

Reliant Enterprise Communications Ltd. Comments on Responses to the OUR's  
Local Loop Unbundling for Cable & Wireless Jamaica Submissions

14, March 2006

- I. We believe that CWJ's response is clearly trying to make LLU a broadband issue in order to protect their narrowband markets. Deregulation of LLU in any other country has included narrowband/broadband with equal distinction. CWJ's attempt to confine the issue to broadband we feel is an effort to maintain a monopoly on their narrowband market particularly in regards to International Outbound calling. The OUR must treat both areas equally. True LLU in narrowband can provide revenue streams that will allow entrants to build cash flow for investment in broadband backbone facilities, and in some cases, new last mile technology, thus truly opening up the market for all services.
  
- II. We take issue with CWJ's view on investment in the Local Loop both in the current environment and future environment. We also take issue with their statistics in a number of areas.
  - CWJ's assertion that their current ADSL pricing is in line with international standards is false on its merits and fact. DSL pricing on the US, Canada and UK for 1.5 Mbs is 50% below, minimum, and in some case more than CWJ's US\$65 per month. This fact can be substantiated by visiting the web sites of Bell South, Verizon, ATT, BT and Bell Canada. Reliant will provide hard copies of pricing from these carriers to the OUR.
  - The assertion that reduced prices for broadband has slowed significantly needs to put into the context of what preceded the slowing; factually competition reduced prices by 50-75% in a very short time period thus forcing the monopoly carriers in other areas to respond. Prices now have reached a "floor level" thus further reductions will be incremental or come about as part of packages offered by competitors.
  - We dispute the assertion that "there are relatively few dial-up subscribers left in Jamaica" (par. 15) and would ask the OUR to require CWJ and competing ISP's to provide data that supports or disclaims this assertion. Our understanding is the ISP's generate some 800 million minutes of local access for CWJ on dial-up which does not give the impression of a "small market".
  - We believe development of broadband access over competing platforms such as 3G or two way CATV is a long way off. We see no evidence of Digicel, CWJ or MiPhone investing in 3G technology that brings with it "competing" speed in terms of broadband. In fact, we do not believe they have any intent in investing capital in this upgrade as we believe the Jamaican market is not large enough to support an appropriate return on investment given the high cost of 3G.  
In regards to CATV, current systems in Jamaica are one way and there are significant barriers to upgrade:
  - Franchises are too fragmented with limited contiguous service areas thus not providing enough customer base in any one area to achieve economies

of scale to justify investment. Upgrade to two way systems requires significant investment in the head-end, new platforms, software, brand new amplifiers on the network etc; and this assumes that the existing COAX backbone is in good shape. If we look at the history of CATV competition in this area, particularly in the US, we see the driving force was franchise swapping and buyouts to build enough critical mass in contiguous areas to justify the high investment. We do not see this situation in Jamaica. May future technology such as IVP cable be an option; perhaps, but they are some years away if at all.

- We agree and fully support CWJ's contention that there are broad economic factors outside the scope of networking provisioning. These are challenges facing the country and are difficult at best. However, we believe that the next three years will see technology and equipment that will provide a price level for the average Jamaican to afford an entry level computer (not an appliance) and with proper packaging and incentives will open up a much larger segment of the population to broadband access.
- We also take exception to CWJ's assertion that household penetration is at 50%. Based on the PA Stern study done in July, 2004 and which the OUR and Ministry of Science and Technology participated, "penetration of fixed line is 45% and out of a total of 750,000 households nearly 40% do not have access to a line" (pg. 5). The OUR has stated publicly that fixed line penetration has actually **decreased** so we would ask CWJ to publicly provide the information that results in a 50% penetration. The same study places Jamaica in the 23<sup>rd</sup> position of fixed line penetration throughout the Caribbean (pg. 23).
- CWJ conveniently leaves out that absurdly high rates for bandwidth have been a huge negative factor in the rollout of broadband in Jamaica, and continues to this day until the new undersea cables are implemented.

- III. We view CWJ's comments regarding the OUR and power to make rules as a smokescreen, irrelevant and not worthy of consideration, particularly by the OUR. We also feel their comments on "wholesale access market and dominance" to be absurd unless they can provide facts that they are not dominant and what market share these alleged competitors have acquired.
- IV. We do not understand the argument regarding cable operators. We see no evidence of upgrades to networks and have previously stated the cost factors involved. We totally support the OUR's previous position on this matter and see no tangible reason for change.
- V. Flow's entrance into the CATV market has no relevance at this point as they are not in the market; to our knowledge has not obtained a license(s) so has no immediate consequence to the argument. If they become a factor in the future, the OUR should review their position and the regulations that apply.

- VI. We are constantly amazed how CWJ makes assumptions and pronouncements regarding others ability to do things when there is no bases in fact i.e., the ISP's. We suggest that the OUR consult with the ISP's regarding their position and ability to compete effectively in the broadband market; they will receive a very different picture than that posited by CWJ.
- VII. LLU unbundling follows a historical market evolution; first companies will compete in the ILD market to establish a revenue base as the CLEC's did for inter-state calling in the US. Then they move onto broadband services. It is clear that CWJ's almost desperate attempt to remove narrowband as a part of LLU is behind much of their submission.
- VIII. LLU primarily deals with the "last mile" issues and not backbone or MDF to LDF technology. CWJ's decision to utilize the fiber in this instance has no bearing on the last mile and should not be considered by the OUR as a part of any argument.
- IX. The cost benefit analysis must include the benefit to consumers, not the industry. CWJ's attempt to frame the debate only as it relates to the industry is the smallest piece of the puzzle. The ultimate benefit should be viewed in how it impacts consumers in terms of lower calling rates, access to narrowband and broadband and the strengthening of the educational opportunities for children. CWJ's position that lower cost alternatives to metallic loop and LLU are available is specious as they have the same opportunity as Digicel, Flow, Reliant or any other competitor to take advantage of these technologies to increase narrowband/broadband penetration. We view this as an attempt to protect their investment in "legacy" technology. We also find it hard to believe that CWJ has not depreciated the vast majority of its metallic loop infrastructure so the potential financial impact is negligible. CWJ has already publicly stated that is did not make the investment as agreed upon in 2000 with the government to add 200,000 **new** lines in Jamaica, so recent investment has been minimal at best. Like any company, CWJ has to make investment decisions and can find alternative, more cost efficient technologies to increase fixed line access if they so choose. CWJ should also not assume what is reduces or increases incentive by others in new facilities.
- X. We resent CWJ's implied position that they USF is for them to rollout more access lines. It is to be done by a bidding process with CWJ as the "last resort" if no one bids. They are free to participate like anyone else but to assume it is for them is presumptuous.
- XI. At what point does the "cost" for fixed line come in line with the retail price? CWJ has been granted increases in fixed line rentals at least three times; it is a fact of telecommunications deregulation that fixed line rental has to increase to make it economically viable not only for the monopoly but for new

entrants. The offset to this in terms of the consumer is access to more services, reduced international calling rates and choice. Seems to be a fair trade off.

- XII. CWJ continues to use the term “cherry picking” as a negative to LLU and the market in general and it hurts them most. We would not argue that investment will go to those areas that can afford or are high income initially. However, we would accuse CWJ of the same practice in how they invest today; we would ask the OUR to review and share where and how much CWJ has invested and we believe it will find that it too “cherry picks” and does not provide service to lower income or rural areas.
- XIII. We do not understand how LLU increases the cost of capital for CWJ. We would like them to provide data and facts to support this contention. New entrants, with little history, competing against an entrenched monopoly will find their cost of capital significantly higher than CWJ. This is true not only in the telecommunications sector, but any established sector that is dominated by one or two players; the higher the risk for the investor the higher the cost.
- XIV. Why is it that every other telephone company was able to deregulate in any areas as directed by law or regulators but CWJ always is going to cost a fortune? We would like to see the supporting documentation for such a claim. We agree with CWJ that the OUR should look at the cost and benefits (#65) and would suggest their own benefits as stated far outweigh the cost, It is interesting that the benefits, as stated, clearly benefit consumers and society at large but the costs identified as are negative only to CWJ!
- XV. There are a number of types of collocation besides Central Office i.e.; MDF, LDF, towers, manholes, etc. In fact, Reliant already has a form of collocation with CWJ as we have a microwave antenna at one of their CO's! As with every thing else, CWJ has a million reasons for why it is difficult that every other Telco has been able to manage.
- XVI. We agree with CWJ that the licensing of various carriers and Service Providers has been haphazard and often resulted in less than anticipated results. We also agree that CWJ been impacted negatively financially in some instances. However, it is the responsibility of the various licensing authorities and the OUR to take due diligence to another level to assure the market is managed to the benefit of consumers and carriers.
- XVII. We believe that statements made in # 78 thru 81 are an attempt by CWJ to set up barriers to entry by competitors and not worthy of consideration by the OUR.
- XVIII. We would like to reiterate our position that without a strong Accounting Separation regime LLU will fail as CWJ will be able to circumvent the regulations particularly as it relates to their own retail operations.

