Response to ECS 02 2021 Review of Draft wholesale dedicated internet access reference offers from BTC and CBL under section 39 and 40 of the Communications Act, 2009

Consultation response request – BTC's proposed non-price terms

Q1. Please provide comments on the proposed non-price terms (e.g., SLAs, QoS, O&M, ordering, billing, and payment process, etc.) in BTC's draft WDIA reference offer. Please provide supporting evidence as part of your response, where possible.

1. Service description does not indicate whether the service will be provided over fiber, ethernet, coaxi8al etc.…
2. Service description does not indicate whether the speed provided is symmetrical or asymmetrical.
3. Is the static IP address and support for on Domain name etc.… included in the price?
4. BTC should be able to indicate definitively what the installation and/or equipment charge is. Alternatively, BTC should be able to indicate what conditions will attract an installation and/or equipment charge. As presently stated, it is too vague and allows for too much discretion by BTC which can lead to anti-competitive behaviour.
5. BTC refers to "Access Seeker" but this is not defined in the reference offer
6. Terms and Conditions Clause 3(8) contains punitive penalties for early cancellation. Clause 3(8)(a) and (b) should be eliminated
7. Service Level Agreement Clause 3(4) the time for providing upgrades is too long. This is a wholesale service and should be treated better or at least no less than a residential installation. New Providence and Grand Bahama should be 5 working days and Abaco etc.… be 7 working days and All other family islands should be 10 working days.
8. Bank Guarantee – clause 7 – this provision needs to be regulated as it is a competitive deterrent. From an economic perspective the discretion gives to providers to increase the monetary security results in an uneconomic use of money. a. the money is held in non-interest-bearing instrument. b. that non-interest bearing instrument may be subject to bank charges and vat. It is therefore costing the wholesaler to provide the security. This bank guarantee is present in the interconnection agreement, the commercial wholesale offer and the now this DIA reference offer. It is conceivable that an operator who enters into more than one of these agreements, can face high cost of budgeting for uneconomic use of money. A monetary limit should be placed on the amount of money that a guarantee can represent. i.e., 10% of the value of the service but not more than $20,000.00. The provision also needs to take into consideration the credit bureau that has been created and rate a party accordingly.

9. Breach clause 8. Clause 8.2 should read Subject to URCA's prior approval BTC may…

10. Confidentiality and information protection – clause 10. Clauses 10.1 and 10.2 are not necessary since the reference offer is a public document and should be standard between all wholesalers. Clause 10.6 - 60 months is excessive. It should be 12 months.
11. Annex 6 – Qos/Service Level Agreements – The SLA is more an escalation process. BTC needs to set baselines that the service will meet and where those baselines are not met there needs to be monetary compensation/credit to the Wholesaler. The baselines need to be measurable. Annex G of CBL's reference offer is a sample that BTC needs to include.

Consultation response request – CBL's proposed non-price terms

Q2. Please provide comments on the proposed non-price terms (e.g., SLAs, QoS, O&M, ordering, billing, and payment process, etc.) in BTC's draft WDIA reference offer. Please provide supporting evidence as part of your response, where possible.

1. Confidentiality and information protection – clause 18. Clauses 18.1 and 18.2 are not necessary since the reference offer is a public document and should be standard between all wholesalers.

2. Bank Guarantee – clause 19 – this provision needs to be regulated as it is a competitive deterrent. From an economic perspective the discretion gives to providers to increase the monetary security results in an uneconomic use of money. a. the money is held in non-interest bearing instrument. b. that non-interest bearing instrument may be subject to bank charges and vat. It is therefore costing the wholesaler to provide the security. This bank guarantee is present in the interconnection agreement and the now this DIA reference offer. It is conceivable that an operator who enters into more than one of these agreements, can face high cost of budgeting for uneconomic use of money. A monetary limit should be placed on the amount of money that a guarantee can represent. i.e., 10% of the value of the service but not more than $20,000.00. The provision also needs to take into consideration the credit bureau that has been created and rate a party accordingly.

Consultation response request – BTC's proposed price terms

Q3. Please provide comments on the proposed price terms (e.g., pricing structure and level) in BTC's draft WDIA reference offer. Please provide supporting evidence as part of your response, where possible

It is a disservice to the industry that since 2009 that BTC's accounting separation reports are not fit for purpose. The purpose of the exercise was to inform cost with the resulting benefit to the industry of informed baselines and fair and reasonable prices. Yet again there is benchmarking, and it is not clear whether these prices benchmarked against are derived from cost-based formulation. It is noted that BTC submitted prices from its affiliated C&W operations – where these prices derived from a cost-based formulation. Since 2011 C&W has had management control of BTC and yet BTC cannot produce robust account separation results. Another impediment to commenting on the pricing structure and level is the absence of information on what medium is being used to provide the DIA (fibre, microwave, coaxial, subsea, cellular).

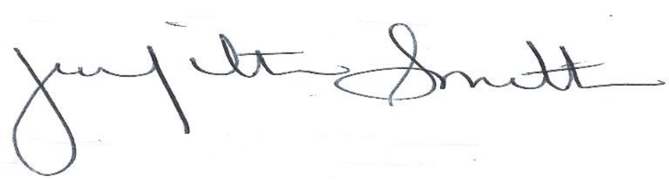
The prices appear high and there appear to be multiples of the 100mbps. I would suggest there is a discount of 15%-20% as wholesalers get volumes. I.e., 500mbps should be a 10% discount on the base price (presently set at $3693. 1G should be a 15% of the base price and 2G 20% of base price and 10G 35%).

The prices should not change during the contract period unless there is an upgrade or downgrade and changes in prices should be subject to 90 days' notice and have URCA approval.

Consultation response request – CBL's proposed non-price terms

Q4. Please provide comments on the proposed price terms (e.g., pricing structure and level) in CBL's draft WDIA reference offer. Please provide supporting evidence as part of your response, where possible

There is some comfort that the prices were derived from CBL's accounting separation. The pricing seems to consider discounts for volumes.



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