



# Digicel

**Digicel's Response to URCA's Preliminary Determination on the  
Assessment  
of Significant Market Power in Call  
Termination Services in The Bahamas under  
Section 39(1) of the Communications Act, 2009  
Consultation Document  
ECS 06/2013**

17 June 2013



The comments as provided herein are not exhaustive and Digicel's decision not to respond to any particular issue(s) raised in the consultation 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 with the Authority or any party on those issues; 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.

We thank you for the opportunity to provide comments on this consultation and of course are available for any questions you may have.

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

Andrew Gorton  
Group Head of Regulatory Affairs  
Digicel Group

[andrew.gorton@digicelgroup.com](mailto:andrew.gorton@digicelgroup.com)

Tel: + 1 876 470 9069



## Introduction

Digicel is very keen to invest in the provision of telecommunications networks and telecommunications services in the Commonwealth of the Bahamas (The Bahamas). We hope that our comments will contribute towards the Authority's implementation of a regime that will lead to the optimum outcome for The Bahamas for the communications sector as a whole.

We have focussed on one question in the consultation – number 9. We believe that the other questions relate to proposals by the Authority that for the most part will lead to outcomes consistent with widespread international regulatory practice.

**Question 9: Please provide comments on URCA's preliminary proposal to set wholesale call termination charges equal to BTC's regulated wholesale termination charges for all SMP operators. If respondents consider that reciprocal charging is not appropriate, respondent should describe their preferred alternative approach, with supporting rationale.**

In this respect we note that the Authority states on page 46 of its consultation that:

“

*URCA could not find any record of Bill and Keep being imposed by a regulatory authority. It appears to URCA to generally result from voluntary agreement between interested parties, which in certain circumstances choose to set these fees at zero, particularly where the net financial settlements are equal to or close to zero. It is argued that Bill and Keep obviates the need for regulatory intervention and based on the foregoing arguments, 'bill and keep' is not considered best practice regulation. That particular approach in URCA's view is not the best method for promoting a competitive environment and would not be consistent with the broad policy framework governing interconnection in The Bahamas. The adoption of 'bill and keep' in The Bahamas would be a marked departure from the current practice in The Bahamas whereby operators charge each other fees for termination.”*

and on page 47:

*“...cost based rates are considered the best method for promoting a competitive environment. Cost based termination rates should reflect the economic costs of termination and is the method most compatible with competitive markets. Cost based rates provide operators with sound 'make or buy' investment signals, allow economically efficient pricing, which can be fair to both the seller and buyer of termination, encourage competitive entry and promote the overall objectives of the Comms Act.”*



There is however, as the Authority knows, one area where no termination rates are charged currently. That is mobile termination. The reason for this is probably partly historical in origin given that there was only ever a single mobile operator in the Bahamas previously and therefore there was no need to consider the interactions with, and the impact on, another mobile operator and its customers. Presumably BTC also avoided any system of internal transfers during the period of mobile monopoly for reasons of simplifying its accounts. Further, the use of a Receiving Party Pays system for mobile networks in the United States, where subscribers have to pay to receive any calls, in place of termination rates, may also have influenced developments in the Bahamas. Times are changing however and we believe that now is the time to bring mobile termination in to line with the rest of the interconnection regime in the Bahamas in advance of full competition and in order to enhance that competition.

We note that the Authority has recently required Accounting Separation of BTC and has put in place with BTC a regime for enabling internal transfers. There is an internal transfer enabled for calls from mobile to fixed phones already it appears. Therefore in principle we do not see a basis for not arriving at a cost based internal transfer rate for mobile termination when calls are made from BTC's fixed lines to its mobile customers or for an actual mobile termination rate when calls are made to BTC mobiles by other networks. Providing for a cost based internal transfer would be consistent with the Authority's policy for optimal competitive outcomes as we understand it, and would be consistent with the existing regime in place for fixed to fixed and mobile to fixed calls. The best time to introduce such changes may be at the advent of competition in mobile as in that event operators would be able to make much of the fact that subscribers no longer need to worry about being charged for receiving calls on their mobiles.

In contrast, by sticking to a zero mobile termination rate, the Authority would, it appears to us, de facto be putting in place a regime for mobile termination which conflicts with the Authority's views on what is optimal for the Bahamas. Ultimately this seems to be leading down the path to a system of 'bill and keep' for calls from fixed to mobile phones only when mobile competition arrives. The Authority will be fully aware of past disagreements in other jurisdictions around mobile termination rates, but nowadays mobile termination rates are significantly lower and consequently less of an issue. Therefore we believe that the policy and competitive benefits justify introduction of them consistent with the rest of the regime in the Bahamas. The introduction of mobile termination rates would have additional social benefits. These include for example the fact that persons who may have limited finances but who want to be able to remain in touch with family and friends will still be able to do so as friends and family will be able to pay for the calls made. Further, under a receiving party pays system, customers have an incentive to switch off their mobiles in order not to incur expenses which they are not able to control, and this can be avoided if termination rates are always paid.

We note that the Authority has established a mobile termination rate already of 6.03 cents for international calls terminating on mobile phones. The simplest approach at this juncture is



therefore perhaps to equalise the domestic and international mobile termination rates<sup>1</sup>. In turn this would enable mobile carriers in a competitive environment to avoid levying retail charges on customers for every call they receive.

---

<sup>1</sup> That does not mean that we believe that international termination rates always have to be the same as domestic rates necessarily given the retail pricing levels for calling the Bahamas from other countries eg the standard pay per minute rate for a T-Mobile call from the USA to the Bahamas is US\$1.99 per minute [https://www.t-mobile.com/International/Information.aspx?tp=Intl\\_Tab\\_CallWorldwide](https://www.t-mobile.com/International/Information.aspx?tp=Intl_Tab_CallWorldwide). In other words the US carrier's revenue from the call is 3,300% of the termination cost.