



**Digicel's Comments on Responses to
Cable & Wireless Jamaica's Application
for Reconsideration of the Determination
Notice on Cost Model for Fixed
Termination Rates**

20 July 2017

Digicel welcomes the opportunity to comment on the responses to Cable & Wireless Jamaica's (C&WJ) request for a review of the recent OUR Determination on Fixed Termination Rates (FTRs). Digicel is of course available, and would be happy, to discuss our submission further.

The comments as provided herein are not exhaustive and Digicel's decision not to respond to any particular issue(s) raised in the application document or any particular issue(s) raised by any party relating to the subject matter generally does not necessarily represent agreement, in whole or in part nor does any position taken by Digicel in this document represent a waiver or concession of any sort of Digicel's rights in any way. Digicel expressly reserves all its rights in this matter generally.

Please do not hesitate to refer any questions or remarks that may arise as a result of these comments by Digicel to: -

Tobi-Ann Chang
Senior Legal Counsel
Digicel (Jamaica) Limited
14 Ocean Boulevard
Kingston
Jamaica



Tobi-Ann Chang
Senior Legal Counsel

DIGICEL'S COMMENTS

Consumer Advisory Committee on Utilities (CACU)

CACU's response is in essence a summary of the matters which C&WJ believes merit a review of the glide path decision. We note that CACU does not offer an opinion on the merits or otherwise of these.

Verge Communications (Verge)

Legal basis and market impact of extended glide path

Digicel notes the views of Verge as regards the legal powers of the OUR to set any glide path and the view it expresses that allowing rates to persist above the determined rate is in contravention of the Telecommunications Act. While Digicel does not wish to offer a comment on this analysis this does not mean that it either endorses or rejects Verge's position in this regard.

In relation to the market impact of an extended glide path, Digicel agrees with the conclusion reached by Verge that an extended glide path benefits C&WJ unduly. However, Digicel remains of the view that such market impact arises primarily because of the asymmetry in regulatory approach between the fixed and mobile termination rates and that the use of an extended glide path for fixed termination rates is a form of regulatory discrimination to the detriment of mobile operators.

Legitimate Expectation

Digicel is of the view that the conclusions of Verge on the issue of legitimate expectations are broadly aligned with Digicel's. This common view is that C&WJ could have had no legitimate expectation of an extended or even any glide path.

END OF DOCUMENT