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July 28, 2015

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TELECOMMUNICATIONS REGULATORY COMMISSION
BRITISH VIRGIN ISLANDS

Mr. Guy Lester Malone
Chief Executive Officer
Telecommunications Regulatory Commission
Road Town, Tortola
British Virgin Islands

Dear Mr. Malone:

Re: TRC Spectrum Award 2015 Process

Further to our letter of May 22, 2015 regarding “2015 Spectrum Management / Spectrum Award Process” and pursuant to: your letter June 26, 2015 regarding “Meeting on the Telecommunications Regulatory Commission’s Public Consultation on the Spectrum Award 2015”; the Spectrum Award 2015 – Consultation Document published on June 30, 2015; our meeting on July 9, 2015, with TRC’s spectrum consultants, TRC’s legal representation, Mr. Gregory Nelson (Director, Spectrum Management & Standards, TRC) and yourself; your letter of July 20, 2015 regarding “Meeting with mobile operators on the Telecommunications Regulatory Commission’s Public Consultation on the Spectrum Award 2015”; and, your letter of July 22, 2015, regarding “Spectrum Allocation and Assignment in the British Virgin Islands”, we believe the entire TRC Spectrum Award 2015 Process is inherently biased against CCT.

Please consider the following:

1. We thank you for your letter of July 22, 2015, regarding “Spectrum Allocation and Assignment in the British Virgin Islands” which finally responded to our letter of September 15, 2014 regarding “Spectrum Allocation & Spectrum Usage in British Virgin Islands”. However, we are flabbergasted that after specifically confirming our understanding of the British Virgin Islands spectrum allocations of both our multinational competitors, that the TRC took the extraordinary step of informing CCT that we could make a formal complaint regarding our competitors spectrum usage if we believe they are exceeding their spectrum allocation, as if somehow our detailed letter of September 15, 2014 did not constitute a formal complaint. Furthermore, we do not accept TRC’s recent contention that the 2x2.2 MHz which TRC assigned to LIME on temporary basis on April 30, 2012, without ever even notifying CCT, was never actually allocated to CCT. In fact all previous correspondence from the TRC including an email from Mr. Gregory Nelson (Director, Spectrum Management & Standards, TRC) dated September 3, 2009, and the

TRC Spectrum Management Framework which discusses CCT spectrum holdings at great length, state that CCT is allocated 14 MHz on the 850 MHz Band (i.e. 824 to 838 MHz paired with 869 to 883 MHz) and 23 MHz on the 900 MHz Band (i.e. 892 to 915 MHz paired with 937 to 960 MHz). However, notwithstanding the dubious nature LIME's April 30, 2012 temporary assignment, it expired on October 29, 2012. Furthermore we are equally troubled by the 2x5 MHz which TRC assigned to Digicel on temporary basis on October 17, 2012, without ever notifying CCT, but it has also expired on January 18, 2013. Therefore, considering our letter of September 15, 2014 already: provided specific evidence of British Virgin Islands unauthorized spectrum usage; clearly articulated CCT's spectrum usage; humbly requested the TRC investigate the spectrum usage our competitors; and, implored the TRC to enforce current British Virgin Islands spectrum allocations, we can only conclude that as we feared, the TRC has decided to allow our multinational competitors to continue operating public telecommunications networks in the British Virgin Islands in spectrum not allocated to them respectively. CCT does not understand how the TRC can reasonably pursue the TRC Spectrum Award 2015 Process without first enforcing current spectrum allocations, particularly considering a portion of the spectrum designated for award is currently being used without authorization, but if this process persist we will participate with great trepidation.

2. It seems that heretofore TRC has completely ignored or rejected CCT's objection to the spectrum cap of no more than 60 MHz of public spectrum in bands below 1GHz on the grounds that separate caps should be established for Region 1 and Region 2 spectrum. The TRC seems to have gone back and forth about whether Region 1 or Region 2 spectrum will be given priority in the BVI where spectrum bands overlap but considering the close proximity of the BVI to the North American market and the preponderance of North American tourist arrivals in the BVI versus tourist from the rest of the world, CCT believes the TRC should give Region 2 spectrum priority. However, where Region 1 spectrum is allocated to an operator it should be considered separately from far more valuable Region 2 spectrum. In fact we believe it is categorically unfair to consider CCT's allocation of Region 1 900 MHz Band spectrum against the TRC 60 MHz spectrum cap for public spectrum in bands below 1 GHz, considering we are the only provider with Region 1 allocated spectrum below 1 GHz. However, notwithstanding our objection, CCT will relinquish some of our spectrum below 1 GHz if we are awarded 700 MHz Band spectrum and TRC insist on applying the spectrum cap as currently defined.
3. It seems that TRC has also completely ignored or rejected CCT assertion that it is not prudent to divide the 700 MHz Band amongst three operators because current LTE technology requires at least 10 MHz of continuous spectrum in order to deliver the throughput expected by an LTE network. However, the TRC seems to understand the

relative lack of value associated with the 2x6 MHz block of 700 MHz Band (i.e. 710 MHz to 716 MHz together with 740 MHz to 746 MHz) included the TRC Spectrum Award 2015 Process because Addition Commitments of “successful” applicant who receives this block do not become obligations of their Frequency Authorization, and preference is awarded regarding subsequent 1900 MHz Band or AWS 1700 / 2100 MHz Band allocation. Therefor our question remains why divide 700 MHz Band amongst three operators if TRC has essentially conceded our contention that current LTE technology requires at least 10 MHz of continuous spectrum?

4. We appreciate that TRC accepted our suggestion to prioritize Region 2 spectrum over Region 1 spectrum and include Region 2 AWS 1700 / 2100 MHz Band (i.e.1710 to 1755 MHz paired with 2110 to 2155 MHz) rather than allocate additional Region 1 1800 MHz Band spectrum (i.e.1710 to 1785 MHz paired with 1805 to 1880 MHz) and Region 1 1900 / 2100 MHz Band spectrum (i.e. 1920 to 1980 MHz paired with 2110 to 2170 MHz). However, we don't understand why TRC changed directions from your previous plan to allocate the unallocated 15x2 MHz of 1900 MHz Band spectrum evenly to the three telecommunication operators, and we can only suppose that this change derives from the TRC's apparent decision to allow one of our competitors to continue their current use of this unallocated 1900 MHz spectrum to operate a public telecommunications network in the British Virgin Islands.
5. It seems that TRC has also completely ignored or rejected our request for 2500 MHz Band spectrum siting the nebulous idea that somehow the 2500 MHz Band requires formal cross border frequency coordination because it is used in the neighboring United States Virgin Islands but somehow none of the other spectrum bands currently in use in both the British Virgin Islands and the United States Virgin Islands require formal cross border frequency coordination. This claim is tenuous at best and CCT is currently using portions of our allocated 33x2 MHz FDD (i.e. 2537 to 2570 MHz together with 2657 to 2690 MHz) and 25 MHz TDD (i.e. 2572 to 2602 MHz). CCT does not intend to relinquish our existing 2500 MHz Band spectrum allocation, as it is critical to our technology upgrade path, and in fact CCT requests the TRC allocate the remaining 2500 MHz Band spectrum to CCT as well, especially considering we are the only exclusively wireless telecommunications operator in the BVI.
6. Furthermore, it seems that TRC has also completely ignored or rejected our objection to the 170 MHz aggregate public mobile spectrum cap. Similar to our suggestion that separate spectrum caps be established for Region 1 versus Region 2 spectrum, the TRC should also consider separate spectrum caps for low frequency propagation spectrum versus higher frequency capacity spectrum.



7. Lastly, we are flabbergasted that the TRC has not provided any protections within the TRC Spectrum Award 2015 Process for a locally owned and operated telecommunications provider. We believe it is inherently within the public interest that protections be afforded to a locally owned and operated telecommunications provider to preserve fair competition against multinational telecommunications providers. Currently, the British Virgin Islands enjoys some of the most aggressive pricing in the entire Caribbean largely because of the prominence of a locally owned and operated provider, which is the only major distinguishing characteristic of our telecommunications market. However rather than protect this valuable public interest and prevent the telecommunications oligopoly that has disadvantaged the rest of the Caribbean, the TRC Spectrum Award 2015 Process has embedded characteristics of a spectrum auction into the process by including a performance bond which significantly advantages companies with more resources while falsely contending that the process is a comparative evaluation not a competitive bid.
8. In fact rather than embracing inclusion it is hard to not come away from Spectrum Award 2015 – Consultation Document and the TRC’s recent correspondence with CCT, without the distinct impression that the intention is specifically to exclude CCT from even contending the TRC Spectrum Award 2015 Process. The assertion is made over and over again that CCT will not prequalify for TRC Spectrum Award 2015 Process unless all our financial obligations to the TRC are satisfied, whereas the alleged transgressions of our multinational competitors are scarcely even mentioned, let alone belaboured as CCT financial challenges are. Additionally, the TRC continues to refuse to accept that regulatory disparity whereby CCT has consistently been disadvantaged in favour of the multinational telecommunications providers is largely responsible for CCT’s economic difficulties. Furthermore the TRC has stated emphatically that they are reluctant to even negotiate a payment plan to regularize their relationship with CCT.
9. The Government of the Virgin Islands and the TRC must recognize that it is of fundamental importance to the overall socio-economic level of the Virgin Islands that Virgin Islanders and / or persons belonging to the Virgin Islands should be in position to take advantage of economic opportunities available in the Territory and to participate in a the local economy in a meaningful way. Therefore, wherever practicable, the Government and the TRC should when considering the grant of permits, licenses for the delivery of goods and / or services, the award of contracts for work with the Government of the Virgin Islands, and applications generally, take into account as primary factor the need to promote and / or preserve economic opportunities for Virgin Islanders or companies owned and controlled by persons belonging to the Virgin Islands. This is consistent with the provisions of The

Virgin Islands Labour Code, 2010, The Non-Belongers Land Holding Regulation Act, 2009, and The Virgin Islands Constitution Order, 2007.

Notwithstanding all our objections, CCT is committed to providing the most advanced telecommunications networks available in the BVI and we look forward to the opportunity to deploy new telecommunications services in additional spectrum.

Yours sincerely,



Averad Penn
Chief Executive Officer
Caribbean Cellular Telephone

Cc: Dr. the Hon. D. Orlando Smith, OBE, Premier of the Virgin Islands
Hon. Mark Vanterpool, Minister for Communications and Works
Mr. Michael Thomas, Chairman of the Telecommunications Regulatory Commission
Mr. Ian Smith, Telecommunications Regulatory Commission
Mr. Delroy Williams, Telecommunications Regulatory Commission
Board of Directors, Caribbean Cellular Telephone

