

RESPONSE TO

**CONSULTATION ON THE VIRGIN ISLANDS
TELECOMMUNICATIONS MARKET REVIEW**

Reference Number: C/06/2010

LIME

Landline | Internet | Mobile | Entertainment

By E-mail to: consultations@trc.vg

1 November 2010

I Introduction

1. Cable and Wireless (BVI) Limited, trading as LIME (“LIME”) is pleased to provide the following response to the Telecommunications Regulatory Commission’s (“TRC”) October 14, 2010 consultation document on “*Consultation on The Virgin Islands Telecommunications Market Review*”.

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 TRC’s position on the matter. LIME reserves the right to comment on any issue raised in the consultative document at a later date.

II. Response to the TRC’s Questions

3. LIME’s response to the Telecommunications Regulatory Commission’s (TRC) questions is as follows:

Question 1: Are there other market areas with competitive problems other than those identified under 4.2 that should be addressed through the market review?

LIME’s RESPONSE:

4. LIME understands that the intent of the TRC is to ‘...to assess whether any public supplier of telecommunications services is dominant in the provision of telecommunications services in a defined market and to assess how it would be possible for that public supplier to abuse its market power to the detriment of consumers ‘. However the framing of question number 1 presupposes that the “market areas” identified already have “competitive

problems.” Such a conclusion is premature and unsubstantiated since the exercise to define markets and the assessment of dominance in those markets is yet to be done.

5. In competition law, regulatory policy, and economics, the word ‘market’ has a specific meaning and should only be applied after an empirical analysis of potential substitutes has been conducted. Accordingly terms “market” and “market area” in the question and throughout the section are used inappropriately. Such language should be removed from the question.

6. At subsection 1(b) of Section 4.2, titled “Broadband retail services” the TRC states that “[t]here is one fixed broadband licensee with an extremely significant market share in the provision of broadband internet service”. It appears the TRC has conducted its own market definition analysis and based on this analysis concluded that a single operator has “an extremely significant market share” in the market for “broadband internet service” in BVI. Likewise, in subsection 3, titled “Call termination,” reference is made to “market shares,” suggesting an analysis has been conducted to define the “call termination” market. If such market definition analysis exist, then the TRC must present these analysis and clearly support the basis for its conclusions. If it has not conducted market definition analyses, then such statements are without sufficient basis, must be stricken from the document, and the terms “market” and “market area” in the question and throughout Section 4.2 must be removed.

Question 2: Do you agree with the list of market clusters set out in 4.3 for analysis by the TRC?

LIME's RESPONSE:

7. The consultation document presents a preliminary ranking or prioritization of six "market clusters." The definition of these "markets" is premature since the exercise to define the markets has not yet commenced. As an initial matter, the TRC must present the basis for its conclusions that the six "market clusters" constitute markets. If the term "market cluster" is intended to convey something other than an economic market, then the TRC must clearly define this term. In the absence of this information, members of the public cannot offer constructive and informed comments.

8. That there is no basis at this time for establishing market clusters does not preclude the TRC from establishing other basis for reviewing the services listed at section 4.3, such as policy objectives or the importance of the service to consumers. The TRC would then share the basis for selection of these services with all interested parties.

Question 3: Is this the appropriate prioritization of markets for review?

LIME's RESPONSE:

9. The preliminary ordering of the six "market clusters" identified in the consultation document is guided by an implied ranking or weighting of unstated priorities. The consultation document offers no suggestion or indication of what are considered relevant criteria or how these criteria are to be weighted in order to rank or prioritize the identified "market clusters." Absent any guidance from the TRC, efforts to prioritize the market

clusters would lack coherence and would be entirely ad hoc. LIME therefore encourages the TRC to share the basis for its prioritization, so that members of the public can provide constructive and informed comments on the appropriateness for BVI.

Question 4: Do you have any comments on the proposed market definition and analysis procedure?

LIME'S RESPONSE:

10. LIME's response to question 4 is subsumed in its responses to questions 1 through 3.

III. Closing Remarks

11. LIME looks forward to the publication of the information and assumptions requested above, so that LIME and other interested parties can participate in a full, constructive and informed manner in the TRC's consultation.

12. Kindly send any communication in relation to this consultation to:

Sean Auguste

LaVerne Hodge

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