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CABLE & WIRELESS
JAMAICA

**RESPONSE TO THE OUR'S CONSULTATIVE
DOCUMENT ON:**

**TOWARDS UNIVERSAL SERVICE/ ACCESS
OBLIGATION FOR TELECOMMUNICATIONS SERVICES
IN JAMAICA**

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1. Introduction

Cable & Wireless Jamaica (“C&WJ”) is pleased to respond to the Office of Utilities Regulation’s (“OUR or “Office”) Consultative Document “Towards Universal Service/Access Obligation for Telecommunications Services in Jamaica”.

It should be noted that due to the nature of its responses, and in order to avoid repetition of overlapping concerns, C&WJ has not followed the structure of the consultative document in its response.

The views and comments offered by C&WJ in this submission are preliminary and may be modified as the proceedings on this issue are discussed over the next few months.

Universal service objectives

A universal service scheme is found in one form or another in many countries. The underlying objective of most universal service schemes is to ensure that those on low incomes or in high cost areas can have access to a basic level of telecommunications services. Some of the reasons for such a policy are as follows:

- the perceived societal benefits of ensuring that individuals are able to communicate regardless of their level of wealth;
- the tendency for a lack of access to telecommunications facilities to reinforce less than acceptable living conditions;
- the observed positive relationship between development of telecoms infrastructure and overall economic development; and
- the network externalities that may be achieved when there is an increase in the number of individuals connected to the public switched telecommunications network (PSTN) (i.e. the more individuals who are connected to a network, the greater the ability to communicate and the better the economies of scale and scope derived from the network).

Balancing interests of stakeholders

Developing a policy on universal service involves balancing competing legitimate interests, including:

- The interests of society that a widely available, functional and effective telephone system reaches as many people as possible.
- The interests of individual consumers who would not be able to afford access to, or direct connection to, the telephone system at cost reflective prices, in having that access or connection to the system provided at a subsidised rate.
- The interests of consumers of telecommunications services in not having unfair or excessively high levies imposed on the prices of those services (to fund below-cost provision to those customers who obtain service at a subsidised rate).
- The interests of investors in telecommunications facilities and services in having predictable regulatory obligations which do not advantage some operators over others.
- The interests of telecommunications operators and service providers in being able fully to recover the fair net costs of serving customers or providing services pursuant to any universal service obligations.

Scope of consultation

C&W welcomes the fact that the OUR has aimed to address some of these key issues in this consultation. However, as the OUR has itself observed, there are many detailed issues yet to be resolved, and C&W would welcome a commitment from the OUR to cover these in subsequent consultations. In particular, our experience suggests that the industry will need clear guidance on, but not limited to, the following issue:

- appropriate costing approach for estimating net universal service costs. This should, for example, cover proposals for the appropriate costing methodology, the types of costs that can be recovered (such as the cost of capital) as well as the relevant revenues. It should also address the costing and funding mechanism for new projects. The OUR has already stated that this is an issue that it will be covering in more detail.
- developing firm proposals on how to identify uneconomic or unserved areas based on the net cost methodology (or otherwise)
- timetable for designation of Universal Service Providers (USPs) for different services.
- starting dates for fund.

Summary of comments

CWJ agrees with the proposals of the OUR on many issues within the consultation, however, many other issues require careful consideration.. These are summarised as follows:

- Universal Service / Access

C&WJ considers that both universal service and universal access are complementary and believes that the best way to achieve both is to identify “existing provisions”, where infrastructure is already in place and the emphasis is on affordability of service to those in high cost areas or with low incomes and “new provide” where service is rolled out to the unserved.

- Market efficiency and access gap

Although the gap analysis presented by the OUR highlights the approximate scale of the gap in teledensity and payphone access, it is constrained because of the limitations of international benchmarking and the high level results of such an exercise. In addition, it does not assist in identifying how the Universal Service Obligation (USO) should be defined nor can it be used to identify the cost of the obligation.

- Functional level of service and nature of the obligation

Fulfillment of the USO, using the fixed network exclusively, is consistent with section 39 (2) of the Telecommunications Act 2000 (The Act). This is also consistent with international best practices, where the USO is associated with provision via the fixed network. Further, in general, the cost of fixed line voice service is cheaper to customers.

- Affordability

C&WJ considers the issue of affordability as a key issue and regards the provision of affordable packages to customers as a necessary component of universal service. C&WJ currently facilitates customers with genuine affordability difficulties and is examining further packages designed to address affordability concerns, the pernicious issue of high fixed to mobile charges is fundamental to the affordability issue for customers and must be addressed .

- Payphone Access

C&WJ urges the OUR to reconsider its approach to payphones as being crucial to universality given the substitution of mobile for payphones, the high level of vandalism and what appears to be an overinvestment in payphones in such circumstances. Further C&WJ recommends that the OUR undertake a “bottom-up” assessment of demand in various communities before arriving at a conclusion on the number of payphones that are needed. In order to minimize expenditure from the fund, C&WJ proposes that where payphones are necessary, C&WJ be designated the Universal Service Provider (USP) where it already provides voice services and where service is to be rolled out to unserved communities, that the “bids for subsidy” mechanism be employed.

- Internet access to schools, post offices and libraries

C&WJ supports Internet access to schools, libraries and post offices, using narrowband. Further C&WJ does not support the provision of hardware or software from the fund. Section 39(2)(d) of the Act does not contemplate or include such a provision and further such a policy would be a tax on the telecommunications industry to subsidise the Information Technology (IT) industry.

- Designation of universal service/access provider

Given that C&WJ already has a network constructed for the provision of universal service, it is proposed that C&WJ be designated the USP in areas where its infrastructure is already in place and that compensation be provided for the net cost of service provision in those areas. This ensures continuity of service to communities and customers who would otherwise be unattractive. Where there is to be roll-out of the fixed network to unserved communities, C&WJ recommends the “bids for subsidy” approach. C&WJ does not support the “Pay” or “Play” approach because of its complexity.

- Appropriate funding mechanism

C&WJ supports a universal service fund as the best mechanism for financing universality objectives. It has proposed that such a fund would ring fence funding for previously unserved areas or services (which would be administered through a physical funding mechanism) whilst providing funding for serving existing uneconomic customers and uneconomic areas through a virtual fund mechanism. There must be equitable contribution to the funds by all service providers and C&WJ agrees with the OUR that revenues is an equitable mechanism for such a framework.

- Services to the disabled

The Company will certainly continue to review the services it currently offers to this special and vulnerable group in the society but does not support the widening of the provisions of the Act to include services specific to the disabled.

- Minimising disconnection

C&WJ concurs with the OUR that disconnections must be minimised. To this end C&WJ works out payment arrangements with customers who have genuine affordability problems. However, where a customer is in default in the payment of his or her bill, C&WJ maintains that it is the Company's prerogative to disconnect on the basis of non-payment, once the payment is past due.

1. General comments

Before answering the OUR's specific questions, C&WJ wishes to highlight some high level comments relating to the scope and funding of universal service that have a bearing on the overall discussion.

Universal service vs universal access

In paragraph 2.5, the OUR's consultation states that 'the Policy acknowledged that a significant level of investment would be needed to achieve universal service and as such proposed universal access (if necessary), in the short to medium term as a transitional phase to universal service'.

Universal access focuses mainly on network expansion and ensuring that all Jamaicans have access to a telephone within a reasonable distance of their homes. Meanwhile universal service is more concerned with ensuring the continued provision of access to homes and businesses in high cost areas and to low income customers.

Rather than looking at these objectives as separate goals to be delivered sequentially, as is suggested by paragraph 2.5, C&WJ firmly believes that they should be considered as complementary objectives, with a 'universal access' policy aimed at ensuring roll-out to new areas and a 'universal service' policy aimed at protecting and extending existing provision to homes.

This dual approach would reflect the fact that Jamaica, with a teledensity approaching 20% and a household density of some 52% is a 'transitional' country which has characteristics which fall between developing and developed countries. This approach is indeed supported by the ITU (World Telecom Development Report 1998) which would consider Jamaica as having a 'medium level of household telephone penetration'.

This is also consistent with the requirements set out in the Act, which supports the provision of 'universal service' to homes as well as 'access' to payphone services. Specifically section 39(2) states:

The obligation to provide universal service shall be based on the following principles, that is to say the need... to the extent technically feasible and economically reasonable, to promote access to single line voice telephone services throughout the Island regardless of place of residence or work... to ensure that payphone services are reasonably accessible to customers on an equitable basis....

The focus in the OUR's consultation on the continued availability of 'affordable home telephone packages' is also clearly aimed at addressing the issue of 'universal service to homes'.

C&WJ notes that the OUR has used the regimes in Chile and Peru as a model for the definition and funding of universal service. However, it should be recognised that both of these countries only have universal access regimes in place, since their policies were developed when the teledensity of both countries was less than 10% (low level of household penetration). Thus while these countries may provide useful models for the approach in Jamaica as regards network expansion, they do not address the issue of continued provision of affordable services in high cost areas or to low income customers. Indeed now that network coverage has increased in Chile and Peru the issue of 'affordability' in these countries has become a major issue, as highlighted in the World Telecom Development Report 1998.

Countries at this stage of development [medium level of household penetration] are just starting to achieve mass-market take-up... The majority of the countries at this stage are Latin American and Central European. What most of them have in common is that they privatised their telecom operators in the 1990s. This generally resulted in a significant increase in household telephone penetration. However, some of these countries are beginning to face problems in maintaining or increasing network access... One reason for this has been a failure to deal effectively with issues of affordability as the network progressed from one stage of network development to the next.

For examples of how continuing affordable universal service has been supported, C&WJ advises that the OUR looks to countries such as France, Australia, Canada and the US, which specifically examined this issue in developing their universal service policies.

C&WJ believes that only by using a combination of the approaches adopted in developing and developed countries will the OUR be able to deliver on the universal service/access needs of Jamaica as a country in transition from middling to high teledensity.

Implications for universal service definition

The recognition that Jamaica will need to develop policies relating both to universal service and universal access has implications for the defining the scope of obligations and for funding.

C&WJ believes that the most straightforward way to manage the split will be to separately identify:

- 'existing provision': provision in areas where infrastructure is substantially in place and in which the focus will be on ensuring the affordability of services to those in high cost areas or with low incomes; and
- 'new provide': network roll-out to cater for areas which currently lack service, and where the focus will be on ensuring that telephony services are reasonably accessible (eg through public telephone facilities)

Different kinds of obligations and different designation and funding mechanisms will, C&WJ suggests, be needed for each.

Non-discriminatory funding of universal service

In order to ensure that the universal service/access regime is competitively neutral, it will be necessary to ensure non-discriminatory and equitable funding for both existing and new provide. C&WJ should not be required to provide, on a continual basis, packages that fail to meet their costs, in areas which it currently serves, without a non-discriminatory compensation mechanism. Neither should C&WJ or any other operator be required to roll out service to new areas which are loss-making without the expectation of fair and non-discriminatory compensation from all providers of telecommunications services.

Failure by the OUR to address the issue of existing provision of services to uneconomic areas and uneconomic customers would leave C&WJ in a position where it would need to cross-subsidise provision of those services whilst facing competition from other operators which face no such costs. This would distort the development of competition and be contrary to the principles enshrined in the sections 39 (5)(a) and 38 (c) of the Act which provides, respectively, that universal service obligations ought not to impose an unfair or unreasonable burden and that compensation for the net costs of meeting the universal service requirements is an entitlement.

C&WJ thus urges the OUR to identify more clearly the separate issues relating to universal service and universal access and to ensure that both are addressed within the designation and funding regime.

2. Application of Market Efficiency and Access Gap to the Jamaican Environment

The Office finds the concepts of Market Efficiency Gap and Access Gap to be useful tools for defining the nature of universal service / access objectives and obligations. The Office hereby invites comments on these concepts and their application in the Jamaican environment.

C&WJ considers the analysis of the efficiency and access gaps contained in Chapter 3 of the consultative document to be an interesting exercise, and both the methodology and results of the analysis are worthy of deeper consideration and discussion. However, such debate will not be useful unless the context and proposed application of the study are described and limitations of the methodology are clearly understood.

In particular while an ‘access gap’ analysis may identify the approximate scale of the universal service requirement in Jamaica, it cannot adequately identify how universal service or access obligations should be defined to address the problem, nor identify what the precise costs of the obligation will be.

These limitations arise because:

- The data is derived from international comparisons and, whilst some effort has been made to use a comparative range of countries for teledensity benchmarking, international comparisons can never adequately incorporate local operating conditions. Any robust analysis of the efficiency and access gaps would need to take account of and make necessary adjustments for local factors, such as geography, household size and income distribution. Failure to take account of these factors could lead to an over or underestimation of the extent of the universal service requirement (over and above any efficiency gap).
- Even with the addition of local considerations, the result of the analysis is likely to be a general ‘high level’ assessment of where Jamaica would like to be in terms of access to telephony – a country-wide objective. In order to define universal service/access obligations it will be necessary to identify specific high cost areas and assess the extent of the affordability problem in Jamaica and design regulatory obligations and funding requirements which would meet these specific needs.

The OUR’s analysis suggests that the level of infrastructure in Jamaica is below what it would expect from its access/efficiency gap analysis, and that effectively, there has been underinvestment in the network in Jamaica.

C&WJ believes that this conclusion cannot be drawn from a static, snapshot analysis. Also, for the reasons explained above, C&WJ considers that relying on international

comparisons for analysis is liable to lead to misleading conclusions. Therefore to add some context to the OUR's analysis and ahead of more detailed study, (and acknowledging again the limitations of international comparisons when viewed in isolation), C&WJ has undertaken a teledensity comparison, for illustrative purposes, with some other jurisdictions in the Caribbean (excluding markets where C&W operates) as well as Latin/South America. We have used markets with either similar or higher GDP per capita than Jamaica.

The analysis takes in not just levels of teledensity today, but changes between 1990 and 2001. Hence it shows relative levels of teledensity growth over an eleven year period. The results (shown in the table below) shows not only that teledensity in Jamaica compares favourably even with some markets with higher per capita incomes, but also that the level of teledensity increase during the period is on the high end in this sample. In fact, the two countries with higher growth in teledensity (Chile and Peru) have benefited from universal service funding to achieve these growth rates – Jamaica's high growth rates have been driven by C&WJ's investment (shown in Textbox 1).

Country	GDP per capita (for 2000, US\$)	Teledensity % 1990	Teledensity % 1995	Teledensity % 2001	Change in teledensity
Belize	3,218	9.16	13.33	14.44	58%
Chile	4,965	6.54	15.59	57.48	778%
Dominican Republic	2,299	4.80	7.48	11.02	129%
Jamaica	2,992	4.38	11.61	19.73	350%
Mexico	5,807	6.59	9.39	13.72	108%
Peru	2,085	2.61	5.99	13.67	423%
Venezuela	4,985	7.63	11.38	11.2	47%

Source: ITU statistics at www.itu.int/ITU-D/ict/statistics/ and 1998 ITU World Telecommunication Development Report

C&WJ would not claim that this analysis provides a comprehensive survey of teledensity or answers to all questions about teledensity in Jamaica. However, it does add to the OUR's analysis by providing a view of teledensity over time, rather than in snapshot. The findings suggest that investment in the fixed network, in Jamaica, has driven teledensity growth faster than in some other jurisdictions since 1990. Further evidence of this is provided in Text Box 1

To conclude, C&WJ believes that the most robust methodology for identifying the needs of consumers and defining the USO is through examining availability and usage in particular areas and amongst particular groups of customers and assessing unmet demand and the extent to which such demand can most efficiently and cost-effectively be met. This will necessarily take account of local operating conditions.

Text Box 1 - C&WJ's record of investment

It should be recognised that C&WJ has played a significant role in achieving the aggressive roll-out of telecommunications infrastructure:

- Since C&WJ acquired controlling interest in the then Telecommunications of Jamaica (TOJ) in 1989, the number of main lines have grown from 87,000 in 1989 to over 500,000 today, moving teledensity from 3.5 % in 1989 to almost 20% today.
- On average C&WJ has rolled out over 30,000 mainlines every year since 1989. This rollout of infrastructure has cost in excess of J\$ 40 billion over the past thirteen (13) years.
- Prior to acquisition of controlling rights by C&WJ, the rollout of mainline service was considerably inhibited because of lack of resources. In particular, since 1992, the Company has consistently expanded service in the rural areas, in spite of the difficulty of the terrain and affordability issues.

3. Functional Level of Service and Nature of Universal Service/Access Obligation

Universal service / access has traditionally been thought of as related to fixed line technologies. If the objective of providing Jamaicans with access to telecommunications services is to be met under a Universal Service / Access Plan, is the basic level of service a “ voice” connection regardless of whether it is provided by a fixed line or mobile or some other service or service provider? The Office seeks comments on the functional level of service that should be provided and the implications this may have for the type of service provider and nature of the universal service / access obligation.

Policy considerations

In deciding the scope of the universal service obligation, it is important to identify the policy objectives underlying it. Section 39(2) of the Telecommunication Act 2000 states that:

‘The obligation to provide universal service shall be based on the following principles, that is to say the need

‘to the extent technically feasible and economically reasonable, to promote access to single line voice telephone services throughout the island to persons regardless of place of residence or work’.

‘to permit access to free calls to emergency services’

‘To the extent technically feasible and in so far as the necessary resources are available, to promote Internet access throughout the Island in schools, public libraries and post office’s.

From this, it can be seen that the Government considers it most important to ensure widespread access (ie reaching as many people as possible) and that access from a fixed location (residence or work) is the objective with a ‘line’ explicitly mentioned in the Act as the means of voice access. Safety and security is also important with free access to emergency services a key concern. Moreover, the Government has a clear objective of promoting access through schools, libraries and post offices to the Internet.

Consistent with the Act , the clear policy intention of the Government is to focus on universal service provision through fixed lines to homes and businesses.

In particular, fixed line access offers the following benefits which will contribute towards achievement of the Government’s universal service goals:

- Each line will benefit a number of people (the whole household or business) rather than being associated, as mobiles are, with provision of telephony to an individual.
- Fixed lines have traditionally been considered more suited to access to the Internet than mobile lines and, as above, can deliver narrowband Internet access to a household or business, rather than being carried by individuals.
- The line does not require additional power or batteries to operate and as such, offers continual access to the emergency services. This cannot be said of mobile telephones, which require frequent charging and thus may not be available for use when most needed.

With only modest use, the cost of mobiles outstrips the cost of making calls over a fixed line. The OUR's own analysis in appendix A would seem to bear this out even though it has not taken into account the cost of the mobile handset or used pricing information relating to the low user package. C&WJ's own analysis also confirms that, except for very low usage, fixed service is cheaper than prepaid mobile service.

International comparisons

The use of fixed line technology for universal service provision is well established in other jurisdictions also. The new EU Universal Service Directive (Directive 2002/22/EC), which has been formulated on the basis of technological neutrality, still considers that fixed access is the key to delivering universal service. It requires that in every EU country:

....connection at a fixed location to the public telephone network and for access to publicly available telephone services at a fixed location are met by at least one undertaking. The connection provided shall be capable of allowing end-users to make and receive local, national and international telephone calls, fax and data communications at data rates that are sufficient to permit functional Internet access.

This clearly implies that it is access within a household or business that is key to ensuring accessibility and that the connection must be of sufficient quality to permit functional data access, which would tend to favour fixed technologies. This message is reinforced in the European Commission's draft guidelines on market definition which state that:

The retail market at a general level can be described as the provision of a connection or access (at a fixed location or address) to the public telephone network for the purpose of making and/or receiving telephone calls and related services.

This approach is reflected in practice by numerous countries such as the EU, US and Australia, where the universal service obligation is associated with provisioning through the fixed telephone network.

4. Affordability

The Office's review indicates that "affordability" may be an increasing problem as rates for basic residential voice services are "rebalanced" i.e. as these rates rise to their economic cost. The Office seeks comments on how concepts of affordability can and should be defined and applied to the circumstances in Jamaica .

C&WJ regards the question of affordable access for needy customers as one of the most important and difficult in this (or any) universal service proceeding. In assessing the need for support and/or special packages for needy customers, it is necessary to take account of the effects of tariff rebalancing over time.

Rebalancing will eradicate existing cross subsidies from international to domestic services. It will reduce the overall bills of many customers and will bring benefits to Jamaica through increased economic efficiency of communications networks and services providing accurate price signals and hence encouraging competition and efficient investment in all sectors of the industry. However, as the consultative document points out, at standard tariffs, rebalancing will result in increased bills for low users and users who use only domestic services. Some of these users are those who are least able to afford bill increases, and so the issue of affordability is central to the objective of universal service in an environment where rebalancing is taking place.

Defining Affordability and Application in Jamaica

The Office has sought comments on how concepts of affordability can and should be defined and applied to the circumstances in Jamaica.

Typically there are two methods of defining and targeting those with the affordability difficulties: using either income related or usage related criteria.

Using income as the criteria requires evidence of household income and thresholds defined such that those households with incomes below the threshold would qualify for assistance. This is theoretically the most appropriate mechanism as only those households that have genuine difficulties would be eligible. However, using income as the criteria is fraught with practical difficulties. This includes the availability of income related information, the ability and choice of households to reveal their income to a service provider, and the potential for significant abuse through fraudulent applications.

The underlying premise for defining affordability using telecoms usage is that there is a correlation between household income and telecoms usage, where households with low usage are most likely to have affordability difficulties. Telecoms usage requires a measure for the service usage of households or customers. Service providers can measure this through their existing customers billing and information systems. A number of

operators around the world have used telecoms usage related schemes to address affordability concerns (e.g. in the UK, Sweden, Italy).

In light of this, C&WJ believes that telecoms usage is the most appropriate and practicable criteria for defining affordability in Jamaica.

Currently C&WJ provides affordable telephony to low users through the Low User Package (LUP) – further described in the section on disconnection. This provides a discounted line rental to customers with low telephony usage to enable access to the network and services (higher users should benefit from the international call price reductions that are a feature of rebalancing).

C&WJ also works along with customers who encounter difficulty in paying their bills, thereby allowing customers access to, at least, make calls to emergency services and receive calls. C&WJ is also actively examining the possibility of introducing various packages for fixed line phones, which would further assist customers in managing the level of their bills.

C&WJ regards the provision of affordability packages to needy customers as a necessary component of universal service in Jamaica, which should be reflected in the obligations on USPs. It is equally important to recognise however, that such obligations are likely to incur costs for USPs which will need to be recovered in a competitively neutral way.

High fixed to mobile charges

In the discussion on affordability, the OUR has overlooked treating with the fundamental issue of high fixed to mobile termination charges. This is a major factor underlying the affordability issue, non-payment of bills and the resultant disconnections and has been a source of great distress for customers of C&WJ's fixed line network.

C&WJ recognizes that in “ Interconnect Pricing (RIO-4), A Determination Notice”, issued May 22, 2002, the OUR had realized the pernicious nature of these high fixed to mobile charges and had directed a reduction in the termination rates charged by the Mobile Service Providers. Nevertheless, Digicel has challenged this ruling in Court, and so C&WJ fixed line customers continue to pay J\$12 per minute every time they call a Digicel customer. The most a fixed line customer would pay to call another C&WJ fixed line customer is J\$0.91 per minute and to call C&WJ mobile it is J\$7 per minute, while to Centennial mobile it is J\$9. One can therefore recognize the wide differential between the Digicel rate of J\$12 and the other lower rates and the impact of such high termination charges on the bills of fixed line customer.

Many fixed line customers, who are in default on their bills, are simply unable to pay the bill because of the high termination charges levied by Digicel.

A recent judgement out of the Competition Commission in the U.K, released in January 2003, has ruled that the termination rates for mobile carriers should be regulated given that the only way to reach a subscriber of a mobile service provider is to call that customer on that provider's network. At this time, there is no alternate way to call a subscriber of that network. This is in effect a monopoly and therefore mobile operators can set call termination charges as high as desired. This is exactly what Digicel has done and the disastrous consequences are the inability of fixed line customer to pay their bills, churn off the fixed network and escalating bad debt for C&WJ. C&WJ believes that the OUR must take account of this in its consideration of affordability in this proceeding.

Customers Who Are Unable to Afford Service at Any Price

The OUR is yet to propose how it intends to treat with those persons who, because of economic circumstances, are simply unable to pay for telephone service, regardless of how many affordable options are on the market.

5. Payphone Access

The Office invites comments on the use of payphones as a means of extending and facilitating access to telecommunications services. Specifically:

- a) What criteria should be used to establish a sufficient number of payphones ?**
- b) What are the factors that have inhibited the necessary or needed number of payphones from being provided ?**
- c) What can be done to promote the use of payphones as a means of public access ?**

What criteria should be used to establish a sufficient number of payphones?

The OUR has stated that the provision of public payphones is a critical component of any universality programme and stated that, according to its analysis, an additional 3,607 payphones should have been installed by the year 2000.

However, in taking this position, the OUR has simply used international benchmarking of payphone penetration rather than examining the payphone market in Jamaica.

C&WJ's experience has been that, far from having underinvested in payphones, C&WJ's existing investments may not have been fully warranted, given the market realities that are outlined below. C&WJ therefore question whether, in fact, payphones, are as critical a component of delivering universality as the OUR believes.

What are the factors that have inhibited provision of payphones?

C&WJ believes that one of the over-riding factors that has led to more limited provision of payphones is that demand for such services is declining. This is due to a number of factors:

- Competition between payphones and mobile telephony – over the last 3 years, with increasing coverage of mobile networks, CWJ has observed a substantial decline in payphone usage revenues. This would seem to suggest that there is some substitutability between payphones and mobiles. Payphones and mobile share the characteristics of being available for use by individuals 'on the move' and are used primarily for voice calls rather than data. This has meant that in areas where mobile penetration has increased, the need for payphones has substantially diminished.
- High maintenance costs – payphones may be important to universal access in areas where home and mobile penetration is low, but in these, typically remote areas, the cost of maintaining payphones is particularly high.

- Finally, it should be recognised that vandalism has resulted in high maintenance costs and inhibited the deployment of payphones to new areas. For instance, for the last three (3) fiscal years, beginning 1999 and ending 2002, C&WJ has placed 1,000 payphones, each fiscal year, in communities, the majority of which are deployed as replacement for payphones that have been vandalized.

Bearing these factors in mind, C&WJ strongly recommends that the OUR undertakes a ‘bottom-up’ assessment of demand in various communities and amongst customers before reaching a conclusion on the number of payphones (if any) needed for universal service provision. The other countries included in the comparisons may have higher payphone availability because fixed or mobile penetration is lower (this is certainly the case in Costa Rica) or because the payphone penetration was achieved in advance of the boom in mobile growth. The OUR thus needs to take full account of the local circumstances in Jamaica before reaching any conclusions as to what might constitute sufficient payphone coverage.

If payphones are to have any place in the universal service, C&WJ advocates that the approach taken gives priority to “strategic” communities which meet the specified criteria rather than assume a need for payphone access throughout the country. An example would be to define strategic communities as those communities that are unserved by payphones or have limited mobile penetration.

C&WJ notes that the OUR’s proposals for minimum criteria use both distance related component and a target for payphones per community. It is unusual for two sets of criteria to be used, and CW&J is concerned that the use of both criteria is liable to risk overinvestment in payphones.

6. Internet Access to Schools, Post Offices, and Libraries

In order to provide Internet access to schools, at least three components must be met: the hardware, ie, the computer itself; the software used on the computer and the access line to the Internet. The Office seeks comments on how best to meet this objective. What a reasonable level of Internet access to schools should be; and how the funding to provide these components should be sourced.

In order to provide public access to Internet terminals in libraries and post offices, elements may need to be defined within the universal service / access plan. The Office seeks comments on how best to meet this objective in terms of provisioning and funding within a universal service / access plan. The Office also seeks comments on whether Internet kiosks in public libraries and post offices should be able to resell all the service in order to recoup the cost of providing public access.

C&WJ believes that the provision of Internet access in public institutions where it will be available to members of the public who may otherwise have no means of access has great potential to deliver significant benefits to Jamaica. For example, there may be direct benefits in education and productivity which would generate spin-off benefits in social welfare.

The provision of Internet access to schools is particularly important. Put simply, C&WJ believes that the wider the availability of the Internet for education, the greater the potential benefits, both to individuals, and to society as a whole. So long as the costs of provision do not outweigh the benefits, there will always be a net benefit in expanding access. With this in mind, C&WJ has initiatives in place to make Internet access easier for schools. For example,

- C&WJ, in partnership with the Heart Trust/NTA, currently provides the Voyager Classmate package through which free Internet dial-up is provided to schools between the hours of 9.00am and 5.00pm, and
- for the past 3 years, C&WJ has voluntarily operated a programme to donate computers to schools.

We are also working with the Government of Jamaica to provide consumer friendly Internet access points in a number of post offices.

These programmes are already delivering benefits to Jamaica. In order for Jamaica to continue to receive and expand on such benefits, in a fully competitive environment, C&WJ believes it will be necessary for such services to be encompassed within the scope of the universal service framework. However, it is vital in this context, and in order for the obligation not to represent an undue burden on any operator, that the scope of what can and should be made available through universal service is clear.

Provision of hardware

The OUR has proposed that the universal service fund be used to deliver Internet-enabling hardware to schools, such as computers, in addition to the physical line and Internet connectivity. C&WJ has serious concerns about the appropriateness of this proposal.

The best starting point for analysis is to consider the limits of the legislative framework, which is already in place for universal service. In relation to Internet access to schools, libraries, and post-office, clause 39(2)(d) of the Act provides that a principle of universal service is

*to the extent technically feasible and in so far as the necessary resources are available, to promote internet **access** throughout the Island in schools, public libraries and post offices.*

It is clear that the scope of the provision relates to telecommunications services and does not contemplate or include computer hardware or software. Therefore, whilst as at present, the private sector may continue to support on a voluntary basis the provision of hardware and software to schools and other public institutions, legally, provision of computer equipment or software cannot be included within the universal service obligation. Nor would C&WJ consider such a policy appropriate on policy grounds. Effectively it would entail the telecommunications industry facing a tax to subsidise the provision of IT services, distorting investment decisions in these industries and diverting revenue which would otherwise have been invested in telecommunications infrastructure to the IT sector.

C&WJ is of the firm view that both legally and on policy grounds, any universal service obligation in relation to Internet services should focus only on the provision of connectivity and not subsidise the provision of computers, internet kiosks or software

Should the USO incorporate broadband connectivity?

C&WJ notes that there is some discussion (paragraphs 6.19 and 6.29) in the consultative document of whether Internet connectivity to schools should be provided at narrowband or broadband speeds. Whilst it may appear desirable for all schools and public institutions to have broadband connectivity, C&WJ does not consider that such a goal is realistic for Jamaica at this time. This is because:

- Given the need for basic phone connectivity, the priority should be on delivering access, which is fundamental, before considering any advanced service provision.
- The cost of delivering broadband services, particularly in areas which have not yet been broadband enabled is very high, and this would take up a disproportionate amount of the resource allocated to universal service which is capped at 5% of

revenues, assuming it could be included within the amount allocated at all. In turn, this would impact the ability of the OUR to address other vital aspects of universal service and access provision such as ensuring affordability of phone access and roll-out to unserved areas.

- The provision of narrowband access alone should be sufficient to ensure that schools are enabled, with the addition of appropriate hardware, to connect to the Internet . The incremental benefit of broadband, particularly to small institutions, is highly unlikely to warrant the significant additional cost.
- Subsidising the provision of broadband access to schools and libraries at a time when it is not clear the extent to which demand may be met through commercial means, risks distorting the development of competition in a market that may well prove to be attractive for commercial suppliers.

Overall, C&WJ considers that there is a convincing case to focus on narrowband internet access first.

This reflects the approach taken in other countries such as the US where broadband access to schools and public institutions was only addressed once the country's telecoms infrastructure was fully developed and the 'access gap' for schools better understood. It is worth noting that the decision to include access for schools and public institutions in the US, even considering its advanced state of development, has come at a significant price – C&WJ's understanding is that some 40% of universal service funding is devoted to such provision and that contributors to the fund are required to pay around 7% of gross revenues.

Many other countries, such as the UK, have found that explicit 'USO' broadband provision for schools is not necessary because commercial offers such as the BT Internet schools and public institutions caller tariff, were made available on a voluntary basis. This finding is reflected in the fact that the European Commission initially proposed that Internet service to schools be included in the new EU Communications Framework¹, but were persuaded by Member States that no such provision was needed. Even so, it should be recognised that the European Commission's proposal was for provision at cost-oriented rates and made no specific mention of broadband, and allowed for a derogation where commercial activity met the needs of schools.

C&WJ's firm conclusion is that any universal service provision on Internet access must focus on narrowband access.

Pricing of Internet access to schools and libraries

The OUR has asked in relation to libraries and post offices whether they should be able to charge for the provision of public Internet access.

¹ Section 29 Working Document on Universal Service
<http://europa.eu.int/ISPO/infosoc/telecompolicy/review99/wdunisrv.pdf>

C&WJ considers that universal service funding should only be provided to the extent that other sources such as central Government, libraries and schools or consumers themselves, are unable to contribute. Subsidy should be targeted where it is most needed.

For this reason, C&WJ would encourage the OUR and Government to assess the price that can be charged for public Internet access whilst still achieving the goal of effectively promoting Internet access in schools and libraries.

Such an approach should minimise the level of universal service funding required to support such services, leaving those funds available for meeting other universal service objectives.

8. Designation of universal service/access provider and potential options for choosing providers

The Office seeks comments on how and who may be designated as a universal service / access provider bearing in mind that the current legislator limits the role of the OUR to merely recommending “other licensees”. The current legislation permits the Minister to designate, by agreement with the potential provider, who shall be the universal service / access provider.

The Office also seeks comments on potential options for choosing providers for single line voice telephony, public payphone and internet services.

Section 40 of the Act provides that the Minister may designate C&WJ as a universal service provider and, and on the recommendation of the OUR, designate other licensees to be USPs in addition to C&WJ. The question then arises as to how the various universal service obligations should be separately identified and how operators should be designated to fulfill a particular aspect of universal service.

The OUR has identified in its consultation two methods of designation – competitive bidding and ‘pay or play’, but in so doing, C&WJ is concerned that the OUR has not fully appreciated the state of development in Jamaica compared with countries in which competitive bidding and pay/play are the only designated mechanisms.

Competitive bidding has been developed in countries like Chile and Peru, which, historically, have had very low levels of penetration, and the focus with these mechanisms have been on rolling out infrastructure. Jamaica, on the other hand, has a level of teledensity that puts it between countries with fully developed telecom infrastructure (eg UK, US, Canada) and developing countries such as Peru. C&WJ thus proposes that the policy followed in Jamaica with respect to identifying elements of ‘universal service/access’ and designating providers, combine aspects of both developed and developing markets. This is reflected in the proposal below which:

- Draws on experience of fully developed markets for areas in which service is already being provided, and where the main goal is continuity of service in high cost areas and to low income customers.
- Draws on experience from developing markets such as Chile and Peru for unserved areas and services which are not currently offered.

This hybrid approach is supported by Ovum’s 1999 report on Universal Service Funding: World Best Practices which states that:

Countries with teledensities equal to or greater than 10 but less than 20.....should begin to add some elements of universal service [to universal access]. This could mean meeting all requests for service within urban areas or towns with exchanges.

Identifying aspects of universal service

The law states that the services that are included in the USO are:

- Provision of single line telephone services throughout the Island
- Provision of payphones such that services are readily accessible
- Provision of access to emergency services
- To the extent that resources are available, promoting Internet access in schools, libraries and post offices.

Each of these elements is discussed below.

Provision of basic telephony services

C&WJ has effectively been operating as the designated universal service provider for basic telephone services. It has done this through rolling out infrastructure to areas which would not otherwise have been considered commercially attractive in order to meet Government roll-out targets, and through tariffing arrangements (unbalanced tariffs) and low user packages to promote ‘affordable’ access to telephone services.

In order to make efficient and effective use of the network already constructed for universal service purposes, C&WJ proposes that the Company be designated as the universal service provider in areas in which telecommunications infrastructure is substantially in place and that C&WJ be compensated for the net costs (that is avoidable costs minus foregone revenues) of ongoing provision of services. This will ensure the continuity of service to areas and customers who would not otherwise be commercially attractive and will ensure that universal service is delivered in a way which is competitively neutral and does not place an undue burden on any operator. Designating C&WJ in areas where it already has its network should also avoid unnecessary infrastructure duplication and ensure that universal service funds for new network build are targeted towards areas that are currently unserved.

Effectively for those areas in which network coverage is already developed, universal service would follow the model in countries such as Australia, Canada and France, where the focus is on addressing issues of affordability and ongoing service to high cost areas.

Meanwhile a different approach, similar to that followed in Peru and Chile could be adopted for areas in which there is currently no fixed infrastructure ‘footprint’. In these cases, to ensure the most efficient use of universal service funds, ‘bids for subsidy’ could be used.

The regulator would, in these cases, identify particular areas in need of network build and invite bids from carriers for the level of subsidy needed to offer service. Contracts would be awarded on the basis of subsidy requested, taking account of the technical, operational

and financial capability of the operator to deliver on the contract. The ‘designation’ would be effected by the award of the contract, and the ‘net cost’ would be determined by the subsidy requested.

The advantages of this approach are that it promotes efficient use and distribution of resources from the universal service fund and facilitates determination of the up-front net cost – that is the net cost involved in network roll-out to a particular area.

Once service is made available in the area, ongoing net costs (to cover for high operation and maintenance charges and low user packages) could be determined in the same way as is proposed for C&WJ’s existing coverage.

One issue that would need to be addressed for new USPs is the pricing of their offerings. In order to ensure a non-discriminatory and competitively neutral approach, and preserve the approach of geographic averaging of prices, C&WJ would expect that new USPs would be required to have geographically averaged prices and be required to offer service at a price no greater than that of C&WJ’s maximum regulated prices.

Provision of payphones

As explained previously, in chapter 5, the realities of the payphone market would suggest that that the proposed level of obligations relating to payphones should be reviewed. However, consistent with the approach taken for fixed lines to homes, C&WJ proposes that, where C&WJ is required to continue with the provision of loss-making payphones, it should be designated as the USP and receive appropriate compensation.

For areas currently unserved by payphones and where payphones really are the best way to address universal access, C&WJ suggests that the Government identifies development priorities and awards contracts on the basis of “bids for subsidy”.

Provision of access to schools and libraries

C&WJ advocates the same approach for schools and libraries as for other services with C&WJ being designated and compensated for services which it currently offers, and the remaining schools and libraries being covered on the basis of “bids for subsidy”.

C&WJ is strongly of the view that, at the moment, the priority should be to ensure narrowband access.

Pay or play

C&WJ notes that the OUR has described the ‘pay or play’ approach put forward by Oftel, but observes that, to its knowledge, this mechanism has not been fully explored or used in practice in the UK.

C&WJ’s view is that ‘pay or play’ would add an unnecessary layer of complexity to the process, and believes that the most straightforward and efficient approach will be, as described above:

- To designate the existing provider, as the Universal Service Provider, where it already has infrastructure in place.
- To designate additional providers through means of ‘bids for subsidy’ where there is need to roll-out service to unserved areas.

9. Universal Service Funding

The Office seeks comments on the type of approach and funding options that would best serve the needs for funding universal service / access plan.

Specific comments are requested on the methods of contributing to a fund, who should contribute and how funds should be sourced and administered?

The OUR has sought comment on which funding mechanism best serves the needs for funding universal service, the methods for contributing to the fund, who contributes to the fund and how funds should be sourced and administered.

Type of funding arrangement

C&WJ supports the use of a universal service fund as the best mechanism for financing universality objectives. However, it does not consider that the funds established in Chile or Peru will meet all the requirements of universal service funding in Jamaica.

It is C&WJ's understanding that in Chile and Peru the universal service funds are aimed only at projects to support the roll-out of infrastructure to unserved areas (both of these countries historically had low teledensity), and do not address the issue of funding continued 'affordable' provision in areas which are currently served. This is reflected in the relatively low level of the fund – currently 1% of gross revenues.

This kind of funding mechanisms will not, on its own, be sufficient for Jamaica, which needs to address the issue of continued affordable provision in existing high cost areas and to low income customers as well as roll-out to currently unserved areas.

Rather, C&WJ suggests that while the Chile and Peru model can be followed to establish a fund to support 'new projects', an additional funding mechanism, along the lines of those established in Australia, France and elsewhere will need to be established to cover existing provision.

The two mechanisms are likely to require different methods of costing and collection. In the case of the 'new projects' fund, a fixed 1% gross revenue contribution could be collected as in Chile and Peru through a physical fund mechanism and allocated to USPs on the basis of 'bids for subsidy'. Meanwhile for the 'universal service' fund supporting ongoing affordable provision, C&WJ would suggest following the approach in Australia, where:

- A universal service plan is developed detailing the precise scope of the USO
- The net cost of delivering on the plan is calculated by the USP and approved by the regulator
- The % contribution (up to 4% if 1% has been allocated to new projects) is calculated so as to cover the net cost of delivering the universal service requirements.

- The payment is made to the USP using a virtual fund mechanism

C&WJ understands that the OUR will be addressing the issue of cost calculation in a later consultation and will provide more input on costing approaches to universal service at that stage.

Administration of the fund

Effective fund management is typically linked to guidelines set by policy-makers to ensure accountability and transparency. However, funds administered by the private sector or by non-governmental bodies have major advantages, as they:

- maintain independence from government interference
- promote efficiency by reducing red tape and bureaucracy
- reduce the impact of the changing landscape of political objectives, which could interfere with universal service goals.

As the OUR has noted, there are two types of fund:

- physical - an administrative body is responsible for collecting and distributing funds
- virtual - there is no administrative body. Operators make direct payments to universal service provider.

A “virtual” universal fund is distinguished from a “physical” fund primarily by the roles played by the regulator and the operators. Under the “physical” fund, there would typically be an independent agency to collect all cost and other information relevant to determining the cost of providing universal service and contributions, and to handle all financial transactions with the operators. The regulator may establish the methodology for calculating net cost and the basis for contribution as well as other procedures for the company’s operation of the fund, but would otherwise stay out of day-to-day management issues.

With a virtual fund, no new separate agency is established, and the roles of the regulator and operators are broader. The regulator establishes the methodology of cost and contribution calculation. The USP would submit the calculations of the net cost of their respective obligations to the regulator or an independent accounting agency for validation. Once validated, the regulator or independent agency would then derive the contributions of each operator, and, in turn, instruct the operators to make appropriate net payments to one another. All calculations and transactions are subject to approval by the regulator and subsequently made public. In the event of a dispute, the regulator acts as arbiter.

CWJ believes that the virtual fund as set out above, offers the simplest and most cost-effective means of implementing universal service funding for ongoing funding of ‘existing’ services to uneconomic areas and uneconomic customers. The regulator would

verify the net cost of the universal service obligation and calculate the revenues payable by operators with payment being made directly to the USP. However, C&WJ considers that a physical fund would be most appropriate to administer the collection and payment of the fixed % of revenues identified, under C&WJ's proposal, for 'new projects'. The funding authority could be responsible for issuing tenders, awarding contracts for service to unserved areas, paying the requisite subsidy and monitoring the use of funds to ensure that the obligations of the contract are fulfilled.

Method of Contributing to the Fund and Who Should Contribute

C&WJ supports the OUR's view that revenue be the basis for contributions because:

- not all telecoms services are sold in the form of minutes (such as access lines or leased circuits²);
- it is ultimately customers who will be paying the cost of the universal service contributions and the revenue basis associates the contribution made by each customer to their telecoms expenditure; and
- information on revenues may be easier to collect and verify.

In the interests of non-discrimination and equity, all operators, including downstream service providers must contribute to the recovery of the net cost of universal service provision.

C&WJ, like the OUR, wishes to avoid the problem of "double-counting", i.e. including the same revenue more than once in the contribution base. This might occur where more than one operator or service provider is involved in the provision of a service, such as call origination or termination, or a contributing internet service provider purchasing a wholesale service (such as a leased circuit) from another operator.

This is a very important distinction to make and CWJ is broadly supportive of the OUR approach. However, CWJ believes that practically it will be difficult to implement as all existing carrier licence holders also have service provider licences – whilst not a problem in itself, it may provide incentives to show retail revenue as revenues attributable to the carrier business.

The OUR has mentioned (in paragraph 9.19) that two possible approaches could be used for recovery of universal service/access charges – building such charges into the tariffs or by way of a line item on customer bills. This is a very important issue and one, in C&WJ's views, that deserved more discussion in the consultative document. C&WJ

² However, the Hong Kong regulator, OFTA, applies a calculation to derive equivalent minutes of certain types of leased circuits in order to allow them to be included in the contribution base.

therefore urges the OUR to have a fuller discussion in the second consultative document on this matter and envisages that the OUR will address at least the following issues in respect of the two approaches:

- The merits and demerits of each approach
- Practical aspects of implementing under either approach, such as:
 - The impact on the X factor for rate regulated companies
 - Social considerations of including line item in customer bills
 - Impact on revenue collection and reconciliation
 - The public education campaign proposed
- The OUR's preferred approach

10. Services to the Disabled

Comments on the issue of whether the disabled community should be given special treatment and what should be the starting point for services.

Cable & Wireless Jamaica has certainly given thought to and does provide special services to facilitate the interest of this special and vulnerable group in the society.

In this respect, and consistent with section 10.2 (a) of the Consultative Document, C&WJ provides to the visually impaired members of the Jamaica Society for the Blind, access, free of charge to 114, the national Directory Enquiry service.

Consistent also with 10.2 (c) of the Consultative Document, C&WJ is pleased to advise that in establishing payphones, access by person in a wheelchair is a consideration. To this end all payphones installed are in pedestal booths or are wall mounted. In both cases access by any person in a wheelchair is facilitated.

Further, C&WJ has already aligned itself to 10.2 (d) in that the Company provides to the Jamaica Society for the Blind, the national telephone directory, on diskette, free of charge.

It should also be borne in mind that technological advances in the delivery of regular services have also facilitated use by the disabled. C&WJ's Interactive Voice Recording (IVR) and voice prompts are helpful to the visually impaired. Online bill access is also useful for the hearing impaired. For the visually impaired there is a text to speech facility on C&W Online.

C&WJ, therefore, does not believe that the current USO provisions in the Act need to be widened to include services specific to the disabled.

Nevertheless C&WJ will continually review the services that it offers to facilitate the special needs of the disabled.

11. Minimising Disconnection of Customers

The Office seeks comments on how best to minimize disconnection of customers from the network. Also what provisions should be implemented to ensure an effective monitoring and review programme

C&WJ agrees with the OUR that programmes should be implemented to keep customers on the network and that disconnections should be minimised. However, where a customer is in default in the payment of his or her bill, C&WJ maintains that it is the Company's prerogative to disconnect on the basis of non-payment, once the payment is past due.

C&WJ hastens to add that it works diligently with customers who face genuine affordability problems and who approach the Company seeking some relief. In these cases C&WJ and the customer normally agree on a payment plan. Where a customer is on a payment plan, some level of service is always provided, so that the customer is at least contactable and can dial emergency numbers. This is so even in cases where the customer had been disconnected for non-payment of the bill, which is the subject of the payment arrangement.

At section 4.25, the OUR faults C&WJ's Low User Package (LUP) on the basis that it requires diligence on the part of the customer to ensure that the threshold of minutes is not triggered which would result in the customer receiving a higher bill than if that customer were on the standard package.

C&WJ goes to great lengths to ensure that customers are educated on whether or not the LUP is suitable for their calling pattern. A counseling model has been developed for the LUP, which is used particularly by the Company's Customer Service Agents in C&WJ's Call Centre. A customer interested in subscribing to the LUP is requested to provide the number of minutes that are spent on local (intra-parish) and national (inter-parish) calls, the model generates the total bill, inclusive of rental, but excluding mobile and international calls, using both the standard package and LUP. If the total bill, using the LUP is less, then that package is recommended to the customer.

It would then be logical to conclude that where a customer's calling pattern is consistent with a LUP, vigilance by that customer is minimal and in this case the OUR's claim of unusual diligence on the part of the customer is refuted.

Further, except for "Call Barring" all the affordability options suggested by the OUR – those being Limited Minutes, Prepaid Scheme and the Low User Package – are premised on some form of limited minutes. Therefore no consumer, with an affordability concern, will be able to escape the personal responsibility of managing the minutes that have been purchased and in this regard the LUP offered by C&WJ is consistent with the affordability options proposed by the OUR.

C&WJ anticipates that the OUR will be mindful of the existence of these arrangements in its deliberations on affordability and disconnection. Nonetheless C&WJ believes that the options proposed by the OUR to improve affordability, such as the fixed prepay scheme, would indeed be useful as additional mechanisms empowering customers to control their spend and thus reduce the threat of disconnection. These options are under consideration by C&WJ, although clearly the net cost of such arrangements and existence of compensation will be key to determining their viability.

12. Monitoring and Review Universal Access/Service Programme

What provisions should be implemented to ensure an effective monitoring and review programme

The OUR has briefly highlighted the importance of monitoring and review of the universal service/access programme.

C&WJ is broadly supportive of both monitoring and review. As such, C&WJ would be interested in further discussion on this issue in the next consultation. In particular, discussions on review of the definition of universal service can have wide-reaching implications and it is difficult to comment on this issue in a vacuum - the existing obligations are still to be tightly defined, implemented and monitored. It would be extremely useful if the OUR can offer some guidance on what it believes is the appropriate timeframe for reviewing the definition, to include internet for example as suggested by the OUR. If the timeframes are indeed in the "not too distant future", this will have a bearing on the existing discussions and consultation.