



INTERCONNECTION POLICY

MINISTRY OF ENERGY AND PUBLIC UTILITIES

(Telecommunications Unit)

INTERCONNECTION POLICY

Introduction

This policy is specified in accordance with Section 4 (2)(i) of the Telecommunications Act 2001-36.

1.0 Section 1

1.1 The Green Paper on Telecommunications Sector Policy states:

“Government will create an environment where the new entrants and the incumbents can negotiate interconnection agreements within clearly defined parameters, with the Regulator only being required to intervene where it is necessary to expedite the process and resolve an impasse in negotiations.”

1.2 “Interconnection” means the physical and logical linking of telecommunications networks used by the same or a different organisation to communicate with users of the same or another organisation or to access services provided by another organisation. Services may be provided by the parties involved or other parties who have access to the network;

1.3 Interconnection will be undertaken on the following basis:

- The terms of interconnection will be agreed between operators on a commercial basis;
- Interconnection agreements will be non-discriminatory and provide equal access;
- Interconnection rates will be transparent and reasonable with regard to economic feasibility and must be cost based; and
- Network components must be sufficiently unbundled so that the interconnecting operator does not pay for facilities which it does not need to provide its services.”

1.4 With the Government embarking on the liberalisation of the telecommunications sector in three phases, the requirement for interconnection depends on the phase implemented. The dates for each phase is under negotiation and will be published when agreed. Phase 1 commenced on November 01, 2002.

- PHASE 1 - NETWORK BASED COMPETITION IN CELLULAR

Schedule 2 of the Transition timetable provides for interconnection of new mobile telecommunications providers to Cable & Wireless (Barbados) Limited domestic network in Phase 1, and also provides for interconnection to the mobile telecommunications network of all providers. No interconnection directly to the international gateway is permitted in this Phase.

- PHASE 2 - DOMESTIC FIXED (WIRELESS) NETWORK

Interconnection of new domestic networks is envisaged.

- PHASE 3 - FULL LIBERALISATION INCLUDING INTERNATIONAL NETWORK

Interconnection to the international network by mobile telecommunications carriers, domestic telecommunications carriers, and international telecommunications carriers is envisaged.

1.5 Interconnection between networks of licensed carriers should be in accordance with established principles for interconnection in keeping with the WTO Annex on telecommunications attached as Appendix 2.

1.6 The dominant carrier will be required to file with the Fair Trading Commission a Reference Interconnection Offer (RIO), which shall set out the terms upon which this carrier will offer interconnection to its network.

1.7 The Telecommunications Act was proclaimed on September 30, 2002.

2.0 Section 2

2.1 CARRIERS TO PROVIDE INTERCONNECTION

2.2 Each telecommunications operator licensed as a carrier will be required to provide interconnection to requesting licensed carriers, to its public switched telephone network for the purpose of supplying telecommunications services.

2.3 Interconnection should be allowed at any point of the network, which is technically practical to do so. In practice, this means locations where traffic is switched, i.e. local switches, tandem switches, and international switches.

2.4 New operators should be able to request new services made up of different combinations of the network components and should be able to buy only those elements of the incumbents network they require.

2.5 Licensed carriers will be required to provide interconnection to their networks:

- i. on such reasonable terms and conditions as the interconnecting parties agree through commercial negotiations; or
- ii. consistent with an approved Reference Interconnection Offer ("RIO"); or
- iii. failing agreement, or if either party seeks its involvement, on such terms and conditions as the Fair Trading Commission (FTC) determines applying the interconnection principles outlined below and established under the Telecommunications Act 2001-36, and applying the terms of any approved RIO or any regulation developed by the Commission.

3.0 Section 3

3.1 PRINCIPLES OF INTERCONNECTION

3.2 Interconnection must be provided in accordance with the following principles:

- i. Interconnection should be offered upon request to licensed carriers at points in addition to network termination points offered to the end-users, subject to charges that reflect the cost of construction of any additional facilities necessary for interconnection;

- ii. Interconnection should be provided on terms that are transparent and non-discriminatory;
- iii. Interconnection charges and service quality should be no less favourable than those to be provided by a carrier for its own like services, or for like services of non-affiliated service suppliers or for its subsidiaries or other facilities;
- iv. Interconnection should be made available in a timely fashion;
- v. Interconnection charges should be cost-oriented;
- vi. Access deficit costs/charges to be separately identified and not part of interconnection charge;
- vii. Interconnection services should be sufficiently diverse so that the requesting party does not have to pay for network components, facilities or services that it does not require or has not requested;
- viii. End-users of public telecommunications services should be able to exchange telecommunications with other users of like services regardless of the telecommunications network operator to which the end-user is connected.

4.0 Section 4

4.1 REFERENCE INTERCONNECTION OFFER (RIO)

4.2 The dominant carrier will be required to file a RIO with the FTC within 52 calendar days of being notified to do so by Order from the Fair Trading Commission, setting forth the terms and conditions under which other licensed carriers will be permitted to interconnect with the supplying carrier's telecommunications network.

4.3 The RIO will be the basic commercial terms governing interconnection, which the supplying carrier intends to offer to any requesting carrier. A RIO should therefore include terms and conditions relevant to interconnection, which may include, but are not limited to, the following issues:

- (a) description of interconnection services to be provided;
- (b) terms of payment, including billing procedures;
- (c) location of points of interconnection;
- (d) technical standards for interconnection;

- (e) processes for testing and establishment of interconnection;
- (f) interconnection charges;
- (g) procedure in event of alterations being proposed to the network or service offerings of one of the parties.
- (h) access to ancillary services;
- (i) traffic forecasting and network management;
- (j) maintenance and quality of interconnection services;
- (k) duration of RIO;
- (l) other terms and conditions in the provision of interconnection services, including limitation of liability, indemnity, dispute resolution procedures, and confidentiality of non-public parts of the agreement.

4.4 The FTC will either approve or require amendment of the RIO, applying the interconnection principles stated in Section 3 and established in the Telecommunications Act.

4.5 The approved RIO will be made available for public inspection in such a manner and for such a fee as the Commission determines.

5. Section 5

5.1 RIO FILING AND APPROVAL

- i. The RIO shall take effect, in whole or in part, if the RIO is approved by the Fair Trading Commission.
- ii. If the Commission considers that a part or the whole of a carrier's RIO is inconsistent with the principles of interconnection set out in section 4 of this Policy, then the Commission may issue a decision accepting or rejecting in whole or in part the RIO stating the Commission's view as to any inconsistency and giving reasons for that decision.
- iii. In deciding whether to accept or reject a RIO the Commission shall consult with the carrier providing the RIO and other carriers likely to seek interconnection to that carrier's network before issuing a decision.

- iv. In deciding whether to accept or reject a RIO, the Commission shall have regard to:
 - the interconnection principles set out in Section 3 of this Policy;
 - the need to promote competition;
 - the Interconnection policy specified by the Minister responsible for telecommunications;
 - the long-term interests of end-users; and
 - the submissions, whether oral or written, of the carriers providing and seeking interconnection
- v. If the Commission accepts a RIO in whole or in part, then that whole or relevant part of the RIO takes effect from the date it is accepted, and a declaration shall be made as to the acceptance, in whole or in part of the RIO, and shall specify the date that it takes effect.
- vi. Following the issuing of a decision to reject an RIO in whole or in part, the Commission shall consult with the filing carrier to resolve the inconsistency with the interconnection principles provided that the carrier may amend the RIO at any time and shall register the amended RIO with the Commission who shall approve or reject the amended RIO as set in Section 6 of this Policy.
- vii. The Commission shall make an approved RIO available for public inspection in such manner and for such fee as the Commission determines.

6. Section 6

6.0 INTERCONNECTION AGREEMENTS

- 6.1 Carriers seeking interconnection will request the provision of interconnection services in writing from the interconnection provider. The interconnection seeker may choose either to accept the terms and conditions set out in the approved RIO of the interconnection supplier, or the interconnection seeker and the interconnection provider will be required to negotiate in good faith to reach agreement on the terms and conditions of interconnection.

- 6.2 If the interconnection seeker requests interconnection other than in accordance with the terms of a RIO that is in effect, the interconnection seeker and the interconnection provider shall negotiate in good faith to reach agreement on the terms and conditions of interconnection provided that such negotiations shall commence within 30 days of the date that the written request for interconnection was received by the interconnection provider.
- 6.3 If an interconnection seeker and an interconnection provider agree on the terms and conditions of interconnection, that agreement (“interconnection agreement”) will be filed with the FTC within 30 days and the FTC will make the interconnection agreement available for public inspection provided that the parties to agreements filed with the FTC may be permitted to exclude confidential information from agreements filed with the FTC in accordance with the confidentiality provision under the Fair Trading Commission Act and Rule 13 of the Utilities Regulation Act 2001-30 Procedural Rules.
- 6.4 An interconnection provider will be permitted to limit or terminate the agreement and cease to offer interconnection in the interest of protecting the integrity of its telecommunications network, to protect the safety of any person, or where the interconnecting party does not comply with the terms of the agreement.
- 6.5
- i. If an interconnection seeker and an interconnection provider agree on the terms and conditions of interconnection, that agreement shall be filed with the Commission.
 - ii. The Commission can require parties to agreements that have been filed with the Commission to vary the filed agreement to comply with interconnection principles set out in this Policy.
 - iii. The Commission may also require variation of an interconnection agreement if it considers that the interconnection agreement unfairly discriminates against other carriers or is otherwise unlawful.
 - iv. Any direction for variation under the Telecommunications Act shall be issued within 30 days of an interconnection agreement having been filed with the Commission.

- v. If the Commission issues a direction for variation of an interconnection agreement under this section, the parties filing the agreement shall consult with the Commission and amend such filing.
- vi. The Commission shall keep a Register of interconnection agreements for public inspection.

7. Section 7

7.0 PRE-CONTRACT INTERCONNECTION DISPUTES

7.1 If, following good faith interconnection negotiations and after having exercised all reasonable efforts to resolve pre-contract interconnection disputes, the interconnection seeker and the interconnection provider do not agree as to the terms and conditions of interconnection, then either the interconnection seeker or the interconnection provider may refer that pre-contract interconnection dispute to the Commission for resolution.

7.2 The Policy provides that the request for dispute resolution shall be in writing in such form as specified by the Commission.

7.3 The Commission will ensure that the resolution of an interconnection dispute referred to it represents a fair balance between the legitimate interests of both parties, and the Commission must have regard to the interconnection principles established in this policy, the Interconnection policy and must also have regard to the following matters:

- (a) regulatory obligations or constraints imposed on any of the parties under the Telecommunications Act and any other Acts which the Fair Trading Commission has jurisdiction under;
- (b) the desirability of stimulating innovative market offerings, and of providing consumers with a wide range of telecommunications services;
- (c) the availability of technically and commercially available alternatives to the interconnection requested;
- (d) the need to maintain the integrity of the public telecommunications network and the interoperability of telecommunications services;
- (e) the nature of the request in relation to the resources available to meet the request;
- (f) the relative market positions of the parties;
- (g) the promotion of competition in Barbados; and

(h) the RIO of the interconnection provider.

7.4 An interconnection dispute resolution is to be conducted in camera unless all of the parties otherwise agree.

7.5 Any decision by the Commission as to the terms and conditions of interconnection that are the subject of the interconnection dispute shall be consistent with any agreement reached by the interconnection seeker and the inter-connection provider as to matters that are not in dispute, and consistent with the principles of interconnection and the terms of any RIO that is in effect with respect to that interconnection provider.

7.6 The final determination shall be made available to the public subject to any requirements for confidentiality.

7.7 The provisions of this section related to dispute resolution shall apply both in respect of pre-contract interconnection disputes and disputes referred to the Commission under the terms of an interconnection agreement.

8. Section 8

8.0 FACILITY SHARING/CO-LOCATION

Whenever possible it is required that there should be the joint use or sharing of facilities by licenses of the conduits, subways, ducts, poles, wires, antennae masts or other equipment belonging to another licensee. Compensation must be paid in respect of the use so permitted.

TELECOMMUNICATIONS UNIT

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