

**Before the  
Office of Utilities Regulation  
Kingston, Jamaica**

Submitted October 3, 2008

In the Matter of )  
Price Cap Plan for Cable & Wireless Jamaica ) Consultative Document  
)  
) Document No: Tel 2008/11: Con/04  
) August 4, 2008

Columbus Communications Jamaica Limited  
Response to Consultative Document

Columbus Communications Jamaica Limited, ("Flow"), hereby submits its Response to the Office of Utilities Regulation's ("OUR") referenced Consultative Document regarding the Price Cap Plan for Cable & Wireless Jamaica Limited ("C&WJ").

Flow agrees that the maintenance or removal of the existing Price Cap Plan must be informed by the OUR's consideration of key factors such as the need to promote universal service of high quality and affordable prices, fostering of competition in the industry and providing incentives to the incumbent to increase efficiency.

In light of these factors, Flow is firmly in agreement with retaining the existing Price Cap Plan for at least another four (4) years. Flow believes that as the incumbent dominant market player, C&WJ can set excessive prices to call other networks thereby effectively eliminating competition, create barriers for competitors in the industry to sell their services as well as benefit from cross-subsidization of C&WJ's services.

It is obvious that without a price cap, C&WJ could use its immense market power in the provision of certain services to charge higher prices to users of those services, and in turn, use the excess revenue generated to lower prices and undercut competing service providers in markets where C&WJ's services are less competitive, thereby ultimately increasing its market share.

By cross-subsidizing more competitive services, C&WJ can:

- Make sure that it meets its overall costs, such as its fixed costs, while
- Fortifying its competitive position where it is most important: in the supply of its products in markets where there is more competition from other players in the industry.

Set forth below are Flow's responses to the questions posed in the subject Consultative Document.

**Question 2.1:** *Is the wholesale ordering process for xDSL transparent and free from intervention by C&WJ's Carrier Services Division or its retail Division? Please provide a detailed response.*

**Flow's Response:**

Flow uses its own Hybrid Fibre Coaxial (HFC) Network to deliver Broadband Internet to Residential and Business customers through the use of the Data over Cable Service Interface Specification (DOCSIS) standard. Flow therefore provides its broadband internet service independently of C&WJ (that is, Flow does not order this service from C&WJ) and hence is unable to comment on this matter.

**Question 2.2:** *Do respondents believe that international outgoing calls and other similar services should be removed from the regulated services basket? State the reasons (along with available traffic and other data) for your response.*

**Flow's Response:**

Very recently, there has been some competition in the market for international outgoing services from competing technologies (e.g. VOIP). However, C&WJ still remains the dominant player and Flow believes that the price cap on international outgoing voice service must be retained to prevent C&WJ from abusing its dominant position by charging rates for this service that are extremely high.

**Question 2.3:** *Should international leased lines be removed from the regulated services basket? Where possible, provide data to support your response.*

**Flow's Response:**

Flow believes that the price caps on international leased lines should not be removed for similar reasons stated above. Maintaining price caps prevents C&WJ from abusing its dominant position by charging rates for these services that are excessive.

**Question 2.4:** *Should any service provided to business customers be removed from the regulated services basket? If yes, provide data to support your response, defining the relevant markets and the conditions of market entry and exit.*

**Flow's Response:**

Flow believes that local leased lines should remain under a price cap regime. C&WJ is the only company that can provide ubiquitous leased line service. These leased lines may also serve as local loops for international circuits. The existing price cap prevents C&WJ from increasing its rates for this service to levels that make it even more unattractive. High prices for local loops can also serve as a deterrent to overseas entities who want to invest in Jamaica and require international data services.

**Question 2.5:**        ***Do respondents believe that promotional discounts should be included in determining price cap compliance? Provide reasons for response.***

**Flow's Response:**

Flow believes that promotional discounts should not be included in price cap compliance. The inclusion of promotional discounts would allow C&WJ make use of the "unused cap" to effectively increase price levels of other services where there is limited competition. This of course would be undesirable as it not in keeping with the objective of encouraging competition.

**Question 2.6:**        ***Do respondents agree with the proposed change in the notice period given for a rate decrease? If not, why?***

**Flow's Response:**

Flow believes that the notice period given for a rate decrease should remain at 7 days and hence does not agree with the proposed change. 7 days notice provides adequate time for other carriers to review their pricing strategies and communicate new prices to their customers, if required, in order to ensure that they remain competitive. 1 day would not allow competing carriers sufficient time to do this.

**Question 2.7:**        ***Should international incoming service revenue be removed from price cap regulation? Please justify your response using relevant data.***

**Flow's Response:**

Flow believes that the price cap on termination of international incoming traffic should not be removed. Otherwise, C&WJ could charge carriers any rate it chooses to terminate an international call going to a customer on C&WJ's network.

**Question 3.1** *Is a four-year Plan (commencing April 1, 2009) appropriate for the next Price Cap Regime? If no, provide reasons to justify your response.*

**Flow's Response:**

YES. This will allow sufficient time to gather empirical evidence that will facilitate a proper assessment of market conditions as it relates to market share of the various entities in the market and hence level of competitiveness. At the end of the period a more informed decision can then be made as to whether price caps can be removed from all services.

**Question 4.1** *Do you agree with the proposed set of quality of service standards and associated conditions? If not, state why.*

**Flow's Response:**

Yes.

**Question A1.1** *Given regulatory intervention and changes in market conditions, should toll free services and D-Slam ports be included in the basic services basket? If yes, justify any proposed adjustments.*

**Flow's Response:**

The OUR's recent decision to grant toll free number ranges to other competing carriers on a short term basis under an interim domestic toll free number framework will assist in facilitating competition in the local toll free services market to a lesser extent. Entities wishing to enter into the Calling Card market for example, can now either apply for their own number range (Carriers) or obtain toll free service (Service Providers) from a competing carrier.

However, until there is a long term toll free solution which ensures greater competition by embracing the concept of number portability and gives carriers the ability to grant commercial customers a wider range of numbers and vanity numbers, there will be no true competition in the toll free service market. Flow is currently a C&WJ toll free service customer in relation to 2 customer service toll free numbers. The exorbitant charges levied by C&WJ for calls from Flow's customers to these toll free numbers have

adversely impacted Flow. Flow therefore strongly recommends retaining the price cap in relation to toll free services.

Flow is unable to comment on D-SLAM ports (Please see response to Question 2.2)

**Question A1.2** *Are there any additional adjustments to the service classification that are necessary? If yes, justify any proposed adjustment*

**Flow's Response:**

No adjustments are required to service classification.

**Question A11.1** *Do you agree with the proposed set of imputation test rules? If no, explain.*

**Flow's Response:**

YES. The test rules are comprehensive.

Respectfully submitted,

**ON BEHALF OF COLUMBUS COMMUNICATIONS JAMAICA LIMITED**

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