RESPONSE

TO

CONSULTATION on
THE MARKET ANALYSIS OF WHOLESALE CALL AND SMS TERMINATION ON INDIVIDUAL FIXED AND MOBILE NETWORKS

and

DETERMINATION OF DOMINANCE FOR TERMINATION SERVICES ON INDIVIDUAL FIXED AND MOBILE NETWORKS (draft) 2011

and

TELECOMMUNICATIONS CODE (INTERCONNECTION AND ACCESS TO FACILITIES AND UTILITY INSTALLATIONS) REQUIREMENTS, 2011

Landline | Internet | Mobile | Entertainment

By E-mail to: consultations@trc.vg

01 July 2011

I. Introduction

1. CWI Caribbean Limited, on behalf of its affiliate Cable and Wireless (BVI) Limited, trading as LIME ("**LIME**"), is pleased to provide the following response to the Commission's Public Notice in the matters of '*Consultation on the Market Analysis of Wholesale call and SMS Termination on Individual Fixed and Mobile Networks*' (the consultation document) and the draft '*Determination of Dominance for termination Services on Individual Fixed and Mobile Networks 2011*' (the draft determination) and *'Telecommunications Code (Interconnection and Access to Facilities and Utility Installations) Requirements, 2011'* (the Code), all published 01 June 2011. Together called the consultative documents.

2. LIME expressly states that failure to address any issue raised in this consultative document does not necessarily signify its agreement in whole or in part with the Commission's position. LIME reserves the right to comment on any issue raised in the consultation at a later date.

3. LIME will respond to the Commission's questions as it addresses the various matters in the consultative documents.

CONSULTATION ON THE MARKET ANALYSIS OF WHOLESALE CALL AND SMS TERMINATION ON INDIVIDUAL FIXED AND MOBILE NETWORKS

II. Methodology

4. While LIME found the application of the methodology by the TRC for the determination of dominance somewhat disjointed and inconsistent, the TRC's conclusion that each operator, whether fixed or mobile, is dominant on its own network for call termination, is now a standard regulatory finding in the telecommunications industry, particularly so since the Mergers and Monopolies Commission in the UK arrived at this conclusion in its ruling published February 2003. This is the same conclusion arrived at by the Jamaican regulator, as the TRC acknowledges in its reference at section 5.14 of the consultation document.

5. The TRC ask the following question:

Question 1 a): Do you have any objections to the above definitions?

The definition the TRC refers to is the definition of the markets, as contained on page 10 of the consultation document which are :

Conclusion 1: The TRC intend to define seven separate markets for termination:
i) The wholesale market for fixed-line call termination on LIME
ii) The wholesale market for mobile call termination on CCT
iii) The wholesale market for mobile call termination on Digicel
iv) The wholesale market for mobile call termination on LIME
v) The wholesale market for SMS termination on CCT
vi) The wholesale market for SMS termination on Digicel
vii) The wholesale market for SMS termination on LIME

6. LIME objects to the market definitions because the TRC has erred in not including the wholesale markets for fixed call termination on CCT's and Digicel's fixed voice networks.

7. The TRC is inconsistent in applying the methodology in its classification of the service of CCT. Under the section determining the product market, specifically at paragraph 3.5 of the consultation document the TRC states:

> *3.5 In our initial request for information to the operators, CCT and LIME responded that they considered that each market; fixed, mobile and SMS termination constituted a separate market for termination. Digicel responded that it was not possible to draw conclusions on market definition at this stage. CCT suggested that a distinction should be drawn not between fixed and mobile termination but between wired and wireless termination with reference to their FiWi product which is a fixed wireless service using CDMA technology. The product in question is a wireless product which offers voice calls via a desk phone. The product itself uses mobile technology to originate and terminate calls and can be used to make and receive calls wherever the CCT CDMA network reaches in the VI. Therefore it offers the same level of mobility (albeit with a different type of handset) as a mobile voice product offered with GSM technology (or, for that matter, CDMA technology). As CCT's FiWi product exists as an alternative to its GSM prepaid and postpaid calling product using a mobile technology, the TRC considers that the termination of calls to FiWi should be treated as mobile call termination.*

8. CCT markets its FiWi service as a fixed line service and fixed line numbers are assigned to the service. The FiWi service is a fixed service provided over CCT's wireless network. The service does not have the mobility of mobile service. The fixed wireless service is confined to a few cell sites and a customer cannot travel with the instrument outside of the cellsites to which the service is locked and still receive service. It is abundantly clear that this is a fixed service, and that it is not a mobile service merely because it is provisioned using wireless technology.

9. The call charges too for fixed and mobile service are different. And the FiWi service is intended to compete with fixed line service, not mobile. In this regard, LIME notes that treating CCT's fixed network as if it were a mobile network would introduce

distortions into the retail market. First, it would make fixed calls from LIME to CCT's fixed network artificially more expensive than fixed calls from CCT to LIME's fixed network – even though they compete with each other. This will lead to customers choosing the CCT service over LIMEs, not because of better quality or service but because of a decision by the regulator. Second, it would send a perverse signal to the market that investment in the lowest cost technology (i.e. fixed-line network technology) will not be rewarded by competitive success. LIME does not believe this is in the best interest of the Virgin Islands.

10. In LIME's considered assessment of this product market CCT's FiWi's service is a fixed line service and fixed termination charges ought to be applicable, not mobile termination charges.

11. In a similar vein, Digicel also provides fixed line service and therefore should be declared dominant for call termination on its fixed network as well.

Question 1 b): Do you see calling someone on their fixed phone as an equal substitute to calling someone on their mobile phone?

12. Calling someone on their fixed phone is not an equal substitute for calling someone on their mobile phone. If a person is not at the location at which the fixed service is provided, that person will miss an incoming call. However if that person has a mobile instrument, the person can answer the call wherever they are. This is the fundamental difference between fixed and mobile service.

13. This is not to say that there is not fixed to mobile substitution in the retail market – that is mobile service substitutes for fixed service but fixed service does not substitute for mobile service. This is the same concept that LIME has applied to the Commission's flawed definition of the FiWi product market – FiWi is structured to be a fixed service, it does not have the functionality of mobile service, so it cannot be a substitute for a mobile service. Therefore it must be fixed call termination rates that apply.

14. Question 3 is related to the definition of the market at question 1a.

Question 3: Do you agree that each operator is dominant in the respective termination markets

1) Wholesale mobile voice call termination provided by Caribbean Cellular Telephone Ltd
2) Wholesale mobile voice call termination provided by Digicel (BVI) Ltd
3) Wholesale mobile voice call termination provided by Cable and Wireless (BVI) Ltd
4) Wholesale fixed voice call termination provided by Cable and Wireless (BVI) Ltd
5) Wholesale SMS termination provided by by Caribbean Cellular Telephone Ltd
6) Wholesale SMS termination provided by Digicel (BVI) Ltd
7) Wholesale SMS termination provided by Cable and Wireless (BVI) Ltd

15. LIME agrees that the providers listed are dominant in the respective call termination markets but the list is incomplete. Caribbean Cellular Telephone Limited (CCT) is dominant in Wholesale fixed voice call termination provided by CCT on its fixed voice network and Digicel is dominant in Wholesale fixed voice call termination provided by Digicel on its fixed voice network.

Question 1 c): If the price of sending an SMS to either CCT, Digicel or LIME increased by 5-10% would you a) switch to making voice calls to CCT, Digicel and LIME mobile or b) switch to making voice calls to fixed lines?

16. LIME notes that this is not a question that an operator can properly answer. It appears to be a question that needs to be directed to a retail customer. However, LIME notes that, if the price to LIME of terminating an SMS call on CCT's mobile network or

Digicel's mobile network were to increase by 5 to 10%, LIME would not be able to switch to using the SMS call termination service of the other mobile operator or to using the voice call termination service of another operator. As the TRC has previously noted, each provider of SMS call termination service is dominant on its own network. LIME would therefore be compelled to pay the increase.

Question 2: Do you agree with our view that the geographic market for each of our proposed markets should be the Territory of the VI?

17. LIME agrees that the geographic market for each proposed market is the territory of BVI.

Question 4: Do you agree that SMS termination rates should remain unregulated?

18. LIME agrees that SMS termination rates should remain unregulated.

III. Specific Assertions With Regards to LIME Service

19. At paragraph 3.2 of the consultation, the TRC asserts that:

> *'….Therefore there is no need to transit a call between switches on the same network. It is understood, however, that LIME transit calls from the LIME fixed switch to the LIME mobile switch (which is housed metres apart in the same building). Calls interconnecting with the LIME mobile network are first sent to the LIME fixed switch and then sent as transit to the LIME mobile switch. This is LIME's choice to route calls in this way and it is the view of the TRC that LIME could configure the network so that LIME terminated calls directly on the mobile network through the mobile switch. Such a routing mechanism is purely LIME's choice and should not be to the detriment of its counterparties (i.e. other operators interconnecting with LIME). Therefore, the TRC considers that, in the context of the Virgin Islands, termination shall encompass the routing of traffic (voice calls or SMS) from the point of interconnection up to the final destination (end-user). Hence, where two operators interconnect directly, no transit occurs.'*

20. LIME, in its published Reference Interconnect Offer (RIO), has designated the Switch at which it will provide interconnection services. Accordingly, this switch is conditioned to capture inter carrier billing information as well as other information which facilitate the interconnection process. Services that are destined for other switches within the Network as well as to other networks are conveyed via transit routes for termination on these other switches or third party networks.

21. In order to provide direct interconnection to other switches in the LIME network, further costly upgrade would have to be carried out in these switches. LIME is prepared to offer direct interconnection to other switches such as the Mobile switch, however the interconnection seeker would have to bear the costs for the additional Joining Service as well as the requisite upgrades required to make such switches compatible for inter carrier billing. The provision of transit services is therefore a legitimate and logical alternative.

22. LIME does not levy a transit charge for calls that transit its fixed network and which will terminate on its mobile network. LIME only charges transit when a call destined for termination on another network, goes to that network via LIME's network.

IV. Proposed Options for Regulating Termination Rates

23. The TRC proposes the four methodologies for the determination of termination rates:

1) No regulation

2) Bill and Keep

3) Regulated termination rates based on a cost model

4) Regulated termination rates based on benchmarking

24. **No Regulation**

The TRC has indicated that 'no regulation' is not an option and that it has to intervene to establish efficient rates. The Commission arrived at this conclusion without any comparison of the termination rates in the BVI with any appropriate benchmark sample. LIME disagrees that there is need for regulation of termination rates in BVI.

25. **Bill and Keep**

Specifically with regards to Bill and Keep the Commission asks:

Question 6: Please give your view on Bill and Keep. Do you think it is an appropriate to apply a bill and keep model to fixed /or mobile voice call termination in the VI?

The TRC states that there is a Bill and Keep arrangement for SMS and so there is precedence for the use of this methodology. However, this is not in fact the case. LIME and Digicel exchange SMS messages via an Interworking Agreement with an explicit SMS call termination rate. LIME and CCT exchange SMS messages via an international clearing house – while LIME might not pay CCT directly, LIME pays the clearinghouse, and vice versa.

26. The TRC also speaks to the ease of administering a Bill and Keep regime but has not addressed the cost to the country of the massive loss in foreign exchange inflows. This

is because the termination rate in the domestic market is typically the floor for international settlement rates and the effective reduction of a termination rate to zero will cause those settlement rates to plunge. This would be a loss to the BVI economy of hard currency on international incoming traffic terminating on the mobile and fixed networks.

27. The Commission should also note that Bill and Keep is not intended to be implemented in an environment where there is significant imbalance in traffic flows between networks as in the case of BVI. Where there is a imbalance in traffic flows, Bill and Keep represents a transfer of value from the terminating to the originating network, which is inappropriate.

28. The impact of Bill and Keep is such that it is unsuitable for BVI and given the impact on the economy should never have been considered by the TRC as a viable option.

Regulated Termination Rates Based on a Cost Model

29. With regards to a cost model, the TRC asks:

Question 7: Do any stakeholders feel that a LRIC modelling exercise should be undertaken for the VI and have the resources to provide inputs to a LRIC model?

LIME agrees with the TRC that LRIC modeling is resource intensive. However, several LRIC based termination rate models are available and can be used for benchmarking purposes. The most appropriate LRIC benchmarks to be used are those developed for Caribbean providers since these would more closely reflect the operating environment in the

BVI. In this regard, LIME notes that the ECTEL countries concluded their LRIC modeling exercise some years ago, the Cayman Islands are in the process of completing its model, and Barbados is at the early stages of model development. So, there will shortly be several sets of models that could be used.

30. If the TRC does not consider these to be appropriate, then LIME is of the position that a full fledged LRIC cost modelling exercise should be done for the Virgin Islands.

Regulated Termination Rates Based on Benchmarking

31. LIME notes that the TRC favours using a benchmark approach to determining termination rates and in particular, using European models for benchmarking termination rates. In this regard the views on benchmarking, of another regulator in the region is instructive:

> 30. [1]In the absence of suitable costing results, and having regard to the time and effort generally associated with developing, implementing, applying and analyzing costing methodologies and their subsequent results, the Commission concurs with Digicel's submission regarding the benefits of benchmarking studies for gauging the appropriate level for MTRs. The Commission also recognizes the challenges in finding and selecting a suitable set of benchmarks.
>
> 31. On the matter of whether a set of EU MTRs is suitable for establishing MTRs in Anguilla, the Commission notes the following comments[2] included in the Ovum study:
>
> *'There is a high degree of commonality between the mobile networks of the EU and the mobile networks in T&T. All these networks use the GSM standard, the networks are*

[1] Public Utilities Commission of Anguilla, Telecoms Decision PUC 2008-101
[2] Ibid., paragraph 4, page 3

constructed using the same or similar design rules, and the major network components are purchased on world markets (and thus have similar costs

regardless of the country of deployment). Cost-based rates for mobile termination in the EU are therefore likely to be similar to those in T&T.'

32. Without commenting on the applicability of the EU benchmark for Trinidad & Tobago, the Commission notes the significant differences between Anguilla and the eight EU countries selected for the study. The differences in GDP per capita, geographic area (sq. km), number of mobile telephones, population and network topography.

33. C&W made the following submission in its reply comments[3] of 25 February 2008 on the matter of selecting suitable benchmarks:

'An international benchmarking exercise, such as the one proposed by Digicel, is not as easy an exercise as Digicel would have the Commission believe. The results of any such study are highly sensitive to multiple assumptions and factors. Ovum's own "sensitivity analysis" in section 4.2 of their study shows that using slightly different assumptions and inputs results in most cases in benchmark rates that are lower than the USD 0.1367 headline benchmark rate in Ovum study (including one as low as USD 0.1086).'

34. The Commission concurs with C&W's view on the 'sensitivity' of assumptions and other factors in attempting to select comparable benchmarks.

35. An example of this sensitivity is presented by C&W in its reply comments of 25 February 2008 in paragraphs 8 and 9. By employing the incumbent's MTR and exchange rates as of 30 June 2007 and 31 December 2007 for comparison purposes, C&W notes that the 'revised' average MTR for the eight countries in the Ovum Benchmark Study were 12.72 US cents and 11.90 US cents respectively.

36. C&W then compared these revised benchmarks with those presented in the Ovum Study and submitted the following observations:

'Both of these revised benchmarks are significantly lower than the US$ 0.1367 that Digicel put forward as the "appropriate" benchmark rate (and more in line with, if a little lower than, the Commission's proposed rate of US$ 0.1296 for 1 April 2008). It is also not clear how applicable even these revised benchmarks will be going forward, as European MTRs continue to fall (e.g. Spain and UK MTRs will fall again on 1 April 2008).'[4]

[3] C&W Reply, 25 February, 2008, paragraph 4, page 2.
[4] Ibid. paragraph 9, page 4.

37. One of the significant variables in many MTR benchmarking studies is the currency exchange rates employed to convert the rates in different countries to a common currency.

38. C&W commented, in part, as follows on the matter of exchange rates and MTR benchmark studies:

'Another fundamental assumption is the foreign exchange rate that is applied to covert (convert) from local currencies into U.S. dollars. Small changes in this assumption can have a material impact on the benchmark rate. For example, simply changing the exchange rates used to convert the MTRs from Euros into U.S. dollars from those used by Ovum to the exchange rates that existed on 11 February 2008 change(s) the benchmark rate from USD 0.1367 to USD 0.1219.'[5]

39. In a footnote to the above comment C&W expanded on its view of the implications of changes in currency exchange rates and results of MTR benchmarking studies and offered a further explanation that reads, in part, as follows:

'The U.S. dollar is also currently at historically low levels. One of the dangers of trying to base Anguilla MTRs on foreign data is the risk that MTRs fluctuate with foreign exchange movements, something which does not make sense. An appropriately constructed benchmarks study should use average exchange rates, to smooth out fluctuations.'[6]

40. The study filed by Digicel employs an exchange rate of 1EU$ to 1.367 US$.[7] C&W submitted that 'average exchange rates' should have been employed, stating that:

'An appropriately constructed benchmarks study should use average exchange rates, to smooth out fluctuations.'

41. It is unclear based on the data presented in the study whether the study is based on a single fixed exchange rate as of a particular date or on an average from a range of rates over a particular time period.

42. While the Ovum Study filed by Digicel in this proceeding does not contain an extensive discussion or sensitivity analysis showing the impact on the benchmark results due to changes in the EU/US$ exchange rate, it does refer to the 'ITU/ 'infoDev' ICT Toolkit which provides a more comprehensive discussion on the matter of benchmarking and exchange rates.

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[5] Ibid. paragraph 6, page 2.
[6] Ibid. Footnote 3, page 2.
[7] Op. cit. 'Ovum Study',(August 2007), Figure 3.1, page 7.

43. The following comment on the use of exchange rates in benchmarking studies is contained in the InfoDev Toolkit[8]:

*“**Exchange rates:** Rates need to be converted to the local currency, or some other single monetary unit. This conversion can use either market exchange rates or purchasing power parity (PPP) exchange rates. It makes sense to use PPP exchange rates when the majority of the regulated firm’s costs are local currency denominated and locally sourced, such as staff costs. If the firm’s costs largely consist of repaying foreign currency denominated loans and purchasing capital equipment on the international market, then market exchange rates are generally more appropriate as a basis for comparing prices and costs. When using PPP exchange rates, it is best to use rates estimated by recognized international institutions such as the World Bank, International Monetary Fund or OECD,”*

44. However, even with these recognized constraints, the use of price benchmarking is a useful tool for comparing mobile and fixed termination prices in different jurisdictions.

45. The following comments on benchmarking are contained in the InfoDev Toolkit[9]:

‘Benchmarking has two main purposes in interconnection pricing. In situations where detailed cost models can be estimated, benchmarking can be used as a common sense check on the results of the modelling. Alternatively, benchmarking can be used directly to set interconnection prices.
Benchmarking can be very useful to regulators if undertaken carefully. Undertaking a full forward-looking cost modeling *exercise is challenging and time-consuming. In some markets the detailed information required may not be available. Regulators in many jurisdictions have used benchmarking to set initial interconnection rates (for example Botswana, New Zealand).*

Where benchmarked rates allow competition to develop satisfactorily, rates based on benchmarking may be used for extended periods.

In a benchmarking exercise, adjustments need to be made for differences among jurisdictions, for example exchange rates, traffic patterns, or the cost of shipping network equipment.’

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[8] The ITU/infoDev ICT Toolkit - http://icttoolkit.infodev.org/en/Section.2149.html (Accessed 14 March, 2008).

[9] ICT Regulation Toolkit Module 2. Competition and Price Regulation, 3.3.4 Benchmarking Interconnection Rates

46. The Commission notes the reference to 'glide-paths' in the benchmarking study[10] filed by Digicel:

'Several EU regulators have adopted a glide-path to ensure a smooth transition to their estimated (future) cost-based rate. Typically these glide-paths may be over 2-3 years. For example, the French regulator has set rates through to 2008, the Hungarian and Spanish regulator has determined a glide-path to 2008, while the latest glide-path in the UK runs until 2010.'

47. The 'glide path' recommended by the Commission results in a MTR in April 2010 of 30 EC cents or about 11.1 US cents. As the present MTR of 35 EC cents went into effect in November 2005 and with the recommended two-phase adjustment, the Commission has set out a 'glide-path' of some four years and four months – November 2005 to April 2010……

56. A suitable benchmark should reflect as much as possible the 'efficient' level of cost to Provide the related termination service in the national environment in which it is provided. Incongruent networks due to significant differences in network topology or irrelevant comparisons due to wide variations in exchange rates should be avoided when selecting a suitable benchmark.

32. The point LIME wishes to make by extensively quoting the proceeding in Anguilla is that care has to be taken that comparable benchmarks are used for the Caribbean. The TRC's proposed approach to creating a benchmark from countries of not only similar jurisdictions but also dissimilar jurisdictions is flawed. Several LRIC studies have been done in the Caribbean region and these are the appropriate benchmarks to be used.

33. Termination Rates in Jamaica are categorized as fixed and mobile, with regulation for Fixed Termination Rates. Mobile Termination Rates (MTR), on the other hand, are not regulated with the exception of Fixed to Mobile Termination Rates. This arrangement for

[10] Op. cit., '*Ovum Study'*, (August 2007), footnote 11, page 8.

MTR in Jamaica is not ideal, as unlike most other countries in the Region there is not a single domestic MTR in the Jamaican market. LIME's preference is for a single MTR in the market consistent with the practice elsewhere in the region.

34. Due therefore to the atypical structure of the Jamaican market, LIME agrees with the TRC that Jamaica would not be suitable to use as a benchmark at this time. This however is a situation specific to Jamaica and does not invalidate the appropriateness of using a Caribbean benchmark, as the TRC infers.

35. LIME's understanding is that all the options presented by the Commission in this Public Notice are intended to achieve a market oriented rate. By presenting options, it is evident that the Commission does not believe that there is only one route to achieving market oriented rates and by considering that the existing prices could subsist, the Commission has recognized that the existing rates could well be market oriented.

V. Comparison of Termination Rates in BVI with Rates in the Eastern Caribbean

Question 5: Do you agree that the TRC should address the issue of fixed and mobile termination rates?

36. LIME makes reference to the fixed and mobile termination rates and transit rates in the Eastern Caribbean and compares those rates to the rates in BVI.

	DOMESTIC TERMINATION RATES			
COUNTRIES	**Fixed**	**Mobile**	**Transit**	**Emergency**
BVI	**0.03**	**0.05**	**0**	
Dominica	0.0217	0.0956	0.0114	0.0093
Grenada	0.0151	0.0930	0.0076	0.0114
St. Kitts	0.0097	0.1043	0.0110	0.0073
St. Lucia	0.0130	0.0830	0.0067	0.0080
St. Vincent	0.0141	0.0893	0.0067	0.0066
ECTEL Average	**0.0147**	**0.0930**	**0.0087**	**0.0085**

37. This comparison demonstrates that the mobile termination rates in BVI compares more than favourably with the ECTEL rates which were arrived at using a LRIC model. As the Commission is aware, using a LRIC is industry best practice and produces rates which are market oriented.

38. Further, although the fixed termination rate is noticeably higher in BVI than in the ECTEL countries, BVI has the distinction of the mobile termination rate and fixed termination rate almost at parity and this is a significant achievement.

39. Using the rates of Eastern Caribbean as the benchmarks definitely presents far less challenge than using countries in other geographies given that BVI is in the same geography as the countries in the Eastern Caribbean.

40. Without prejudice to the foregoing, LIME also notes that the public versions of the draft LRIC models being developed in the Cayman Islands, available at www.icta.ky, indicate a Fixed Termination Rate of USD 0.0275 per minute, a transit rate of USD 0.0304 per minute, and a Mobile Termination Rate of USD 0.0324 per minute (based on a 3G network and interconnection via the fixed network). This represents an alternative set of LRIC-based rates that the Commission can consider, once the models are finalized.

VI. INTERCONNECTION CODE

41. LIME does not disagree with the general framework of the Interconnection Code, with which LIME's current interconnection agreements are compliant for the most part. LIME is, however concerned with two of the principles that the Commission is seeking to enshrine in this document:

Interconnection Charging

42. Part IV of the proposed Requirements deals with Interconnection Charging. The Commission, at clause 15 (2) of that part proposes that "*rates for interconnection established by public suppliers that are not dominant shall not be subject to regulation*…", at the same time as it propose regulation of public suppliers who have been declared dominant. LIME is firmly of the view that such a system as it relates to interconnection pricing could lead to asymmetric pricing between providers which would be a virtual nightmare to administer and which violates the principle that within the same market, the same price ought to be charged for the same service.

43. The Commission goes on, in subsection (3) to deal with the manner of regulation of dominant providers. That subsection reads:

(3) The Commission may determine that a dominant public supplier shall provide interconnection:

(a) at rates that are cost-oriented as per the forward looking long-run incremental cost standard;

(b) at rates based on appropriate international benchmarks as determined by the Commission; or

(c) as per arrangements where no payments are made between public suppliers.

44. LIME is of the view that this provision does not provide a sufficient level of certainty. The Requirements ought properly to set out the method that will be used to determine rates, rather than setting out a choice of contradictory methods. Having said that, LIME maintains that cost-orientation is the fairest and most effective measure of appropriate rates.

Access to Facilities and Utility Installations

45. LIME submits that the obligation of a dominant supplier to "*allow another public supplier to collocate its facilities in buildings housing any switches at which the carrier is required to permit interconnection in accordance with these Requirements, at any satellite earth station, at any radio tower, at any telecommunications equipment rooms in commercial or residential buildings or at such other locations as the Commission may determine as related to the market in which the respective supplier is found dominant*"

[Requirement 18(10)(3)(a))] is unduly broad and places an unfair burden on a dominant supplier without permitting similar access by that supplier to the facilities of other suppliers.

46. That burden is only increased by the proposal in sub-section (12) that "*in cases where a dominant public supplier cannot offer physical collocation for any reason set out in clauses (a) and (b) of subsection (3)* [this reference is incorrect and would need to be corrected in the final Requirements]*, such public supplier must take reasonable measures to afford the party requesting collocation alternative solutions, including but not limited to, virtual collocation, conditioning additional equipment space, optimizing the use of existing space or finding adjacent space*." LIME objects to the position that where it has been shown that physical collocation cannot be established, a supplier should be forced to provide alternative solutions.

VII. Closing Remarks

47. LIME thanks the Commission for the opportunity to participate in the consultation. Kindly send any communication in relation to this consultation to:

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