

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

In the Matter of	)	
	)	Consultative Document No. 2
	)	No. Tel 2006/03
Indirect Access	)	February 24, 2006
	)	

**Merit Communications Limited  
Response to Consultative Document No. 2 on Indirect Access**

Merit Communications Limited (“Merit”) hereby submits its Response to the Office of Utilities Regulation’s (the “OUR”) referenced Consultative Document No. 2 on Indirect Access (“Indirect Access”).

**1. *Merit Communications Limited Supports the OUR in Promptly Implementing Indirect Access by Dominant Incumbent Carrier Cable & Wireless Jamaica Ltd.***

Merit supports the OUR in promptly implementing Indirect Access by dominant incumbent carrier Cable & Wireless Jamaica Ltd. (“C&WJ”) to facilitate competitive new service offerings within the local Jamaican telecommunications market. Merit concurs with the OUR and body of evidence supporting competitive consumer and market benefits in allowing subscribers on the public switched telephone network (“PSTN”) to have access to alternative service providers for the completion of calls locally and internationally. Additionally, new entrants and the market require that the dominant PSTN operator, C&WJ, offer wholesale call origination product to these alternative service providers, in as competitive a manner to which it currently offers its own affiliated service entities.

Merit submits that the following main themes are of particular note.

**2. *An Important Form of Indirect Access.***

Merit posits that an important form of indirect access is carrier pre-select with call select override. This form of indirect access provides consumers with maximum flexibility by allowing them to select their default carrier and also select a carrier on a call-by-call basis. Such flexibility allows consumers to take advantage of special marketing programs, sample the service level of other carriers, and optimize billing plans. Carrier pre-select supports and encourages market competition by allowing entrant carriers to build recurring revenue streams to plan additional services and sustainability.

### ***3. Competition Enabling Factors Associated with Indirect Access***

Merit strongly concurs with the OUR that services provided over toll free lines are not a form of indirect access. NO operator should block access to toll free or regular numbers that provide long distance services from competing networks.

Additionally, interconnection at fair and reasonable rates is a basic enabling factor for indirect access as well as fair and equitable retail rates for cross network ("off network") calls. Finally, fostering competition necessitates that new market (non-dominant) entrants not be required to offer indirect access services on their networks.

### ***4. Consideration to the Cost Benefit Analysis***

Merit believes that the cost benefit analysis needs to fully recognize the indirect benefits to businesses and the economy that will occur with the downward price pressure induced by indirect access. When businesses have their cost base reduced, they have additional resources to finance expansion and growth.

Set forth below are Merit responses to certain OUR questions posed in the subject Consultative Document.

**Question 1: Do respondents agree with C&WJ's assessment of the technical capability of its network to provide Indirect Access services? In particular,**

- a. **Is it correct that C&WJ's network is not capable of providing CS services prior to the replacement of the local NEAX switches? Please give reasons**

**Merit: No Comment.**

- b. **Is it correct that C&WJ's trunk switches will be capable of providing CPS services using its current network? Please give reasons.**

**Merit: CPS functionality has been available for several years. Its difficult to imagine that C&WJ still has a trunk switch in service that does not have this capability.**

**Question 2: Do respondents agree with the OUR's proposal to require C&WJ to offer two-stage dialling prior to the introduction of CPS? Please give reasons.**

**Merit: C&WJ must be required to provide two-stage dialling immediately. The cost benefit analysis for this is trivial, as there is no implementation cost for C&WJ and carriers that currently have interconnect agreements. The benefits of two-stage calling for consumers are abundantly clear. One just needs to compare C&WJ's**

long distance rate table and the rates offered by commercially available calling cards that are on the market today.

Currently, C&WJ enables this access through a special 1-800 carrier services toll free line, with a higher cost than other toll free lines. Sanctioning two-stage dialling will only decrease the cost and increase the current benefit.

**Question 3:** Do respondents agree with the Office's proposed approach to identifying and calculating the costs and benefits of indirect access? If not, please state reasons and preferred approach.

**Merit:** We strongly recommend that the cost benefit analysis fully appreciate and recognize the indirect benefits to businesses and the economy which will occur with the downward price pressure induced by indirect access. When businesses have their cost base reduced, they have additional resources to finance expansion and growth.

**Question 4:** Do respondents agree with the OUR's proposal that all service providers who wish to offer two-stage dialling should be eligible to do so? Please state reasons.

**Merit:** We do not understand why this question is even here. We understand the role of the OUR on this issue is to ensure that dominant operators offer indirect access services, not to filter out those who wish to offer it.

**Question 5:** Do respondents agree with the OUR's proposal that, to be eligible to offer Indirect Access services to customers, operators must:

a. be in receipt of relevant numbering codes from the Office?  
Please state reasons.

**Merit:** Merit is unsure of the intent of this question. We understand that indirect access operators must demonstrate the technical and financial capability to execute a plan to deliver the service for which they are licensed.

**Question 6:** Do respondents agree with the OUR's proposed approach for reviewing the inclusion of national calls in any Indirect Access regime in Jamaica? Please state reasons.

**Merit:** No comment

**Question 7: Do respondents agree with the OUR's proposal that international outgoing calls and calls to mobiles should be included in any Indirect Access regime in Jamaica? Please explain.**

**Merit: Yes. As these calls attract significant fees, there is a business case for indirect access operators to provide lower cost innovative options that will benefit consumers.**

**Question 8: Do respondents agree with the OUR's proposal that there should not be any restrictions on the call categories that may be offered by service providers under two-stage dialing? Please explain.**

**Merit: Merit feels strongly that it is the dominant carrier that should be required to explain why some call categories are to be excluded, as opposed to the indirect access operator justifying why call categories should be included.**

**Question 9: Do respondents agree with the OUR's proposal that Indirect Access services should be unavailable to customers of certain discount tariff plans? Please state reasons for your answer.**

**Merit: We agree in principle, however, definitions must be sharp and applied correctly to ensure that the number of available customers is not artificially reduced.**

**Pricing and marketing of the low use discount plan must not be more competitive than the standard plan for customers of typical usage.**

**Question 10: Do customers foresee any technical or process issues in ensuring that Indirect Access services are unavailable to customers of certain discount tariff plans? Please state reasons for your answer.**

**Merit: See previous answer to Question 9 above.**

**Question 11: Do respondents agree with the OUR's proposal to allow separate billing arrangements with the introduction of Indirect Access? Please state your reasons.**

**Merit: Yes. Indirect access operators must have the ability to collect revenue and build complete customer relationships without the intervention of others, especially competitors.**

**Question 14: What is a reasonable and an appropriate time period for the implementation of Indirect Access offerings for C&WJ? Please explain.**

**Merit: C&WJ should implement indirect access services on an aggressive time frame, particularly when one observes successful competitive elements derived and implemented in other jurisdictions by such implementation. To do otherwise, will place Jamaica at a competitive disadvantage *vis a vis* neighboring markets.**

### **CONCLUSION**

Merit respectfully submits that prompt implementation of indirect access will have a positive impact on the development of competition in the Jamaican telecommunications sector. Merit concurs with the OUR and body of evidence supporting competitive consumer and market benefits in allowing subscribers on the PSTN to have access to alternative service providers for the completion of calls locally and internationally. Additionally, new entrants and the market require that the dominant PSTN operator, C&WJ, offer wholesale call origination product to these alternative service providers, in as competitive a manner to which it currently offers its own affiliated service entities. Such OUR policies send a clear signal to investors and consumers that the country is encouraging the implementation of diversified and competitive networks and services. Providing businesses and consumers innovative and competitively priced service options will further develop and expand the Jamaican economy and market place.

Respectfully submitted,

**ON BEHALF OF MERIT COMMUNICATIONS LIMITED**

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