "Cable & Wireless Jamaica's Reference Interconnection Offer", Determination Notice, February 2001;
2. "Notice of Approval/Disapproval of Reference Interconnect Offer", April 18, 2001.
3. "Modification to the Existing Interconnect Regime", a Determination Notice, November 22, 2001;
4. "Assessment of Cable and Wireless Jamaica Reference Interconnect Offer", Determination Notice, Document No: Tel 2002/01, February 2002;
5. "Interconnect Pricing", A Second Consultative Document, Document No. Tel 2002/02, March 15, 2003;
6. "Interconnect Pricing (RIO-4)", A Determination Notice, Document No: Tel 2002/04, May 22, 2003;
7. "Principles and Methods of Asset Valuation for C&WJ", A Determination Notice, Document No: Tel 2003/06, August 7, 2003;
8. "Dominant Public Voice Carriers", Determination Notice, Document No: Tel 2003/07, August 14, 2003;
9. "Revised C&WJ's Price Cap Plan", A Determination Notice, Document No: Tel 2004/01, January 16, 2004;

10. "Termination Charges for Incoming International Call", Document Number: Tel. 2004/08, July 9, 2004.<sup>2</sup>

11. Reference Interconnect Offer (RIO-5) and Tariff Schedule RIO5A  
[http://www.cwjcarrierservices.com/docs/pdf/RIO-5Atarsch04\\_04up06\\_07\\_04.pdf](http://www.cwjcarrierservices.com/docs/pdf/RIO-5Atarsch04_04up06_07_04.pdf))

1.11 The above publications (items 1-10) are available on the Office's web site at [www.our.org.jm](http://www.our.org.jm).

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<sup>2</sup> This document summarises a directive from the Minister of Commerce, Science and Technology imposing a universal service charge of US\$0.035 per minute on international calls terminating on all domestic networks.



## Chapter 2: Interconnection Process

### Legislative Framework

- 2.0 The ability and freedom of networks to interconnect apart from being critical to the efficient delivery of telecommunications traffic, is critical to promoting competition in the telecommunications sector. The importance of interconnection is underscored by the fact that Part V of the Telecommunications Act, 2000 is dedicated solely to setting out the principles, conditions, rules and activities that are required in respect of interconnection.
- 2.1 The Telecommunications Act 2000 is the primary legislation governing Jamaica's telecoms sector. Under this Act the Office has been assigned certain regulatory duties. The broad objectives of this Act are:-
- to promote and protect the interests of the public;
  - to promote universal access to telecommunications services for all persons in Jamaica, to the extent that it is reasonably practicable to provide such access;
  - to facilitate competition in a manner consistent with Jamaica's international commitments in relation to the liberalization of telecommunications; and
  - to encourage economically efficient investment in the sector.
- 2.2 The Act requires that the Office discharges its duties and responsibilities in a transparent and accountable manner. These duties and responsibilities include:-
- promoting the interests of customers while having due regard to the interests of carriers and service providers ; and
  - promoting competition among carriers and service providers.
- 2.3 The Act also establishes general principles that must be incorporated in the provision of interconnection services. Interconnection is defined in the Telecommunications Act as the physical or logical connection of Public voice networks of different carriers. The applicable principles for interconnection are:
- Any-to- any connectivity,
  - End to end operability, and
  - Equal responsibility.
- 2.4 The **any-to-any principle** of interconnection mean that each public voice carrier is obligated to permit interconnection of its public voice network with the public voice network of any other carrier for the provision of voice services.<sup>3</sup>

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<sup>3</sup> Section 29(1), Telecommunications Act, 2000

- 2.5 **End-to-end** Operability means interconnection should be across interfaces of sufficient functionality to ensure that high quality services can be provided to consumers even where the call recipient or service provider and the calling customer are on different networks.
- 2.6 **Equal Responsibility** means all public voice carriers have equal responsibility to ensure that networks are interconnected and to do so as quickly as is reasonably practicable.
- 2.7 Entrants and non dominant operators have to pay a large amount of their revenues in interconnection charges, making them vulnerable to abuse of dominance by dominant operators. A dominant firm has the ability to distort competition in a relevant market. This is especially so in telecommunications, in which a dominant firm is typically both:-
- a supplier of critical inputs (interconnection and wholesale) to downstream service providers; and
  - a competitor against these service providers in downstream retail markets.
- 2.8 For these reasons, the Act provides some other general underlying principles regarding interconnection services supplied by dominant public voice carriers. These are listed below (Section 30):-
- terms and conditions of interconnection shall be on a non-discriminatory basis;
  - reasonable and transparent, including such terms and conditions as relate to technical specifications and the number of locations of points of interconnection; and
  - charges shall be cost oriented and be guided by certain cost causation principles (section 33);
  - no unfair arrangements for cross-subsidies shall be made; and
  - where technically and economically reasonable interconnection services shall be so diversified as to render it unnecessary for an interconnection seeker to pay unreasonably for network components or facilities it does not require.
- 2.9 Section 32 (1) imposes an obligation on a carrier that has been declared dominant by the Office to submit a RIO. Outside of this, C&WJ was obliged from the outset of liberalization to provide a RIO. Moreover, the Office took the position thereafter, that C&WJ enjoyed a *de facto* dominant position in interconnection markets and that this required compliance with the principles outline above. In any event, since August 2003 C&WJ has

- been declared dominant in respect of the market for fixed interconnection services.
- 2.10 A RIO is defined in the Act as an offer document setting out the matters relating to the price and terms and conditions under which a public voice carrier will permit interconnection to its public voice network. The RIO provides the preliminary basis for arriving at an agreement on the terms of interconnection.
- 2.11 The Office takes the position that it has three options in respect of its response to a RIO viz.:
- approve the RIO in totality;
  - reject the RIO in totality; and
  - approve parts of the RIO.
- 2.12 Notably, the Act at Section 32 (3) provides that a RIO shall contain such particulars as may be prescribed. It also provides at (Section 34 (4)) that a RIO or part thereof, shall take effect on approval by the OUR and that agreements for interconnection must be consistent with a RIO or part thereof that is in effect.
- 2.13 It has been the Office's practice to approve RIOs in part and to leave those clauses not approved to commercial negotiation. The same approach is proposed for the assessment of the RIO-5. The Office also requires the issuer of a RIO to make it public after which the Office initiates a consultation process inviting comments on the proposed RIO and indicating its initial positions on the proposals. At the end of this process the Office publishes a determination notice indicating the aspects of the proposed RIO that are approved and what adjustments are required to make the RIO compliant with the Offices determinations.
- 2.14 The Office takes the view that the provisions it approves are automatically part of any standard interconnection agreement. Any issue on which the OUR has not indicated a clear position will be subject to commercial negotiation. Where the parties fail to agree on any such matter either party may refer it to the Office for arbitration in keeping with Section 34 (1) of the Telecommunications Act.
- 2.15 To date RIOs submitted by C&WJ have covered interconnections in respect of:
- Fixed domestic network to fixed domestic network;
  - Fixed domestic network to mobile network;
  - Fixed domestic network to international network; and

- Mobile to mobile<sup>4</sup>

2.16 This consultation process is concerned primarily with interconnection with C&WJ fixed network. The Issue relating specifically to mobile interconnection network and in particular, mobile termination will have to await the outcome of the Office's investigation of dominance in the mobile sector.

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<sup>4</sup> The Company subsequently took the view that it was not obliged to submit such a RIO as it was not declared dominant in the mobile market for interconnection.

## **Chapter 3: Summary of Work on Interconnect Costing to Date**

3.0 The major tariffs in RIO-5 are dependent on costing issues that have been discussed in several of the Office's consultations over the last four years and the principles of which have undergone significant modification subject to the Office's recommendations. This Chapter provides an overview of the Office's view on interconnection costs, a general description of C&WJ's costing systems, the approach to costing adopted and agreed on up now and relationship between the proposed tariff and costing and asset valuation methodology approved by the Office.

### **Cost Orientation**

3.1 Section 33 of the Telecommunications Act sets out the following principles that must guide the OUR in making a decision about interconnection charges, *viz.*:

- cost shall be borne by the carrier whose activities cause those costs to be incurred;
- non-recurring costs shall be recovered through non-recurring charges and recurring costs shall be recovered through recurring charges;
- costs that do not vary with usage shall be recovered through flat charges and costs that vary with usage shall be recovered through charges that are based on usage;
- costs shall include attributable operating expenditure and depreciation and an amount estimated to achieve a reasonable rate of return;
- prices for interconnection shall be established between the total long run incremental cost of providing the service and the stand alone cost of providing the service, so, however that the prices shall be so calculated as to avoid placing the a disproportionate burden of recovery of common costs on interconnection services.

3.2 The above principles reflect the notion of cost oriented interconnection charge, which is articulated in the WTO Reference Paper on Interconnection.

3.3 At one end of the continuum, Long Run Incremental Cost (LRIC) otherwise referred to as Total Service Long Run Incremental Charge (TSLRIC), is an economic approach to setting interconnection charges which includes only causally related cost in computation. When prices are calculated using this method, there is no provision for overhead charges that are not directly the result of providing the service or other common costs (costs necessarily incurred to provide services, but not incremental to any individual service). The current trend in telecommunication is towards setting interconnection charges based on TSLRIC as it is generally accepted that this approach facilitates entry and encourages efficiency.

- 3.4 One question that arises with the use of LRIC is whether it should reflect the efficient level of costs, or should it include the possible inefficiencies of the incumbent. The definition for LRIC that has been used in the UK relates to the incumbent's *incurred* incremental costs. The asset valuation approach used is replacement cost (a version of the Modern Equivalent Asset approach). Using this approach, differences arise in respect of the efficient level of cost for two reasons. Firstly, the replacement cost is measured of the assets deployed by the carrier, whereas the carrier may use more assets than would be efficiently required. Secondly, the operating cost included are those incurred by the carrier (and causally related to the service), whereas the carrier may have a degree of operational inefficiency. In most countries in which LRIC has been (or is being) implemented for interconnection charges, it is defined as the forward-looking costs of an efficient operator (USA South Africa, Ireland).
- 3.5 There are practical difficulties with the use of LRIC based on the most commercially efficient method of providing the service as compared to incurred costs. For one, it is relatively impossible to eliminate subjectivity in the choice of so called 'best practices'. Secondly, factors such as difference in such plant size, geographical conditions may account for variations in cost profiles. Thirdly, while it is true that setting interconnection prices based on 'best practices' as opposed to incurred cost will encourage productive efficiency it may not have the same effect on allocative efficiency. This is so because, if the incumbent is forced to sell the service for less than the costs of resources allocated to its production, it may suit entrants to opt for buying the service rather than building out its own network. In this instance, the wrong signal would have been sent to the market regarding a make or buy decision.
- 3.6 At the other end of the continuum, Stand Alone Costs (SAC) represents the sum of TSLRIC and those common costs that the operator would continue to incur if it were to shut down all its other services. A major difficulty with the SAC approach is that it would allow the provider of interconnection services to allocate all its overheads to interconnection charges and thereby allow its retail business to set prices at levels that significantly undercut competitors.
- 3.7 The Telecommunications Act essentially sets minimum and maximum charges that may be imposed on interconnection. Charge based on marginal costs established on the basis of best practice, are the lowest that would be economically viable assuming that the incumbent is able to achieve such levels of efficiencies. A charge below marginal cost would result in a loss for even the most efficient operator. At the same time, a charge above SAC would force all new entrants to build their own facilities

- which would result in duplication of facilities and misallocation of resources.
- 3.8 The Office expressed the view from as early as 2000<sup>5</sup> that LRIC should be defined as the costs of an efficient operator. It is recognized however that, in practice, and in order to justify charges below incurred costs (that were both relevant and reliable), there would be a need to show evidence of inefficiency by C&WJ in the operation of its network or in the provision of interconnection services. Thus, the OUR has commissioned studies of various elements of C&WJ's costing system and approaches over the last four years. These included, cost of capital study, review of cost allocation systems, reviews of valuation indices, depreciation charges and requirement for Modern Equivalent Asset Values. At the same time the Office has found it necessary to resort to international bench mark to set prices in the interim and to provide validation for result generated by the existing costing systems.
- 3.9 The cost information used in by CWJ in the derivation of its proposed charges is based on Fully Distributed Cost (FDC). This method calculates the cost of interconnection service by taking all direct cost associated with the service and adding to this a portion of the overheads costs based on some kind of allocation mechanism. One of the major criticisms of the FDC approach is that it usually relies on the historical costs. The Office found however that C&WJ actually used a replacement cost approach which largely narrowed down the difficulty in ensuring that allocations are fair and that asset valuation methods are reasonable and provide a good estimate of the economic value of assets.
- 3.10 Significantly, the Office found some evidence during its review in support of the claim that FDC figures, derived using replacement cost asset valuation, can be similar to TSLRIC plus mark-up. The UK provided a useful source of information on this issue, because the incumbent, British Telecommunications (BT), has been required to produce regulatory accounting information on the costs of interconnection services according to three different costs standards: historical cost FDC, replacement (or current) cost FDC, and TSLRIC.
- 3.11 The stipulation that interconnection prices should fall somewhere between "Total Service Long Run Incremental Costs (TSLRIC) and Stand Alone Cost (SAC) affords the Office some latitude in setting prices. For one, it could have been decided that prices must move immediately to LRIC plus mark-up as the best way of fostering competition and rapidly achieving

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<sup>5</sup> See Assessment of Cable and Wireless Jamaica's Reference Interconnect Offer, A Consultative Document, December 2000.

efficiency. Such a move would have required, *inter alia*, a detailed efficiency study of the incumbent's operation, the development of sophisticated economics models and minute breakout of costs. Among the drawbacks to adopting such an approach would be the details, the time and the resources that would have been required. Additionally, the Office felt that the existing data limitations may have led to less than robust results from a LRIC model.

- 3.12 A second approach available to the Office was to; at least for the short to medium term, continue to utilize the data from C&WJ's accounting system whereby, costs are determined on the basis of fully distributed costs. The concern associated with adopting that approach was to ensure that costs that are current rather than historical and that the allocation mechanism distributed overheads fairly.
- 3.13 The Office took the view that since C&WJ re-valued its asset every year, depending on the accuracy of the methodology and the allocations, prices should be pretty close to market value. The Office therefore embarked on a series of initiatives aimed at verifying the integrity of the Company's revaluation methodology. The results of these initiatives and actions taken by the Office have been discussed in the various consultation documents on interconnection charges since 2000 and in particular the results of the asset valuation studies are outlined in Principles and Methods of Asset Valuation for C&WJ, a Determination Notice Document NO: Tel 2003/06. Nonetheless, a general overview of C&WJ's costing approach and its costing system with due deference to the Company's claims of commercial propriety is set out below.

### **Description of C&WJ's Costing Approach and System**

- 3.14 The current costing model utilised by C&WJ to arrive at interconnection charges involve three components namely:
- A Network Service Model (NSM);
  - An Activity Based Costing (ABC) System; and
  - A Facilities Sustaining Cost (FSC) Model
- 3.15 The NSM – C&WJ uses its NSM to compute depreciation, cost of capital and operational expenditure for all the company's network assets. These three elements of the NSM have been given considerable attention in the Office's review of C&WJ's costing. The Office has dealt extensively with its adjustment to the inputs into the NSM model including its commission of a Weighted Cost of Capital study and its approval of new depreciation data for C&WJ. At the same time the Office also issued a number of directives to C&WJ regarding changes to its treatment of operating expenses. A major focus with regard to the latter was to ensure that the portion of such expenses allocated to interconnection is fair and reasonable. (See, Principles and Method of Asset Valuation for C&WJ, *ibid.*).



- 3.16 It should be noted that the main difference between the previous RIO-5 rates and the ones now proposed in RIO-5a tariff schedule is that the former were based on asset values at the financial year ending March, 2001 while the latter are based on asset values at the end of March 2003. These values were updated based on the Office's Determination on Modern Equivalent Asset Values. Also relevant, to the review of the proposed rates is the allocation mechanisms to the various services. Allocation is done based on a routing table and cost drivers. The routing table indicates the portions of the network that a particular service consumes. The main cost driver in this model is traffic volume. The routing table has not change but C&WJ has indicated has indicated a significant shift in the composition of the traffic that utilises the network.
- 3.17 The ABC Model – C&WJ employs an ABC costing model to allocate the various cost elements from its general ledger to activities, sub-processes, processes and products. A major concern when reviewing an ABC model is to ensure that appropriate cost drivers are applied and that there is consistency in the approach. The Office employed consultant who undertook extensive review of this process. The conclusion from that review is that the Company's ABC model is applied consistently and reasonably maps costs to products and services.
- 3.18 **Facilities Sustaining Cost (FSC) Model** – The FSC Model is used to allocate those cost which C&WJ claims are critical to maintaining its business structure (examples would include, legal expenses, corporate expense, etc). Like with other non-network charges the concern is here is to ensure that allocations are done fairly especially between interconnect, wholesale and retail services. The Company employed a methodology based on a combination of a flat mark up system and elasticises to allocate these costs.

## **CHAPTER 4: Non-Tariff Issues**

- 4.0 The Office's approach to assessing RIO to date has been incremental and accumulative with each new RIO incorporating principles embodied in earlier RIOs. The Office proposes to continue to hold to this principle in the current evaluation of RIO-5. In this regard the Office does not propose to revisit the principles it has laid down in previous decisions but rather will examine the extent to which those principles are upheld in RIO-5 submissions. These principles involve both pricing and non-pricing issues. This chapter address non-pricing issues while Chapter 5 deals with tariff issues.
- 4.1 Non-tariff issues involve a range of items dealing with service description, legal framework for interconnection and responsibilities of interconnecting parties in respect of forecasting, payments, notice, network safety etc. A number of the non-tariff issues have been dealt with in previous RIO and so the Office only proposes to highlight items that involve changes from previous RIOs, omissions from previous RIO, inclusion of new provisions, and instances in which it considers that there is a need to enquire into the continuing applicability of a provision.

### **Interconnect Services**

- 4.2 The Office notes that RIO-5 service Descriptions in many respects, are substantially different from the previous RIOs approved by the Office. In particular a number of services have been re-categorised, and new ones have been added. In addition, terms and conditions governing the purchasing of switched international voice minutes from CWJ have been removed from RIO-5. The Office invites comments from stakeholders in respect of these changes. A list of the range of services set out in RIO-5 are provided in Table 4.0 below:

### **Joining Services**

- 4.3 Footway Box, Non-Footway Box, and Small Capacity are the services making up this category. There does not appear to be any fundamental change in the description of this service category save that what was previously designated wholesale is now denoted transit.
- 4.4 In a previous determination the Office mandated CWJ to specify this category of services taking into account the following principles:-
- Interconnection carriers must be able to use any transmission medium including microwave;
  - No restrictions to one Interconnect Access Area (IAA) i.e. Teleco need not have a switch in an IAA to have a point of interconnection; and
  - Allowance for provisioning at T1s rather than OC-1.

**Table 4.0: Services in RIO-5**

Category in RIO5	Service Name
Joining Services	Footway Box Joining Service Non-Footway Box Joining Service Small Capacity Joining Service
Termination Services	PSTN Terminating Access Service Incoming International Call Termination Service 64KHZ Unrestricted and Speech Terminating Service
Special Access	119 Emergency 110 Emergency Fault Reporting Speaking Clock Weather Warning (new) National DQ International DQ 1-888 Call CWJ National Freephone International Freephone National Collect (new) Outgoing International Collect (new) Home Country Direct Collect (new) Incoming International Collect (new) Special Rate Service (new) Single Number Connection (new) Personal Number Connection (new) National DQ Database Number Inclusion (new)
Wholesale Services	None – designation no longer obtains

4.5 The Office is requesting that stakeholders indicate whether the specifications for joining services are consistent with the principles cited above.

#### **Termination Services**

4.6 The only modification to this category is that previously C&WJ offered incoming international termination access but now offers what it terms, incoming international call termination. The Office considers this to be an appropriate description of the service in light of the complete liberalization of international voice and data facilities. Moreover, the inclusion of provision for an Access Deficit Charge (ADC) in the service description has been rendered irrelevant by the Office's decision on Price Caps (see Chapter 5).

### **Special Access Services**

- 4.7 No major change is proposed to the description of previously approved services under this category save for the provision inclusion of ADC which is also rendered irrelevant by the decision on price cap. A number of new services including Weather Warning, National and International Collect, Home Country Direct Collect, Special Rate Service Access, Single Number Connection Access, Personal Number Connection, etc have been added. The Office invites comments on the designation of these services and their proposed conditions of offer.

### **Wholesale Services**

- 4.8 In previous RIOs, PSTN Transit, PSTN Outgoing International, 56 KBIT/S Messaging Bearer Service, International Signalling Service, Directory Number Inclusion and Publication Service, and National DQ Database Number Inclusion were included as wholesale services. The proposal in RIO-5 however, is to remove National DQ Database Number Inclusion to the category of services known as Special Access Services.
- 4.9 It is further proposed to remove PSTN Outgoing International, 56 KBIT/S Messaging Bearer Service, International Signalling Service, Directory Number Inclusion and Publication Service from the RIO process. C&WJ argues that with liberalisation a number of these services no longer relate to "bottle-neck facilities and so it does not consider it appropriate to subject them to RIO approval. The Company is therefore proposing to offer these services under separate service provider agreements. In view of the fact that the non-charging terms and conditions for these services were previously approved as part of the RIO assessment process<sup>6</sup>, the Office seeks the view of all stakeholders on C&WJ's proposal and the justification it offers for eliminating them from RIO-5.
- 4.10 PSTN transit is now a separate category under RIO5. This service is available to fixed as well as mobile operators. It remains subject to regulatory oversight by the Office.
- 4.11 The OUR has no objection to this proposal but notes that its removal from the RIO does not obviate the need for the terms and conditions of it offer to be compliant with the relevant provisions of the Act especially with regard to the methodology for determining the level of discount. In this regard, the Office proposes to require C&WJ to post these prices on its web site as a means of enhancing transparency.

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<sup>6</sup> See OUR Approval/Disapproval Notice of April 8, 2001

### **Connection to C&WJ End Offices**

- 4.12 In a previous determination (February 2001) the Office determined that starting “.....in Phase II when rates for connecting to end offices are included in the RIO, C&WJ shall, upon bona fide request, make direct connections available to any end office (except remotes) for the purpose of originating and terminating traffic at that office. A bona fide request shall be accompanied by a commitment by the entrant to connect, and the connection shall be made available within six months of the request. This provision is for originating and terminating traffic only. It is not intended to allow the use of end offices as tandems.”
- 4.13 The Office’s reasoning was that during the initial stages of service, carriers are unlikely to have a pressing need to interconnect at end offices and usually do not do so. Moreover, connecting carriers who are just starting service are almost certainly not in a position to estimate traffic flows in great detail, and, therefore, could not effectively utilise direct end office connections. Also, their volumes of traffic will probably be small enough to make such dispersed trunk groups uneconomically small. In fact, in the US, connection to tandems was demanded by interexchange carriers when interexchange competition first began.
- 4.14 Established long-distance carriers and wireless carriers, however, often interconnect at end offices to save costs and provide better quality of service. If there are substantial volumes of traffic between connecting carriers and certain C&WJ end offices, direct connections become important because these calls need not incur the costs of traversing a tandem switch.
- 4.15 The Office is also aware that some end offices may not generate enough traffic to warrant direct connection. Implementation of this policy can be quite complex, involving modification of end-office software, and much more detailed traffic forecasts.
- 4.16 The Office is asking stakeholders to indicate whether there should be modifications at this time (the nature of the modification if the response is in the affirmative) and the reasons.

### **Variation of Charges**

- 4.17 As indicated above C&WJ has converted the service category “incoming international terminating access service” to “incoming international call termination service”. As a result of this substantial changes have been made to the legal framework (paragraph 10.2). The Office invites interested parties to submit comments on the proposed changes.

**New Services**

- 4.18 The provisions governing new services which were previously approved by the Office have been modified by CWJ. The Office is seeking the views of interested parties as to the adequacy and fairness of the modified provisions set out at paragraphs 18.1, 18.2 and 18.4 of RIO-5.

## **Chapter 5 RIO-5 Interconnection (Tariff Issues)**

- 5.0 With regard to the tariff schedule submitted by C&WJ the Office concern will be to ensure that the cost allocations reflect principles agreed in previous RIOs and the underlying asset values used to derive these tariffs are consistent with the methodologies approved by the Office.
- 5.1 At the same time the Office is concerned to gauge the extent to which interconnection tariffs in Jamaica converges or diverges from those in other jurisdiction and so interested parties are invited to make comparisons where relevant and bring such information to the attention of the Office.

### **Elimination of Access Deficit Charge**

- 5.2 In some jurisdictions it has been the practice to continue to maintain some sort of subsidies on access post liberalisation as a means of easing rate shocks, to prevent inefficient entry and to ensure competitive neutrality. This is usually provided for by the imposition of an Access Deficit Charge (ADC) under certain conditions. The Telecommunications Act explicitly contemplates the imposition of an ADC in specific circumstances namely:-
- where the recipient of the ADC is a dominant public voice carrier; and
  - where regulatory constraints prevent the dominant public voice carrier from charging cost based rates for connection and line rental.
- 5.3 The Office took the position in assessing previous RIOs that it would only consider the imposition of an ADC with the onset of international competition. Additionally, the Office has always expressed reluctance to placing an ADC on interconnection charges.
- 5.4 The initial tariff schedule issued by C&WJ as part of RIO5 contained a proposal for an ADC of J\$0.98 or US\$0.0163 per minute on all interconnection minutes. By its decision of January 16, 2004 (Revised C&WJ's Price Cap Plan, A Determination Notice, Document No: Tel 2004/01) however, the Office eliminated the need for an ADC by removing the constraints previously imposed on access charges. Subsequent to that decision however, the Minister of Commerce Science and Technology has advised of the imposition of a Universal Service Fund Surcharge.

### **Universal Service Fund Surcharge**

- 5.5 As indicated earlier by a directive dated June 9, 2004 that Minister of Industry Science and Technology has signalled his intention to impose a Universal Service charge of US\$0.035 per minute on all incoming international calls terminating on all domestic networks. This charge shall be collected by the respective domestic network operators and will be paid to the Universal Service Fund (USF) on collection. The Minister has also indicated that this levy will be reviewed whenever the Office issues its

decisions on the new tariff schedule (RIO5A) submitted by C&WJ as replacement for that in RIO-5. Additionally, the Minister has also indicated that consideration will be given to including a charge on domestic minutes after the end of the first year.

- 5.6 A fundamental principle of interconnection cited in the WTO reference paper on interconnection is that all additional charges to cost based interconnect rates are to be known and separately identified. Since the government USF surcharge will become a part of the interconnection charge, the Office proposes to require it to be identified as a separate item in the RIO tariff charges.

### **Tariff Issues**

- 5.7 New tariffs have been proposed for the following range of items:

- Joining services;
- Termination services;
- Special Access Services; and
- PSTN Transit

- 5.8 C&WJ claims that these tariffs are based on asset valuation for 2002/2003 which accords with the Office's directive in its July 2003 determination notice on asset valuation. The Office can confirm that the new asset values have been submitted. It will also as part of its assessment of RIO-5 indicate whether these values strictly adhered to the principles and methodology determined by the Office and whether the proposed tariffs also reflect the allocation principles approved by the Office.

- 5.9 In its confidential submission to the Office, C&WJ identifies *inter alia* as the major contributors to the changes in its interconnection tariffs:

- Movements in its asset values after the application of the adjusted Turner Index to arrive at values for 2002/2003. Notable, the rates in RIO-3 were based on adjusted Turner Index values for 2000/2001 while those in RIO-4 are based on approved MEA valuation using asset values for 2001/2002. In this context current interconnect charges incorporates two years of asset revaluation based on the adjusted Turner Index.
- Changes in traffic volumes (usage drivers). The Office appreciates that as traffic flow increases to and from interconnecting parties the proportion of total interconnection charges borne by interconnection seekers increases. The Office is investigating the submission that this combined with a change in asset values, has resulted in an increase in the per unit cost of such interconnection.



## **Joining Services**

5.10 A fundamental change in the charging conditions governing this service category is proposed in that whereas in previous RIO's the cost of joining service were allocated on the basis of projected traffic, the current proposal is for a fifty-fifty split (i.e. symmetric charges) irrespective of the traffic pattern. The Office seeks the comments of interested party on this proposed change. Additionally the Office seeks comments on the level of the charges that are proposed and in particular whether they are reflective of what interconnections seekers can expect on their sides of the network. At the same time it should be noted that the actual charges for some of these services have seen reductions from levels in previous RIOs.

## **Terminating Services**

5.11 Terminating services include fixed (per call) and variable charges (per minute) for calls from fixed to fixed and from mobile to fixed. It also include charges for incoming international call termination on the fixed network. These charges reflect what C&WJ claims to be the actual economic cost for use of its network. Again while the Office has agreed that the charges are appropriate once they reflect approved valuation and allocation methodologies, it is still interested in comparisons of these cost with equivalent charges elsewhere and therefore invites respondents to supply such information where available.

5.12 Notably, RIO-5A (Tariff Schedule) proposes to make interconnect specific charge a flat rate whereas previously there were different rates set for peak, off-peak, weekend. Also call set up and duration charges are now peak, off-peak, weekend whereas previously they were applied for regional and national traffic. RIO-5A also denoted a third category of traffic called local but there is no definition of the meaning of this. Significantly charges have increased by more than 100% in many instances. The Office proposes to inquire further into these increases but also invites the comment of interested parties.

## **Fixed Retention**

5.13 There are two observations with respect to this tariff item. The first is that the proposed charges have increased presumably reflecting the new MEA valuation. Secondly the question of the level of bad debt that remains applicable.

5.14 The Office is examining these charges to determine if they have been arrived at on the basis of the costing principles and asset valuation methodologies previously approved by the Office. At the same time, the Office is still interested in comparisons of these costs with equivalent charges elsewhere and therefore invites respondents to supply such information where available.

- 5.15 Significantly, the charge for fixed retention continues to reflect an 8% charge for bad debt previously approved by the Office. It should be noted however that this rate was approved at a time when the other mobile competitor had substantially higher fixed to mobile termination charge. The Office proposes to review this figure to see if it is still reasonable.

### **Special Access Services**

- 5.16 C&WJ has previously indicated that these charges are cost based but has also argued that they need not be as they are not strictly interconnection services. The Office for its own part, has opted to defer approval of these rates as it had never conducted a comprehensive review of their cost basis. Instead, parties have been encouraged to negotiate and to request the Office's intervention in the event of a dispute. The Office is minded to maintain this position but seeks the view of interested parties on this.

### **Transit Service**

- 5.17 There have been various changes in the provision of this service from a pricing standpoint. Firstly there is now an interconnect specific charge (a flat rate). Moreover, call setup charges (fixed) have increased and duration charges (variable) have reduced. The Office seeks the views of interested parties on these changes and the apparent shift away from variable charges to fixed charges in respect of the provision of these services.

### **Deposit**

- 5.18 The Office is aware that there is some disquiet about C&WJ's proposed deposit requirement for interconnection. C&WJ posits that the level of deposit reflects the risks associated with billing, collection and the requirement for notice to enforce collection on delinquent amounts. The Office is of the view that once these risks can be agreed to be mitigated by shorter billing, collection and notice periods then the level of deposits can be adjusted to reflect the lower risks. The Office is inviting views on the deposit arrangements.

## **Addendum: Notice of New Issue for Consideration**

The Office considers that there is a range of current and upcoming interconnection issues relating to interconnection at the international gateways particularly in respect of the access of new submarine cable providers access to CWJ landing stations. These include backhaul circuit capacity pricing, and Points of Interconnection (POI). Additionally the issue of collocation terms and pricing are likely to be issues of interest.

The Office is raising these issues now and inviting initial comments from interested parties on the stance that the Office should consider in respect of ensuring ease of entry and the facilitation of greater competition in this area.