

**FOR IMMEDIATE RELEASE**

**Telecommunications Appeal Tribunal Dismisses CWJ's Case Against the OUR**

**(KINGSTON, Jamaica; 2018 March 30):** The Telecommunications Appeal Tribunal has dismissed an appeal brought by Cable and Wireless Jamaica Limited (CWJ), to have the Office of Utilities Regulation (OUR) delay the implementation of new termination rates for fixed (landline) services.

The judgment, which was delivered on Wednesday, 2018 March 28, affirmed the OUR's decision regarding the implementation schedule for the new fixed termination rates, which would see a reduction in the cost to terminate calls on CWJ's fixed network.

In 2017 June, the OUR, after consultation with the telecommunications industry, determined that based on the results of a long run incremental cost model, fixed termination rates should be reduced. The OUR also determined that the reduced fixed termination rates derived from the model would be implemented by way of a two-step six month glide path, with the first reduction in rates to take effect 2017 July 1. The second and final reduction was scheduled to take effect 2018 January 1.

CWJ asked the OUR to reconsider its decision on the implementation of the new rates, and specifically that the new rates be implemented over a three (3) year period instead of six (6) months. The OUR delayed the implementation of the first reduction in rates scheduled for 2017 July to allow time to reconsider its decision. After further consultation with the telecommunications industry, the OUR upheld its decision to implement the new rates on a six (6) month glide path. In the reconsideration, the first reduction was rescheduled to take effect as of 2017 October 1, with the second and final reduction scheduled for 2018 April 1.

CWJ then sought permission to apply for a judicial review of the OUR's decision in the Supreme Court. This caused a further delay in the implementation of the first rate reduction. The company was unsuccessful in its application to the Court and the first reduction in rates was implemented 2017 December 1.

CWJ appealed the OUR's reconsideration decision to the Telecommunications Appeal Tribunal. The appeal was heard on 2018 February 26 and the Tribunal, in delivering its judgment, dismissed CWJ's appeal and upheld the OUR's decision.

The Tribunal found that CWJ failed to establish a legitimate expectation that the OUR would have implemented a glide path longer than six (6) months. Further, the Tribunal was of the view that even if the company had established that there was such an expectation, there were grounds for the OUR to reasonably decide not to comply with such an expectation.

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The Tribunal disagreed with CWJ's position that the OUR's decision to implement the six (6) month glide path to effect the reduction of rates was unreasonable and irrational in the circumstances. It expressed the view that it had no authority to substitute its own views on the OUR's decision, as that decision had not been shown to be so manifestly unreasonable or irrational that it constituted an abuse of the OUR's powers.

CWJ's appeal on the ground of procedural unfairness also failed. The Tribunal indicated that it was satisfied that the OUR made sufficient effort to hear the views of all relevant stakeholders before making its decision on the implementation of the rates.

The second and final reduction in fixed termination rates is scheduled to take effect as of 2018 April 1.

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