



OFFICE OF UTILITIES REGULATION

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May 17, 2004

Mrs. Melesia Sutherland-Campbell
Regulatory Advisor
Legal, Regulatory & Public Policy
Cable & Wireless Jamaica Limited
5 Cariton Crescent
Kingston 5

Dear Mrs. Sutherland-Campbell:

Re: "Application for Reconsideration of Telecommunications Markets
Information Requirements – Determination Notice"

Reference is made to your application dated April 22, 2004 in relation to the captioned matter. You have grounded your application on the premise that "... the Office, in arriving at the Determination erred in its interpretation of Section 4 (4) of the Telecommunications Act and further that there are changed circumstances that have a material effect in the Office's Determination".

Your submission interpreting the provisions of Section 4 (4) of the Telecommunications Act 2000 is not accepted for the reasons stated below.

Throughout Chapter one of the Determination Tel: 2004/02, the Office stated the grounds on which the relevant information is being requested. There is no intention on the part of the Office and neither is it stated anywhere in the Determination that the Office "... requests information, for the purpose of disclosure, that would compromise the competitive position of facilities based providers by making their information available to "margin gatherers"". Any disclosure deemed necessary will be carried out in exercise of the Office's functions pursuant to the Telecommunications Act 2000 due recognition being given to the confidentiality provision of the said Act.



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With regard to the remaining four concerns we respond as follows:

You stated in bullet two that:

"The Office has requested information solely from C&WJ's PSTN and has not required the same for any other fixed line operator, so much so that the Office has not even attempted to define the reports that it is requiring C&WJ to submit. In this respect reference is made to determination 2.2 and determination 1.4"

However, in bullet 5, you indicated that:

"The submission of this quarterly report to the OUR pre-dates competition and the Act and was always submitted in strict confidence."

This suggests that it is clear in your mind that the relevant and only quarterly information report that is submitted to the Office is the "Quarterly Information Submission". However, for the avoidance of doubt, we restate Determination 2.2 which defines the Office's requirement in terms of the continued supply of relevant information provided in the "Quarterly Information Submission":

As per the format of the current quarterly data submission by C&WJ and in addition to the requirements at Determination 1.4, C&WJ is required to continue to submit:

- (i) Exchange capacity added;
- (ii) Exchange pairs available;
- (iii) Usable pairs added;
- (iv) Installed lines by host;
- (v) Number of new customers by region;
- (vi) Working main lines by region;
- (vii) Net main line gain;
- (viii) Service order waiting list;
- (ix) Held order status by customer type (residential and business)
and
- (x) Ceased lines.



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Concerning asymmetric information requirements for fixed line operators, there is clear justification, based on the fact that C&WJ is the dominant carrier and services provider in the fixed telephony access and associated domestic calling markets, for the Office to request information from C&WJ to the exclusion of other fixed line operators. This is consistent with the principle established in the Act in relation to interconnection, whereby specific information requirements are placed on dominant carriers.

The second bullet of your application also stated that:

“...with respect to determination 1.4, the Office had published a consultation on Quality of Service, which is yet incomplete, therefore C&WJ is of the position that the Office cannot circumvent the consultation process by setting a quality of service requirement in this determination.”

We wish to remind you that that Consultative Document focused on quality of service standards and sought to establish overall and guaranteed quality of service standards. Determination Tel: 2004/02 addresses telecommunications information requirements. Undoubtedly, the quality of service requirements in Tel: 2004/02 will be expanded to include additional information when a determination on Quality of Service Standards is made.

In relation to bullet number three regarding universal service obligation, consistent with its obligations under Section 42 of the Act, the Office is required to make recommendations to the Minister based on the most complete and reliable information. Further, for investors to conduct an assessment of the industry, basic information must be available to them.

The requirement for retrospective information requirements mentioned at bullet number four will provide information on how the telecommunications markets has evolved since liberalization.

With respect to bullet five, the Office has not proposed to publish any information that is correctly categorized as confidential.

Further, the Office agrees with C&WJ in that there are changed circumstances. The fact is, although entry has been allowed into various telecommunications markets, C&WJ has been declared dominant in several markets as per Determination Notice Tel: 2003/7.

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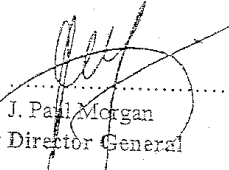
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In paragraph 1.10 of Determination Tel: 2004/04 'Telecommunications Markets Information Requirements - Determination Notice', the Office stated that: "... the Office will not publish any information that is deemed confidential. In this regard, information requests submitted by third parties will be satisfied only where the information requested is not classified as confidential."

The Office will comply with its statutory obligations pursuant to Section 7 of the Telecommunications Act 2000, as reflected by the aforementioned statement.

In the circumstances, the Office does not consider that there is any basis for further reconsideration and accordingly the Determination Notice TEL: 2004/4 - Telecommunications Markets Information Requirements remains in full force and effect.

Yours sincerely,


J. Paul Morgan
Director General

PW: