

**VERBATIM NOTES
OF OFFICE OF UTILITIES REGULATION
PUBLIC FORUM ON
TELECOMMUNICATIONS INFORMATION
REQUIREMENT,
HELD ON MAY 17, 2005, AT THE
PCJ AUDITORIUM, KINGSTON, JAMAICA**

MODERATOR -- Mr. David Geddes

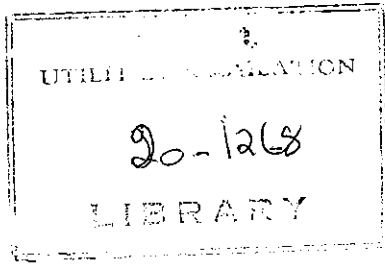
PRESENTERS:

**Mr. Patrick Williams
(Office of Utilities Regulation)**

**Mrs. M. Sutherland-Campbell
(Cable & Wireless Jamaica)**

**Mr. A. Groton
(Digicel, Mossel Ja. Ltd.)**

**Mr. Steve Twomey
(Reliant Communications Ltd. JCTA Representative)**



UTILIZATION

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1 Tuesday, May 17, 2005.

2 Time: 10:12 a.m.

3

4 CHAIRMAN: Ladies and gentlemen, good morning and
5 welcome to the Office of Utilities
6 Regulation Telecommunication Information
7 Requirement Forum. My name is David
8 Geddes, I am the Director of Consumer and
9 Public Affairs at the OUR. For the
10 record, this forum is being convened at
11 the PCJ Auditorium, Tuesday, May 17. Just
12 a few housekeeping matters. Participants,
13 in order to be recognized during the
14 question and answer section we are asking
15 you to come to the podium to ask your
16 questions. Let me introduce the persons
17 at the head table. To my immediate left
18 is Deputy Director General Raymond
19 Silvera, and to his left Patrick Williams
20 an economist with the OUR. Now, to get
21 matters on the way I am going to ask the
22 Deputy Director General Mr. Silvera to
23 deliver the opening remarks.

24 Mr. Silvera --

25

1

2 MR. SILVERA: Thank you, Mr. Chairman, and a very warm
3 welcome to you all. I think we all know
4 why we are here, so I'll try to be brief.
5 First of all, I would like to make
6 profound apologies on behalf of the
7 Director General, J. P. Morgan who
8 unavoidably is absent today being
9 overseas, and also Mr. Courtney Jackson,
10 the Deputy Director General who is more
11 directly connected with the telecom
12 operations of the OUR.

13

14 Why have a forum? I would think that
15 it is in fact the best way of
16 communicating. Those of us who are
17 involved in communications must realize
18 that there are different techniques.
19 One can e-mail a response, one can
20 write it, one can lift up the phone,
21 but I think the best way of getting the
22 interaction is through an exercise that
23 we have embarked on, which is this
24 forum.

25

1 MR. SILVERA: What is the objective of the forum?
2 Hopefully to conclude once and for all the
3 particular problem having regard to the
4 reconsideration on determination on the
5 information requirements for the
6 telecommunication markets, and hopefully
7 at the end of today's exercise we would
8 have achieved it. The requirement for
9 information is enshrined in the
10 Telecommunications Act. It is also
11 enshrined in the OUR Act. Under
12 Section 4.4 of the Telecommunications Act
13 there is a particular requirement -- I
14 won't get into that, I am sure somebody
15 else will however -- that in general
16 information as required by the OUR should
17 be provided in order to enable the OUR to
18 carry out its business of regulation. We
19 have a mandate, those of us in the OUR.
20 Our job is to level the playing field so
21 that within practical limits players can
22 operate fairly and transparently and
23 hopeful on the same level. We also have
24 an objective to ensure that customers are
25 served adequately and at least cost where

1 possible. To achieve this we must have
2 information to analyse to be able to
3 determine what direction it should go in
4 particular instances, to inform ourselves
5 and inform the public too. Typical
6 requirements vary from provider to
7 provider. We have some 68 international
8 carriers now; we have over 300 licenced
9 entities. Let me not say entities, we
10 have issued 300 licences. Let's say
11 perhaps the 150 entities involved in them.
12 How many are in operation? We don't know.
13 But, with information provided to us we
14 will know and we will know other things
15 about those who are in operation. We must
16 have the information in order to regulate.
17 Please bear that in mind as we go through
18 this exercise this morning. The comments
19 and responses that we have received so far
20 in writing and e-mails and by other means,
21 from respondents, are very welcomed and
22 they will help us to decide, that is the
23 Office decide, the way that we should go.
24 We note that there are some concerns, too
25 much information is being asked for, it's

1 too complicated, it's too costly, we have
2 to hire people specially to go and provide
3 this information, it's being requested too
4 frequently, on a quarterly basis when
5 annually could do. As an entity we are
6 probably not structured to respond to this
7 sort of thing. And lastly and very
8 importantly, the confidentiality of the
9 information provided to the OUR is of some
10 concern, because quite rightly we are in a
11 market environment and we are competing,
12 information is money. You know what your
13 competitor knows and you have an advantage
14 if he doesn't know what you know.

15
16 So, in conclusion, I am hoping that we
17 would have gone through these items
18 this morning and I hope that a firm
19 direction would have emerged from the
20 forum and guide the Office in its
21 decision in reconsidering this
22 particular information requirement for
23 the telecommunications sector. Thank
24 you.

25 (A P P L A U S E) .

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2 CHAIRMAN:

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Thank you very much, Mr. Silvera, Deputy Director General of the OUR representing the office at today's forum. Some other housekeeping matters: The forum is being organized by the OUR, as we told you, for the purpose of hearing the issues surrounding the Office's proposed decision on information requirements from licenced telecommunication carriers and service providers. It provides an opportunity for stakeholders to make both oral and written submissions on their views to the Office and to hear the views of other stakeholders.

It serves as the final opportunity for parties to this proceeding to submit comments and information on the relevant issues to the OUR before the issuance of a decision on the reconsideration.

Presenters are required to focus on issues related to the Office's proposed

1 decision on the OUR's information
2 requirements from telecommunications
3 licensees. Any licensee may make an
4 oral presentation. We had asked that
5 those intending to make an oral
6 presentation that they should have
7 indicated their intention to do so by
8 April 21, and that each licensee making
9 an oral presentation was required to
10 file a detailed written submission with
11 the OUR by May 10. Other participants
12 will have an opportunity to state for
13 the record their views and information
14 needs. Members of the public may also
15 make written submission for the
16 Office's consideration, before it makes
17 a final decision on this matter.
18 Statements written or oral must focus
19 on issues related to the proposed
20 information requirements decision. I
21 want to just emphasize that.

22
23 Participants are also asked to respect
24 the rights of other participants to be
25 heard and fully participate in the

1 proceedings.

2

3 CHAIRMAN: Each licensee's presentation will be
4 followed by a question and answer session.
5 In each question and answer session the
6 OUR will ask questions followed by other
7 participants.

8

9 When asking questions or making
10 comments each participant is required
11 to state his or her name and
12 organization for the record. This
13 forum is being recorded both audio
14 visually and via verbatim notes. It
15 will also be broadcasted on cable
16 television at a later date. At this
17 point I'd like to ask Senior Economist
18 with the OUR, Patrick Williams, to get
19 the proceedings going by giving an
20 overview and his view on where we are
21 at this point in time. Patrick --

22

23 MR. WILLIAMS: Good morning, ladies and gentlemen, I
24 guess the most important thing about this
25 first page is the fine print down the

1 bottom there which basically says that
2 these views are mine and they do not
3 necessarily reflect the views of the
4 office. My objective here is just to give
5 background information as to the process
6 to date and my view of the situation with
7 respect to information requirements. I
8 will be giving a background to the
9 situation; I will be looking at what I
10 call the *what*, *why* and *how*, and I will be
11 looking at a particular international
12 carrier licence provision.

13
14 On September 16, 2003 the Office issued
15 its consultative document on this
16 matter. The usual procedure obtains
17 where we issue a consultative document
18 and we invite responses to that
19 document and we invite comments on
20 those responses. There were basically
21 four respondents, Reliant Enterprise,
22 Cable & Wireless, Mossel Jamaica,
23 (Digicel) and InfoChannel.

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25

1 MR. WILLIAMS: In April 2004 the Office issued its
2 determination on this matter. Two parties
3 filed application for reconsideration,
4 Digicel and again Cable & Wireless. After
5 receiving clarifications from Digicel in
6 relation to Digicel's submission, the
7 Office issued an advance notice of its
8 decision on this matter on April 8, 2005.
9 However, it was felt by those requesting
10 the reconsideration that a forum like this
11 was needed so as to provide the
12 opportunity for all to hear their views
13 and to provide the Office with the
14 opportunity to hear and record and respond
15 to those views in due course.

16
17 Now, let's look at some of the actual
18 data that's required. Let's look at
19 the mobile markets. Retail call
20 revenues and associated call minutes,
21 retail messaging services, subscriber
22 numbers. Basically we require revenue
23 and volumes. Transactions with other
24 operators - revenues again and volumes.
25 Payments and related minutes.

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MR. WILLIAMS: Now, pursuant to Section 4 (4) of the Act, the Telecommunications Act, referred to as "the Act"

"Where the Office has reasonable grounds for so doing, it may for the purpose of its functions under this Act, the Telecommunications Act, require a licensee to furnish at such intervals as may be determined such information or documents as it may specify in relation to that licensee's operations and the licensee shall be given a reasonable time within which to furnish the information. "

Now, let's look at the specific legislative framework on which all of the requirements are based. Among other things the data set is required by the Office to establish regulatory

1 fees, plan for and facilitate universal
2 service, assist in the creation of a
3 universal service fund, facilitate the
4 efficient use of numbering resources,
5 assess market dominance and assess
6 claims of anti-competitive activities.

7
8 Now, let's look at the first and last.

9 **Establishing Regulatory Fees:** One
10 might say that this is a simple and
11 straightforward process, but if you
12 don't have the data to do so you could
13 run in deep trouble. One could do it
14 by market share, by revenue, et cetera,
15 but this is information that we need
16 and this is information that we are
17 requesting. Let's say, for example, in
18 the mobile market retail side, Digicel
19 is said to be the leader in the market.
20 However, do we know that that is
21 precisely so? Do we have the
22 information to back up that statement?

23
24 **Assessing Claims of Anti-competitive**
25 **Activities:** One may say, why ask for

1 this information on a routine basis,
2 this is putting too much pressure on
3 the licensees. Why not ask for
4 information when it is needed.

5 However, should we do so when we are
6 asked to act, we can't act, and then
7 you would hear '*Oh the OUR is just*
8 *another Government body, inefficient.*'

9 We don't want that to happen to the
10 OUR, we want to take action when action
11 is required.

12
13 MR. WILLIAMS: Let me go straight to "**Security,**
14 **Confidentiality.**" First of all, the OUR
15 server, the information will be submitted
16 on an electronic basis and stored in that
17 manner. The OUR's server is protected by
18 fire walls, anti-spy device and so on, so
19 the system is pretty secure. However,
20 what of confidentiality? There is a
21 tendency to mark everything confidential
22 so we can't submit anything in the public
23 domain. However, is this really so? Is
24 every bit of information confidential?
25 Doesn't the consumer have the right to

1 certain basic information when making
2 choices?

3

4 MR. WILLIAMS: With respect to confidentiality, Section 7
5 of the Telecommunications Act speaks to
6 this. The Office or the employees cannot
7 simply just take up a document which is
8 stamped confidential and release it to the
9 public, there are penalties for so doing,
10 including imprisonment. However, the OUR
11 did not stop with the legislation, the OUR
12 issued guidelines in relation to dealing
13 with confidentiality, to bolster the
14 position of legislation and to make it
15 clear how we will treat with the issue of
16 confidentiality when there are such
17 claims.

18

19 **International Carriers:** There is a
20 provision in the international carriers
21 licence which basically says that the
22 licensee must maintain information and
23 make it available to the Office when
24 requested and on frequency that it's
25 requested. Incoming voice minutes,

1

2 MR. WILLIAMS: With respect to the matter of separation
3 of accounts, yes, we do know that there
4 are separated accounts in Cable &
5 Wireless. However, the particular format
6 in which we want those accounts might not
7 be the format Cable & Wireless currently
8 provides that information to itself, so we
9 will be consulting on the particular
10 format and the extent to which we need
11 this information on a business by business
12 basis, and we will be asking you
13 licensees, members of the public to
14 comment on this document and to help us to
15 get to a speedy resolution of this matter.

16

17 CHAIRMAN: Ladies and gentlemen, good morning again,
18 and if there are no further questions we
19 would then invite our Deputy Director
20 General Mr. Raymond Silvera to deliver
21 the closing remarks. Just before he comes
22 up I'd just like to thank each of you for
23 the submissions and the presentations, I
24 thought that they were very interesting
25 and thought provoking and we appreciate

1 your presence here today. Thank you.

2 Mr. Silvera --

3

4 MR. SILVERA: Thank you once more, Mr. Chairman. Well,
5 as a member of the office I found the
6 seminar quite enlightening. There were a
7 few other things that crept in at the end
8 there which I think the OUR needs to
9 explore a little further, and I am not
10 saying that this would necessarily mean
11 another forum, but it is something that we
12 would want to look at. Perhaps there are
13 issues that have been mentioned but are
14 floating out there which we need to pin
15 down and are affecting predominantly, I
16 presume, the small players, as Mr. Twomey
17 has indicated.

18

19 MR. SILVERA: Let me thank you all for coming, let me
20 thank you all for participating and
21 letting us know what you think. This will
22 help to guide us in making our decision in
23 respect of the reconsideration. Let me
24 apologize once more for the absence of the
25 other two members of the Office but I

1 assure you that they will be in possession
2 of all of what took place here because we
3 are videotaping all this and it's also
4 being recorded word for word. So finally,
5 thank you all and have a good day.

6

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(A P P L A U S E)

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1 revenues, related revenues, outgoing
2 voice minutes, transit minutes, data
3 traffic volumes and revenues, et
4 cetera, et cetera. Pretty similar to
5 the Information Requirements
6 Determination Notice if I may say so.
7

8 MR. WILLIAMS: Now, pursuant to the above licence
9 provision the Office directed all licenced
10 international carriers to provide the
11 office within five days of a calendar
12 month with information pertaining to again
13 prices, volumes, points of handing over
14 traffic, same kind of information.
15 However, based on discussions in the
16 Office not many have fulfilled this
17 requirement. In fact, most licensees are
18 outstanding in this respect. The office
19 has not taken any action against any
20 licensee for non-compliance with this
21 requirement. However, this may be
22 possible under Section 14 of the Act.
23 What action? Suspension. The Office is
24 not empowered to actually suspend but it
25 can recommend the suspension of licences.

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MR. WILLIAMS: To conclude, information is critical in facilitating growth of the competitive markets, regulatory decision making by the Minister and by the Office and facilitating customer choice. This is your final opportunity to make your voices heard. The Office is here to hear you. It doesn't matter if you are a large licensee, if you are a small operator, if you are a large institution requiring data, a small institution, this is your chance to be heard, make it count. Thank you.

(A P P L A U S E).

MR. PHILLIPS: Good morning, Rowland Phillip, Ministry of Commercial Science and Technology. What I wanted to ask you was, you said that many people weren't in compliance, was it with the time, the five days or was it the completeness of the information or was it that they provided no information at all?

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MR. WILLIAMS: In the main there was a lack of compliance. I guess that's the short answer to the question and this requirement was made in a Determination Notice early in 2004 and to date as I understand it only one licensee is probably close to being in full compliance.

MR. CHEN: Who is that licensee?

MR. GORTON: Andrew Groton, Digicel. I am sure Patrick is not saying the OUR should collect on a three month basis every single piece of information they could conceivably need.

MR. WILLIAMS: I guess the simple response to that is, we can't see the future so we don't know exactly what all our needs are, so we can't request every single bit of information, but the information that we have requested it's in the public domain, you know the limitations, you know that some respondents have said that in some

1 areas we have been excessive. We have
2 made adjustments and we are willing to
3 move forward in a conciliatory manner.
4

5 CHAIRMAN:

Thank you very much Patrick Williams,
6 Senior Economist at the OUR. At this
7 point we are very, very pleased to invite
8 Mrs. Melissa Sutherland-Campbell,
9 Regulatory Advisor, Legal Regulator on
10 Public Policy at Cable & Wireless Jamaica
11 to deliver that company's presentation.
12

13 MRS. SUTHERLAND-CAMPBELL: Good morning, ladies and

14 gentlemen, it is a pleasure of Cable &
15 Wireless Jamaica to be able to address you
16 this morning on the issue of **"Information**
17 **Requirements for the Telecommunication**
18 **Market in Jamaica."** I certainly agree
19 with Patrick and with Mr. Silvera from
20 the Office that there is certainly need
21 for information in order for the Office to
22 properly regulate the industry. We agree
23 with that in its entirety. Patrick also
24 did mention that he has seen a lack of
25 compliance on the part of licensee in the

1 Determination that was made in April 2004.

2

3 MRS. SUTHERLAND-CAMPBELL: However, we know Patrick that
4 since then there have been a number of
5 requests for reconsideration and until
6 reconsiderations having completed and
7 dispensed with, then a Determination so to
8 speak is really not complete, because it's
9 still under review. So on that basis I
10 don't know that we can say that this lack
11 of compliance is absolute. It is really
12 based on the process that is still yet to
13 be completed in terms of review of the
14 Office's Determination. We note and we
15 are very happy to see the progress that
16 the Office has been making in treating
17 with the concerns of the companies that
18 have responded to this consultation.

19 There were a number of issues that we know
20 for the Cable & Wireless' concern. I will
21 outline as we go along, but I am very
22 happy to see that especially in terms of
23 the confidentiality issues that the Office
24 has progressed in the advance notice of a
25 reconsideration that was issued at the end

1 of February, that the Office has
2 incorporated a procedure to deal with the
3 confidentiality issues and so from Cable &
4 Wireless' perspective we are very pleased
5 to see that the Office is responding to
6 the needs of the industry in that respect.

7
8 MRS. SUTHERLAND-CAMPBELL: However, we are looking to see
9 further interaction, further collaboration
10 on this matter of information
11 requirements, and it takes me into our
12 presentation this morning. We have
13 categorized this presentation as the 4 Cs.
14 Now, this same presentation was made at
15 the Caribbean Telecommunications Union
16 Workshop that was held in Jamaica early in
17 April. Many of you weren't there, I don't
18 believe, so this is an opportunity for us
19 to bring this presentation to you. The
20 issues still are the same issues, they are
21 relevant, so we also want to share this
22 with you. We thought that the 4Cs would
23 help you to remember our concerns.

24
25 Now, our issues are categorized as

1 collaboration, confidentiality,
2 controls and cost. Now, the
3 consultative process is very important
4 in terms of airing your concerns,
5 putting proposals out there and just
6 getting feedback from the rest of the
7 industry, but something like
8 information requirement, that
9 necessitate perhaps investment in IT,
10 modifications to your IT systems to
11 actually present data in the format
12 that the Office requested, in terms of
13 actually focussing manpower and
14 churning out that information on the
15 basis that the Office said. At this
16 point in time the Office has indicated
17 a quarterly interval. That necessitate
18 some amount of streamlining within the
19 companies, and on that basis this
20 necessitates not just a consultative
21 approach but a collaborative approach.
22 It's a hand holding approach where the
23 Office has to see what in fact can the
24 companies deliver.

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MRS. SUTHERLAND-CAMPBELL: Are our time frames reasonable?

What exactly needs to be done? So when you consult on the broad issues it still does not get down into the intricacies of each company's business and how this information will actually be gathered, packaged and delivered to the Office. So we are calling not just for a consultative approach but a collaborative approach. And, based on that request for the collaboration we really -- this forum is very important in terms of airing concerns, but based on the need for collaboration this forum cannot be the end all of the Office's review of the matter of information requirements. It's another step which is very important, that the Office has made, but we have to progress that further where the Office works through the concerns of the operator in order to achieve that optimal result which is necessary, and we agree that the Office does need information to properly manage the industry, but we see that our concern

1 is with the level of information, the
2 amount of information, the granularity of
3 information that is requested.
4

5 MRS. SUTHERLAND-CAMPBELL: Now, we believe that the
6 incremental approach to the supply of day
7 is important. You will see from the
8 presentation of other companies that this
9 is something that hasn't been embraced.
10 We feel that a small wind on the way to
11 achieving all that the Office want is
12 important in terms of encouraging progress
13 and showing good faith. So perhaps in
14 terms of this incremental approach we are
15 suggesting that a phasing is important.
16 There is information that companies have
17 readily available, like the number of
18 customers. Now, does the Office want to
19 not get that information now because it is
20 waiting to resolve all the issues that the
21 operators have or does the Office want to
22 start getting some information now and
23 then we make progress? There is some
24 information that are requested that are
25 less contentious than other types of

1 information.

2

3 MRS. SUTHERLAND-CAMPBELL: So we can look at that sort of
4 collaborative approach so it does not
5 appear we are at a stalemate, because
6 there is a lot of opportunity for actually
7 getting some information right away. So
8 we encourage a collaborative approach.
9 Consultation is very good but we need to
10 now progress that consultation to actual
11 collaboration.

12

13 Patrick and Mr. Silvera spoke
14 extensively on the issue of
15 confidentiality, and these remain real
16 issues. We note even from Reliant's
17 presentation that they have also
18 recognized that confidentiality is very
19 important. The public interest test
20 for disclosing information as we know
21 is notoriously difficult to apply, but
22 it is important if the Office is to
23 serve the right public interest, if we
24 can in fact identify a right public
25 interest. And we after already spoken,

1 the Office in particular already
2 recognizes the competitive harm that
3 can be done from disclosing
4 confidential information, and in that
5 respect again we are very happy to see
6 the procedures that the Office has
7 started to put in place, at least on
8 paper so far, in order to safeguard the
9 confidentiality of information. And,
10 again I say it shows an appreciation
11 for the concerns of the industry.
12 Again I want to emphasize that it is
13 not about not wanting to give the
14 Office information but having the right
15 framework within which that information
16 can be delivered and can actually be
17 packaged.

18
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20 MRS. SUTHERLAND-CAMPBELL: **Controls:** Very important. We
21 had in terms of responding to the
22 consultation had asked the Office to give
23 us some guidance in terms of information
24 that is in fact collected and information
25 that is published, because there can be

1 information that is provided to the Office
2 for its own purposes but if it were to be
3 published would not be in the interest of
4 the companies who have supplied that
5 information.

6
7 MRS. SUTHERLAND-CAMPBELL: Now, something like this, just
8 based on the raft of information that the
9 Office has requested in the original
10 consultation that was published, and also
11 in the determination, I certainly do
12 believe that there is a place for the
13 Office and the companies to go through
14 that information and decide what do we
15 believe that we can in fact get and
16 publish, and what it is that the companies
17 could in fact offer to the Office for it's
18 own purposes but would not agree to have
19 published, and just start procedures for
20 the collection, verification,
21 dissemination of the information. Again
22 concerns about how reasonable the
23 information requested is in terms of the
24 scope, in terms of the proportionate
25 response that the Office would want to

1 edit, concerns it have, how does it impact
2 the companies in terms of costing,
3 manpower. Just those issues that matter
4 to companies very much.

5
6 MRS. SUTHERLAND-CAMPBELL: I just want to make mention here
7 that sometime ago Cable & Wireless used to
8 submit a report to the Office that was
9 submitted under confidential cover and has
10 always predated liberalization. Now, as
11 for most companies in the industry
12 worldwide, we are on a constant path of
13 cost containment and just streamlining the
14 company to make it as efficient and
15 profitable as possible.

16
17 Now, as many people can attest to, this
18 has resulted in some shrinkage of our
19 staff. Now, in terms of giving this
20 information that we use to provide
21 sometime ago, that complete unit no
22 longer exist. An entire unit no longer
23 exist. So we are talking about just
24 how do companies deal with request of
25 this extent and of this nature, and

1 it's the reality of the business that we
2 are in.

3

4 MRS. SUTHERLAND-CAMPBELL: We move on to the cost of
5 compliance, the cost of compliance in
6 terms of information systems, in terms of
7 human resources. We certainly do not
8 believe that any significant cost should
9 be added to the industry. We know in
10 Jamaica -- Mr. Silvera spoke to the
11 multitude of licences that have been
12 issued, over three hundred licences since
13 we have liberalized in 2001, and so we
14 recognize that there is a great deal of
15 competition, particularly for those
16 services that are particularly attractive,
17 such as international services. And, we
18 certainly don't believe that for (1) going
19 back to the confidentiality and the
20 disclosure of that information, but also
21 the cost. In a competitive environment
22 where you are containing cost you
23 certainly cannot afford to load up any
24 additional cost on your cost base,
25 especially in terms of human resources

1 that are already employed in just trying
2 to get the business about its business.
3 The information that is required is very
4 important, but the cost, the cost of that
5 compliance has got to be a major
6 consideration in any determination that is
7 eventually made by the Office.
8

9 MRS. SUTHERLAND-CAMPBELL: Well, we have come to the final
10 slide which is in terms of cost again. I
11 just want to wrap up. I'd love for you to
12 bear in mind what our position is at Cable
13 & Wireless. We are very happy to provide
14 the information to the Office, we are
15 concerned however, about the
16 reasonableness of information that is
17 requested, the public interest test that
18 the Office has or intends to apply to the
19 publication of any information guidelines
20 from the Office in terms of what
21 information would be collected and what
22 would be published, would there be a
23 distinction. And to bear in mind the 4C's
24 of collaboration, which we have. This is
25 a consultation where the Office has to get

1 involved in the company's business.

2

3 MRS. SUTHERLAND-CAMPBELL: The Office has got to know what
4 in fact can be delivered and what cannot
5 be delivered, and without being holding
6 hands with the company and getting into
7 the business to understand what's
8 happening the Office will not be able to
9 know that. So we want to move this
10 process from consultation to
11 collaboration, with the considerations of
12 confidentiality, controls and cost, and
13 once those are addressed we certainly
14 believe that the Office is well on its way
15 to getting the information that it
16 requires to manage the industry. Ladies
17 and gentlemen thank you very much for your
18 time and attention.

19

20

(A P P L A U S E) .

21

22

CHAIRMAN:

Ladies and gentlemen, just to remind you
23 of the procedures, we had indicated that
24 the OUR would be allowed to pose their
25 questions and then any other questions

1 will be taken from the floor. We do
2 request that in order to be recognized
3 that you come to the podium, identify
4 yourself and the organization that you
5 represent, if any, before asking your
6 questions.

7
8 MR. WILLIAMS: When I referred to compliance in my
9 presentation, I was referring to a licence
10 condition, not compliance with the
11 Office's determination which is still in
12 question.

13
14 MRS. SUTHERLAND-CAMPBELL: I am sorry, if you could just
15 remind me, those licence conditions
16 actually have specification according to
17 the intervals that the information is
18 requested, so until it is in fact
19 requested it's not mandatory for us to
20 provide it. That was our understanding of
21 those conditions.

22
23 MR. WILLIAMS: I agree, you are correct, but the
24 information was requested in a
25 Determination Notice early last year.

1

2 MRS. SUTHERLAND-CAMPBELL: You are talking about the said
3 Determination Notice?

4

5 MR. WILLIAMS: No, not the said Determination Notice,
6 this was in relation to settlement. As a
7 matter of fact there were a series of
8 determination notices early in the year.

9

10 MRS. SUTHERLAND-CAMPBELL: I do recall. Thank you Patrick.

11

12 MR. WILLIAMS: In relation to granularity, it is said
13 that we are asking for too much
14 information. I want specifics. This high
15 level talk about granularity and not
16 getting to the specifics is not getting us
17 anywhere, we need the specifics. Are we
18 asking for too much information from the
19 mobile industry with respect to call data?
20 Are we asking for too much information
21 with respect to volumes? Where are the
22 specifics? My final point, with respect
23 to the provision of quarterly information
24 that Melissa mentioned, she said there was
25 an entire unit dedicated to providing this

1 information which predates liberalization
2 and that unit went in a effort to improve
3 efficiency within the organization. My
4 question is, how does the organization
5 inform itself?
6

7 MRS. SUTHERLAND-CAMPBELL: Just to mention, Patrick, in
8 response to that question, that unit also
9 had other responsibilities. Now, our
10 concern is that the information that the
11 Office is requesting in terms of the
12 format in which it wants that information
13 is not necessarily the format that the
14 company uses to inform itself, so when we
15 have this information that is being
16 requested on this basis, then we are going
17 to have somebody who is dedicated to
18 getting that information to the Office
19 itself. So it is not that we are not
20 informed, because it is our business, it
21 is really the format in which the Office
22 is requesting that information and just
23 the focus that we will have to place on it
24 in providing it at the regularity, and
25 just initially as well what also is

1 necessary in terms of the system changes
2 and so that we will have to make.

3
4 MR. TWOMEY: Steve Twomey from Reliant. I am a bit
5 puzzled. If I look at what the OUR is
6 asking for, as a public company Cable &
7 Wireless is part of the greater PLC which
8 has very strict reporting requirements to
9 U.K. and U.S. securities regulators that
10 have to be provided on a quarterly basis.

11
12 MRS. SUTHERLAND-CAMPBELL: I don't know, I cannot speak to
13 that.

14
15 MR. TWOMEY: Well, let me assure you, I will tell you
16 as a U.S. citizens ...

17
18 MRS. SUTHERLAND-CAMPBELL: I can speak to that requirement
19 in Jamaica, that we do have the
20 requirement, I cannot speak to outside of
21 Jamaica.

22
23 MR. TWOMEY: The point is, while the information that
24 the OUR ask for, even though it is on a
25 quarterly basis, it has to be a

1 fundamental input for you to meet the
2 requirements of security regulators
3 wherever you are listed as a public
4 company, so I am not sure I understand
5 what the issue was or the cost or the onus
6 on resources.

7
8
9 MR. TWOMEY:

10 The second things, in managing your
11 bilateral agreements there may be a Sprint
12 or MCI you must clear on a quarterly
13 basis -- you have to have this
14 information in order to settle with your
15 contractual partners, you have to,
16 otherwise you can't settle.

17 The third point is, unless PLC has
18 changed, your internal reporting
19 requirements used to at least be the
20 same as a lot of requirements that the
21 OUR is asking for, so I am a little bit
22 puzzled in terms of the onus this puts.
23 That information has to be there in
24 order for you to meet not just -- you
25 know, whoever the U.K. regulator is for

1 the Stock Exchange.

2

3 MRS. SUTHERLAND-CAMPBELL: Steve, thank you for your
4 comments. In terms of the information
5 that we provide to the Stock Exchange I
6 really cannot speak to the extent of that
7 but I do know that we file our quarterly
8 financials with the Stock Exchange. So if
9 you are speaking about financials, those
10 you know are particularly as a matter of
11 routine. I could take you all the
12 information the Office has requested in
13 all our services and so on, so would see
14 that the raft that we talk about is
15 greater than the financials that I know
16 for a fact that we file with the Stock
17 Exchange on a quarterly basis.

18

19 In terms of our bilateral agreements I
20 really cannot speak to exactly what
21 information is there, and we do have
22 someone here who should be able to
23 speak to that, but to the best of my
24 understanding we are talking about
25 minutes here, so clearly we would have

1 our traffic minutes. Where traffic
2 minutes are concerned we are also
3 talking about the issue of
4 confidentiality, so you want to keep
5 all the concerns in mind, see where we
6 speak about information that is
7 requested. And finally you speak about
8 PLC reporting, I am sorry, but I am not
9 able to speak to reporting at the group
10 PLC level, but certainly the
11 information that we have we would feed
12 into them. I truly do not believe
13 though, Steve, that it's anything of
14 the nature that the Office has
15 requested. I can certainly see their
16 reporting requirements being more in
17 terms of the financials, but not in
18 terms of the service portfolios and all
19 the related revenues, minute and
20 profits that are often related to those
21 services. I think you see it just in
22 terms of just keeping in mind all the
23 concerns that we have. The issues in
24 terms of information that is requested
25 by the Office is much broader than the

1 specific areas in which you have an
2 interest, which is, you know, the
3 international. Thank you.

4

5 CHAIRMAN: Thank you very much. If there are no more
6 questions we will continue with the
7 agenda. Our next presenter is Mr. Andrew
8 Gorton, Group Regulatory Manager at
9 Digicel.

10

11 MR. GORTON: On the screen there are four main
12 attributes, let's say, from the
13 information provision, collection process.
14 Benefits outweighs costs. The most
15 sensitive thing taken into account,
16 safeguards put in place and access to
17 information, an enhanced relationship
18 to service providers and the OUR.
19 Individual service providers may not be
20 as happy, but overall I would expect
21 the general interest, it's in the
22 interest of everybody out there to have
23 a better relationship and the rates
24 relationship can be strengthened
25 overall to carefully undertake the data

1 collection process.

2

3

4 MR. GORTON:

5 This is a summary, I am just going to skip
6 through the four things here. Purpose of
7 collection, criteria we think should be
8 applied to collection, level of
9 information that should be required and
10 restrictions and access.

10

11

12

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25

11 Purpose of data collection. From the
12 Telecommunications Act these two main
13 things, I think that potentially the
14 information provision requirements,
15 these two main objectives, they could
16 also to some extent undermine these
17 objectives if the data collection
18 process is not run properly. The
19 criteria -- well first and foremost
20 there should be a clear purpose for
21 data collection. Differentiate between
22 a regular data collection exercise and
23 an individual data collection exercise
24 for a specific separate purpose. I
25 believe that most people in public, the

1 ministry and the OUR will not actually
2 use that much of the information on a
3 regular basis and they could
4 potentially be collected. In fact on
5 most occasions it will be a relatively
6 narrow set of information they want to
7 look at, it will be a broad overview of
8 the market, where is the market going,
9 how telecom is progressing in Jamaica.

10

11 MR. GORTON:

Now the individual separate data
12 collection exercises, that's a separate
13 matter, market analysis and so. In that
14 case a lot more information is provided,
15 but we think on a regular basis
16 information should be a relatively data
17 set, a high level data set.

18

19 And going to the next bullet point.

20

Proportionality and benefits
21 outweighing the cost are part of what
22 is talked about. The information which
23 you collect should be a proportionate
24 for the purpose for which you want it.

25

If it's just going to be used to give

1 comment. if people have a proper
2 chance to comment on the information
3 collection requirements that would
4 provide some kind of reassurance to
5 them, that's more chance it will be
6 used in a reasonable way. And so I am
7 saying that if you talking about the
8 regular data collecting exercise, that
9 should be high level. If you want to
10 take highly detailed market analysis
11 for specific, distinct issues, you are
12 going to move that in more detail for
13 that to go through the proper
14 consultative process. There is an
15 enormous amount of information that can
16 be collected, absolutely vast amount of
17 information. The OUR has got to be
18 able to collect the information it
19 needs to take the decision it needs to
20 take, but I doubt it very much that it
21 really needs that much information on a
22 regular basis, and at least go through
23 a consultative process if it wants
24 specifics. Some of you may have got a
25 copy of a sheet that's circulated, a

1 written presentation. On the back of
2 that there is an annex with a with
3 certain information. There are 14
4 indicators. They are aimed at the
5 mobile industry, and note that's just
6 an aggregate of high level information,
7 but there are already 14 indicators
8 there and I multiplied that ...there is
9 go doing be a lot of information we are
10 collecting. As Melissa said there is a
11 cost, and I previously had worked for
12 company which called ... which happens
13 to be ... and they have got more
14 resources and more IT expertise and I
15 tell you it was not that easy
16 collecting the information, it takes a
17 lot of time.

18
19 Restrictions on access to information:
20 I agree with Melissa, I am pleased the
21 OUR is looking at this, and generally
22 the restrictions should be
23 proportionately sensitive of the
24 information. Now, the sensitive
25 information, I am suggesting that the

1 real sensitive information, if you
2 really need to have access, you should
3 name persons, you need details of
4 electronic and computer copies made.

5
6 MR. GORTON:

7 Now, I am sure the information is kept on
8 a server, and I think what tends to happen
9 in lots of organizations, and you correct
10 me if you think I am wrong, it's not very
11 exciting keeping a secured document
12 process. What essentially happen over
13 time is that people become a bit casual
14 with it, copies get made here and there,
15 e-mail get sent, before you know it lots
16 and lots of people have the information.
17 No one ever got promoted, I suspect, by
18 having a secured document process in
19 place. So over time I suspect what will
20 happen, unless a lot of emphasis is given
21 to where it's at, a lot of copies will be
22 made and circulated and no matter how good
23 your intentions are, information will end
24 up -- people won't even realize it's
25 confidential until it ends up in the hands
of people who don't think it's

1 confidential and they will share it with
2 people even by mishap. I would say it's
3 almost inevitable, and that's bad enough
4 when it's your information but when it's
5 somebody else's information then it's much
6 more important.

7
8 MR. GORTON:

9 So in conclusion, going back to my
10 principal points, these are the outcomes
11 we are looking for by doing the kind of
12 things I have just been talking about. I
13 think we can manage to achieve them. The
14 data set that we think we should be
15 collecting on a regular basis is as
16 indicated in the sheets that's been
17 circulated and if you want more
18 information then do it through a full
19 consultative process because frankly the
20 information that will be collected will
21 not be enough, the information that even
22 the OUR is suggesting be collected will
23 not be enough for all the other purposes
24 that are required. You need a lot more
25 information on some subject matters, so we
seem to be at a halfway house to me,

1 collecting more information than I suspect
2 anyone is going to use, and yet it's not
3 enough for those purposes. So I want to
4 separate it, regular data collection, high
5 level and a detailed data collection,
6 consultative process at the individual
7 subject level. Thank you very much.

8
9 (A P P L A U S E) .

10
11 MR. WILLIAMS:

12 In relation to the publication of
13 information the OUR did indicate that it
14 would be consulting on the matter of a
15 format of that publication, the type of
16 information that would be published and so
17 on. So there is going to be a
18 consultation on published information
19 before we actually publish anything. We
20 are going to hear from you what your
21 objections are. We are go to hear from
22 you what your concerns are before we
23 publish any information.

24 Now, why do we need data on a regular
25 basis? Do we just want to harass

1 licensee? No. We need to track the
2 development within the industry, within
3 the various markets that operate within
4 the industry. Given a lack of
5 information we could very well be
6 witnessing the collapse of a market and
7 we don't know. Maybe there is
8 something that the OUR could do if it
9 had the information. We need the
10 information to track developments
11 within the industry.

12
13 MR. WILLIAMS:

Confidentiality. This is a question I
14 want to put to Digicel. We know people
15 are people, but there are constraints on
16 our operations. Section 7 of the Telecoms
17 Act speaks to how we treat confidential
18 information and the Act is clear, we
19 cannot willy nilly distribute such
20 information. There is a a process which
21 is outlined in the legislation which we
22 have to abide by. Is it that the
23 legislation is deficient and we need to
24 make changes to the legislation? Do we
25 need to make changes to our proposed

1 guidelines with respect to the treatment
2 of claims of confidentiality? What do we
3 need to do to assure you that we are
4 making the right move in securing
5 confidential data?

6
7 MR. GORTON:

8 With respect to high level data, I suspect
9 that information you don't need to worry
10 too much about, most of it can be
11 published. It's the more detailed
12 information we are concerned about and I
13 don't have one rule, it would have to be a
14 case by case basis, but perhaps there
15 should be a specific duty on the regulator
16 in terms of implementing, and information
17 access process do depend on the
18 information sensitivity.

19 MR. CHEN:

20 I am Ralph Chen, I speaking as a private
21 civic and consumer affairs advocate. I
22 would like to enunciate certain principles
23 which I think from my perspective should
24 underline this process. (1) The cost of
25 collecting information ought not to exceed
the benefit. In other words, there must

1 be significant benefit to warrant the
2 cost, otherwise it will be to the
3 detriment of the consumer, because the
4 companies, the service providers would
5 have to pass on this excessive cost in the
6 cost of the service provided do the
7 public.

8
9 MR. CHEN:

10 Second, the information required or
11 requested should be adequate but not
12 excessive. Adequate in the sense that
13 information should be provided on those
14 critical elements of the process or the
15 operation to understand how efficient it
16 is being conducted. There is no point I
17 take it, collecting a lot of information
18 on minor issues or minor operations.

19 Thirdly, I think there has got to be
20 some agreement on voluntary compliance
21 among the service providers, that they
22 will willingly provide the information,
23 but in case where a service provider is
24 not willing to do so there must also be
25 some form of audit process to detect

1 where the service provider is not
2 complying or is not forwarding,
3 providing correct information.
4

5 MR. CHEN: And lastly, I think one should not only
6 add the technical aspect of the service
7 providers' business but also at the legal
8 framework, whether or not the service
9 providers are operating correctly within
10 the legal framework. For example, are
11 they submitting financial statements on
12 time to the Registrar of Companies are
13 they paying taxes on time, et cetera.
14 Thank you.

15
16 MR. TWOMEY: I have a question for both Cable &
17 Wireless and Digicel. I have been
18 blessed, I have worked all over the world,
19 Asia, Europe, U.S, and been exposed to
20 telecom, the requirements of regulators in
21 the U.S., Europe and most of Asia are
22 triple what you see here, that you have to
23 report on a quarterly basis. My question
24 to both of you is, why is Jamaica
25 different from every place else in the

1 world in terms of what we have to report?
2 Would you explain that explain to me.

3

4 MR. GORTON: The market (Inaudible) over twenty years
5 ago, the regulators been developing since
6 then. If you look at that they got far
7 more resources, the operators are more
8 developed, they got more information
9 processes in place, it cost a lot of money
10 to put systems in place; it's that just
11 more time, more resources more people.

12

13

14 MRS. SUTHERLAND-CAMPBELL: Steve, thank you for your
15 question. I certainly support what Andrew
16 said, but just to go further to say I am
17 also, Steve, not aware of any jurisdiction
18 in which the operators are happy about the
19 extent and depth of the information that
20 is required from the regulators. We also
21 recognize, Steve, that in those societies
22 where Andrew has mentioned they have been
23 regulated for about twenty years now, that
24 they have had opportunities to put the
25 necessary infrastructure and systems in

1 place, and if you recall our presentation
2 earlier this morning, we are saying that
3 we would want to get to this place where
4 we can collaborate, where we can decide
5 what is needed and the way it will be
6 packaged and we are asking for hand
7 holding so that the Office can in fact get
8 to know the capabilities of the companies
9 at this point in time. Perhaps in another
10 15 years that information and more than
11 they require will be available in Jamaica,
12 but we have got to have that phase in
13 office. So we have to recognize that,
14 Steve, we are at the beginning, they are
15 really on the decline. Even in terms of
16 the regulation of those markets, you will
17 notice that over time their regulations
18 moved into minutia because they have
19 already addressed the big issues. So we
20 are at that place in our life cycle where
21 we are putting in place, we are not in the
22 decline and so you can clearly expect when
23 they were at the place we are at they had
24 similar concerns and over time we too will
25 evolve.

1

2 MR. GORTON: And I will say plainly, I used to work at
3 ... and most of the information didn't get
4 used.

5

6 MR. TWOMEY: Point taken, but once again this is based
7 on experience. If you look at the U.S.
8 and the U.K, particularly Canada you are
9 right, nobody was happy but they did it.
10 And I got to tell you, in the U.S. the
11 regulated and unregulated parts of the
12 business, as example, couldn't be in the
13 same building when they broke up the Bell
14 System, and you had to prove to the FCC
15 that you weren't. What fascinates me is
16 that the JCTA is relatively a bunch of
17 small companies as everybody knows, we are
18 not complaining about the requirements of
19 the OUR or the information it is asking
20 us. Now, why companies that got five to
21 12 people aren't complaining, but
22 companies that have 1,500 people or 800
23 people are complaining? I don't get it.
24 Once again I have to go back to even
25 twenty years ago, as I said nobody liked

1 it and Ofcome did the same thing. The
2 requirements to record it were IQs and
3 they probably were ... but you had to do
4 it. And I again ask you why is Jamaica
5 different?

6
7 MR. GORTON:

 Again we think the answer to that is
8 straightforward, I mean the JCTA have got
9 particular interest. I would separate
10 the two markets entirely. We . . .

11 (INAUDIBLE) But from our perspective
12 it's not any particular benefit and it
13 costs a lot of money, and if the OUR were
14 to go for a particular exercise to look
15 into what the JCTA are concerned about
16 well then let us do that.

17
18 MS. CHUNG:

 Yasmine Chung, consumer and Chairman of
19 the Consumer Advisory Committee on
20 Utilities. I have a few comments to make
21 on both presentations so far. The first
22 one is the comment about the unit which
23 provided this kind of information no
24 longer existing. Well, the comment I'd
25 like to make, it's the very reason why you

1 achieve these efficiencies, by cutting
2 staff, et cetera, because we probably
3 automated, et cetera, et cetera. It
4 doesn't mean that the information still
5 doesn't reside in the company which you
6 used to provide you with business
7 decisions that you make daily.

8
9 MS. CHUNG:

10 So I think it's really just a question of
11 facilitating that information in a new way
12 or in a different way, rather than it not
13 being there. And base on both
14 presentations I am wondering if the
15 difficulty that companies are facing is
16 really a question of a reluctance to
17 provide this information as it is
18 reasonableness and availability. I note
19 Digicel's statement here which says "We do
20 not feel however that the general public
21 would gain much by being informed about
22 information down to this level of
23 granularity."

24 Well, with confidentiality in mind,
25 consumers want to know, they need to

1 know, and in the current environment
2 they will have to know if they are to
3 make sensible, intelligent and informed
4 opinions, views, contributions.

5
6 MS. CHUNG: Information greatly assist the consumer,
7 especially in the area of utilities
8 regulation and when it comes to tariff
9 reviews and matters of that kind.
10 So it is important that consumers have
11 this information.

12
13 The last comment I want to make is
14 again from Digicel, the regulator has a
15 high standard to reach given the powers
16 at its disposal and the regulator
17 should not only behave in the right way
18 but be seen to behave in the right way.
19 Let me put a different spin on it. The
20 companies have a high standard to reach
21 given the expectations of your
22 customers, and so the companies also
23 have a responsibility to behave in the
24 right way and to be seen to behave in
25 the right way. Thanks.

1

2

(A P P L A U S E).

3

4

MR. GORTON:

Sure, if the public really want that

5

information, well let's ask them. I am

6

not aware that they will. I have carried

7

out what's simply a market research

8

exercise with customers and members of the

9

general public and my general findings are

10

people actually want quite restricted data

11

set.

12

13

MRS. SUTHERLAND-CAMPBELL: Yasmine, you made mention of the

14

facilitation of information because they

15

still exist in the companies and I

16

certainly do agree with that, and this is

17

one of the issues we spoke to this

18

morning, just in terms facilitating that

19

data in a system or the format that the

20

Office requires it. So it's not the lack

21

of data in the organizations, it is there,

22

it's a matter of putting it in that format

23

and in a way that it can be generated

24

automatically for the Office rather than

25

to have the manual interface where

1 somebody has to be dedicated just to
2 message in that information. So that is
3 the real issue. There is information that
4 you can get if somebody is dedicated to
5 getting it together and then there is the
6 option if it is at all possible to
7 automate it and can it in fact be done.
8 So, as you said Yasmine, that's our real
9 issue, facilitating it in the form that's
10 needed for the Office in a way that it can
11 be automatically generated.

12
13 CHAIRMAN:

Ladies and gentlemen, thank you very much
14 for those very vibrant submissions and
15 participations. At this point we would
16 like to invite Mr. Steve Twomey to make
17 his presentation. He is President and CEO
18 of Reliant Enterprise Communication.

19
20 MR. TWOMEY:

First I would like to thank you for giving
21 us an opportunity to participate today. I
22 also should let you know that I am acting
23 in the capacity as Vice President of the
24 Jamaica Competitive Telecoms Association,
25 so I am on double duty today. It's a good

1 thing we got computers and we not still
2 using pencils and pads and papers because
3 we would be in real trouble. Generally we
4 recognize and agree with the OUR that to
5 assure proper regulatory compliance,
6 informed policy decisions and true
7 competition in the market, you need
8 information, particularly if you are a
9 regulatory body. However, we believe
10 there are several flaws in the
11 Determination and submission of a lot of
12 enterprise.

13
14 MR. TWOMEY:

15 In regards to privacy recording issues,
16 there may be potential legal issues
17 regarding privately owned companies in the
18 financial information that is required to
19 be disclosed. In terms of CWJ there
20 should be a requirement where this
21 information is based on a separation of
22 accounts requirements as detailed in the
23 Telecom Act and not just in the broad
24 sense.

25 Requirements for separate inputs, for

1 example, Broadband, PSTN, Mobile
2 Accounts, and ISPs should be required
3 for every licensee.
4

5 MR. TWOMEY:

6 We believe there are issues surrounding
7 affiliates and subsidiaries in what they
8 potentially contribute in terms of
9 Jamaica. For example, there are foreign
10 entities that sell or transport services
11 and this information is vital also,
12 because it does impact cost and revenues.
13 If you just look at Cable & Wireless and
14 Digicel, they have operations all around
15 the Caribbean. What impact those
16 operations have on Jamaica in terms of the
17 services? Cable & Wireless has operations
18 in the U.K, and I think maybe 15 other
19 countries. That needs to be inputted
20 also. So we would like to recommend that
21 each licensee is required to provide
22 separate and distinct financial
23 information for each category and entity
24 as outlined in the Determination. We have
25 no problem. Any affiliate, subsidiary or
unit involved in the provisioning of

1 services into or within the Jamaican
2 market be identified and provide separate
3 financial, cost and revenue information.
4 Because, I will tell you, there is at
5 least two members of the JCTA who are
6 working as foreign affiliate of a U.S.
7 company in terms of termination, and we
8 think that should be reported. So I am
9 not going to pick on anybody else, I am
10 picking on our own members. It's that
11 impacts the cost and revenues in that
12 particular market segment for Jamaica. We
13 would ask the OUR to review the Companies
14 Act in light of privately owned companies
15 to make sure that there is no
16 non-compliance or we are not put in a
17 position where we don't want to provide
18 financial information and the Companies
19 Act backs us up, so we just asking you,
20 what's the word on that and see how it is.

21

22 MR. TWOMEY: The Determination mentioned universal
23 service and I think Patrick mentioned it
24 also. To date there are no rules,
25 procedures, regulations, disbursements

1 guidelines, qualification requirements,
2 bidding guidelines or oversight functions.
3 Therefore, we believe that any (INAUDIBLE)
4 in the U.S. (INAUDIBLE) in this
5 Determination is a bit premature.
6

7 MR. TWOMEY:

8 What are some issues that are not
9 addressed in the Determination. One is
10 transparency, and we've heard this said in
11 a number of different forms today. Access
12 to this type of information is not clearly
13 defined and should be. Now, to my good
14 friend Digicel who said it's in the JCTA's
15 best interest to know this information.
16 Let me assure you Digicel, ODJ and Cable &
17 Wireless, in terms of this type of
18 information have all the information on
19 their competitors because we either
20 interconnect or have commercial
21 arrangements. Cable & Wireless knows the
22 exact number of minutes as does Digicel,
23 that Reliant terminate on their network.
24 If they don't want me to know what else
25 happens in the business, then who else
terminates, and I am not asking specific

1 companies, so there need to be
2 transparency. Competitive carriers do not
3 have any access, even though we do
4 business together with these two carriers.

5
6 MR. TWOMEY: So, our recommendation is that OUR make
7 available to the industry at a high level
8 the following from Digicel, ODJ and CWJ,
9 and the JCTA is happy to provide them to
10 our good friends. The number of total
11 minutes they terminate and originate on
12 the networks. Percentage of total minutes
13 provided by third parties and local
14 competitors. Percentage of total minutes
15 provided by affiliates, subsidiaries or
16 joint ventures. You may think, why do you
17 bring that up me? Let me tell you. If
18 Reliant had operations in five different
19 islands we could aggregate all of our
20 international traffic at one island and
21 bring it into Jamaica and that's called
22 refiling. And that would have a
23 significant impact on the rate that is
24 charged to terminate in Jamaica. So
25 that's why we want all this information,

1 or we think the OUR should have this
2 information.

3 MR. TWOMEY: The percentage of total revenues provided
4 by local competitors and thirds party: If
5 you are looking at a particular market
6 segment, broadband, and you know what the
7 total market is, in order to understand as
8 I think Patrick said, if there is any
9 competition you need to know, particularly
10 if you are in a the reselling
11 environment, how much revenue is being
12 generated by different people in that
13 particular market, otherwise you don't
14 know if there is any competition at all.
15 With Cable & Wireless we think the
16 percentage of CWJ mobile minute transitted
17 by the PSTN is very important, because at
18 this point in time CWJ refuses to direct
19 connect anybody with mobile, correct me if
20 I am wrong, and that includes Digicel.
21 You have to transmit to PSTN. So we'd
22 like to know how many minute does the PSTN
23 transit on mobile traffic. we would also
24 like to know the number of non CW mobile
25 minutes transited by the PSTN. The same

1 requirement should be instituted for all
2 categories of services as identified in
3 the Determination.
4

5 MR. TWOMEY: Carriers should be required to provide
6 same information for foreign operations
7 that bring services to Jamaica. Once
8 again I could have a U.S. entity that in
9 fact is acting against my representative
10 and the Jamaican entity is a subsidiary,
11 and that can happen for all of us.
12

13 MR. TWOMEY: Separation of Accounts: And this applies
14 only to the dominant carriers, and it's
15 very clear in the Act about this. And I
16 will tell you, without separation of
17 accounts within a dominant carrier,
18 information, particularly this point,
19 since they are the only one Cable &
20 Wireless Jamaica provides, is absolutely
21 meaningless. So they can give the OUR
22 whatever they want, it means nothing.
23 Why? Because the ability to
24 cross-subsidize high cost and provide
25 preferential treatment between

1 organizational entities within the company
2 is very, very possible. I am not
3 accusing, but it's very possible. So
4 without that the rest of it doesn't make
5 any difference. We, and this is nothing
6 new with the JCTA, have been after the OUR
7 for over a year to get Cable & Wireless to
8 separate their accounts and report.

9
10 MR. TWOMEY:

11 Bypass. Nobody has talked about bypass.
12 In at least one part of the market which
13 is international it's been an ongoing and
14 problem for years, and Cable & Wireless ...
15 Melissa, correct me if I am wrong, '98,
16 '99, there is still no compliance, so
17 it's not something that's new. We
18 anticipate, the JCTA, when new USL if its
19 instituted on June 1st, the bypass is
20 going to double. It may tripple, but I am
21 not going to get into why. So what we are
22 asking is recommendations that the OUR
23 require the major terminating carriers,
24 GOTEL, Cable & Wireless, Cable & Wireless
25 Mobile, Digicel and ODJ to provide monthly
or quarterly estimates of revenue in

1 minutes lost to bypass, and with
2 historical information each of them should
3 be able to do this. As a matter of fact,
4 in a different meeting couple of months
5 ago Digicel gave an estimation of what
6 they lose monthly to bypass, because this
7 impacts all of us, it's not just me. As a
8 matter of fact it impacts the major
9 terminating carrier much more.

10

11

12 MR. TWOMEY:

13 Another issue that impacts the market is
14 bilateral agreements. This is arrangements
15 that monopolies have, or formal
16 monopolies between each other. So AT&T,
17 Sprint, MCI with Cable & Wireless, and
18 Cable & Wireless has all of these foreign
19 carriers in these bi-lateral agreements.
20 These types of agreements distort the
21 market, period. Because what they do is
22 they trade off the minutes, and I am not
23 going to pick just on Cable & Wireless,
24 maybe Digicel has and ODJ, I don't know,
25 but I know they do. So it also provides
preferential pricing and aggregation of

1 traffic by parties and it is not reported
2 on a jurisdictional basis and this truly
3 distorts the market, and it distorts the
4 whole international market, because it
5 impacts outgoing also. At the same time
6 we respect confidentiality of any
7 agreement that anybody has with anyone.
8

9 MR. TWOMEY:

10 Our recommendation is that the OUR require
11 all dominant carrier to reveal the
12 following on bi-lateral agreements: The
13 rate operational incoming to outgoing
14 traffic. It's just minutes they are
15 asking for anyway. Setoff on minutes that
16 allows the effective cost of termination
17 into Jamaica to be less than the published
18 per minute of 2.5 cents. That happens.
19 Nobody likes to talk about it but it
20 happens. Any aggregation of minutes from
21 affiliates, subsidiaries, sister
22 companies, operations in other Caribbean
23 jurisdictions or other international
24 operations. Once again you are going to
25 be playing water games in traffic and you
can be in a jurisdiction where it's

1 actually cheaper for you when transiting
2 to Jamaica. We also require not only of
3 the dominant carrier, or Digicel or ODJ,
4 anyone, even a member of the JCTA is using
5 refileing to terminate traffic if
6 Jamaica -- and what that is, I file in
7 another jurisdiction because the rate is
8 cheaper. Because once again that distorts
9 the market and you have to understand that
10 in any set of services once you distort
11 one part of your services that distortion
12 then allows you to do things in other
13 areas of the services.

14
15 MR. TWOMEY:

16 General comment about public interest, and
17 I would like to applaud the young woman
18 from the consumer, it's always interesting
19 how companies will determine what the
20 consumer needs to know. We know what's
21 best. Public interest can only be served
22 if everybody plays by the rules, everyone,
23 and there are key areas to telecom that
24 play into the discussions this morning
25 that have not been of course implemented
after five years. Separation of accounts,

1 except for a few comments. The legal
2 constraints with respect to private
3 companies we will review the new Companies
4 Act as you suggest, to see if there are
5 any constraints there. With respect to
6 universal service the OUR actually acts on
7 the direction of the Minister, we don't
8 initiate the moves here with respect to
9 universal service.

10

11 MR. WILLIAMS:

12 The other two, accounting separation and
13 competitive safeguards: I agree, these
14 are long outstanding. With respect to
15 competitive safeguards there were some
16 legal constraints which no longer apply.
17 We are now moving ahead and we will
18 shortly be publishing a consultative
19 document on that issue. On accounting
20 separation, we are also in the process of
21 putting another consultative document out
22 on this issue which we hope will lead to a
23 determination on this matter. This is
24 long outstanding, it should have been in
25 place years ago, but there were problems
 along the way but we are at it.

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MR. CHEN:

What I think I hear Mr. Twomey saying is that he would like a level playing field, between the dominant carriers and the smaller players, and I am certain that no one can quarrel with that. As regards the issue of separation of accounts I am certain that in any well run business for you to be able to assess properly the profitability of each product line or service line, you must have this sort of separation for internal purposes. Therefore, I can't see the difficulty in actually providing the information. I am going to make a suggestion here, perhaps it's superfluous but perhaps for the telecoms industry what needs to be done is some sort of code of ethical business practices for all the players in that industry, which will guide their operation, and we could perhaps solve some of these problems as to disclosure of information, anti-competitive practices and so on. Thank you.