

# Public Utilities Commission



# ANGUILLA



*Annual Report*  
2008

# *Public Utilities Commission*

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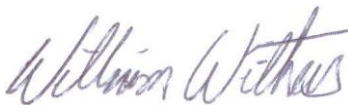
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23 November 2009

## **Re: Public Utilities Commission 2008 Annual Report**

The Annual Report of the Commission for 2008 is hereby approved and submitted pursuant to Section 19 of the Public Utilities Commission Act (2003).



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William Withers  
Executive Chairman



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Orris Proctor  
Vice Chairman



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Verna Fahie  
Secretary

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**Commission Website:** <http://www.pucanguilla.org/>

## 1.0 Introduction

The Commission is responsible for the administration of the Telecommunications Act R.S.A c.T6 (Telecom Act) which was enacted in 2003 and the Public Utilities Act R.S.A. c.175 (PUC Act) which was initially enacted on 7 April 2004.

Appointments to the Commission are made by the Governor-in-Council pursuant to s3 of the PUC Act. The following persons were members of the Commission during 2008: Mr. William Withers, Executive Chairman; Ms. Marilyn Bartlett-Richardson, member and the Deputy Chairman, her second term was completed in June 2008; Mrs. Verna Fahie was appointed a member for a three-year term effective July 2008 and appointed Secretary to the Commission effective 11 September 2008. Mr. Orris Proctor was appointed to a three-year term effective December 2007 and designated Secretary of the Commission at the meeting of 21 February 2008. He was subsequently designated Deputy Chairman of the Commission as of 12 August 2008.

The annual report of the Commission is prepared pursuant to Section 19 of the PUC Act (2003). Section 19 reads as follows:

***“Annual report***

**19.** (1) *Within three months of the completion of the audit of the Commission's accounts, the Commission shall submit to the Governor-in-Council—*

*(a) a copy of its audited accounts; and*

*(b) a written report of its operations and activities for that financial year (the annual report) together with a copy of the audited financial statements.*

(2) *The annual report shall contain such matters as the Governor-in-Council may prescribe.”*

This report provides an overview of the Commission's 2008 activities including the financial performance and position as of the year ending 31 December 2008 (see Appendix I). Funding of the Commission's activities consists of an industry levy established annually. The process of determining and assessing the levy is described in Section 21 (as amended) of the Public Utilities Act R.S.A. c.175 (PUC Act).

## 2.0 Licence Applications

There were no applications for new networks or services received by the Commission during 2008 pursuant to Section 4 of the Telecom Act and the Telecommunications and Frequency Licensing Regulations (R.R.A. T6-2).

## 3.0 Other Applications

### 3.1 Decreases in Fixed Line Rentals- Cable & Wireless

The Commission commented as follows in the 2007 Annual Report<sup>1</sup> on the matter of Cable & Wireless monthly fixed-access prices:

*‘Consequently, the Commission, after reviewing the results of their analysis of C&W’s annual financial statements for the years 2001 to 2006, proposed a price decrease rather than a price increase, effectively denying the September 2004 application by C&W. In a letter dated 1 March 2007, C&W officially withdrew its application of line rental increases first applied for on 8 September 2004.’*

In February 2008, Cable and Wireless proposed a decrease in the fixed line rental prices for both residential and business subscribers. The effective dates for the proposed price decrease by the company were as of 1 April 2008 and 1 April 2009. It was pointed out that the new rates would not be realized until March 2008 bills are issued.

The following price decrease was implemented effective 1 April 2008:

<b>Table 1: Price Reductions Effective 1 April 2008</b>			
<b>Service</b>	<b>Price Before Reduction was Implemented (\$EC)</b>	<b>Proposed Price (\$EC)</b>	<b>Proposed % Decrease</b>
1.Business-Monthly Fixed Access	87.00	78.00	10%
2.Residence-Monthly Fixed Access	42.00	38.00	10. %

The subsequent price decrease was implemented effective 1 April 2009 with the residence decreased to EC\$ 35.00 and the business rate decreased to EC\$ 70.00.

### 3.2 Application for a frequency authorization- 97.7 MHz Fm Broadcasting

The Executive Director reported that he met with Mr. Whaldama Brooks and Mr. Iwandai I Gumbs on 9 July 2008 and it was agreed that they would apply for a frequency at 97.7 FM and to cease broadcasting in 107.7 on or before 11 August 2008.

<sup>1</sup> PUC Annual Report – 2007, page 6.

As a result, it was noted by the Commission that there was no reason not to issue the frequency authorization to B & I Enterprises. Following consideration of the intervention filed in response to the Public notice, and considering B&I Enterprise rely comments the Commission authorized the use of 97.7 MHz by B& I Enterprises.

### **3.3 Application by Cable & Wireless for Simplicity Services.**

Cable and Wireless (C&W, Lime, the Company) filed an application, dated 15 September 2008, for a new discount calling plan namely Simplicity Service. The service will provide discounts to business customers for IDD calls from fixed lines and postpaid mobiles handsets and lower fixed-to-mobile calling prices. In exchange, customers who commit to one- or three year contract terms obtain additional 10% and 15% discounts.

The Commission replied to the C&W letter of application informing the company of that more disclosure was required in the abridged version of their application in order to provided interested persons with a more transparent explanation of the new service. The company re-filed the application by way of a letter dated 26 September 2008 with the Commission

A public notice was published in the Gazette dated 30 September 2008. In response to the public notice, the Commission received comments from Caribbean Cable Communications and Digicel. Lime filed a response to the comments with the Commission. In order to clarify certain issues raised in the proceeding, the Commission by way of a letter dated 10 December 2008 requested certain additional information from Digicel and Lime. The due date for replies was 15 January 2009 for Digicel's response and 15 February 2009 for Lime's response.

### **3.4 Application to Revise Netspeak prices**

C&W filed with the Commission an application dated 15 August 2008 that sought authorization to re-structure and re- price Netspeak Services plans. The proposed changes would permit customers of the Netspeak service to make free on-net, Netspeak to Netspeak international calls. The Commission replied to the C&W letter of application informing the company of certain errors and omissions in their application.

In response to the Commission's letter of 2 September 2008, the company filed an amended application to revise Netspeak prices and packages under a covering letter dated 12 September 2008. A notice of the application and the proposed changes was published in the Gazette, Volume 38, 30 September 2008, page 35. The notice advised interested persons wishing to make a submission on the matter of the proposed changes in the pricing and structure of Netspeak packages and the changes in the pricing of regional on-net Netspeak calls.

Commission Decision 'PUC 2008-105', dated 8 December 2008 approved some of the revised NetSpeak prices. pursuant to section 20(2) (b) of the Act, and Section 12.9 and



schedule 1 Paragraph 1.1 and part 1 of Annex E of C&W's License, reflecting some of the prices amendments filed by way of C&W's letter dated 12 September 2008. The proposed prices for the following services are not approved pursuant to Section 12.9 of the Company's license. The price for Basic Plan C (Unlimited calling to C&W Caribbean numbers) of EC\$ 99.00 was to remain the same as well as the combination plans (A and C and B and C) were to remain priced at EC\$ 129.95 per month.

The approved changes in the NetSpeak price packages were as follows: Basic Plan A (Unlimited calling to the US and Canada) and Basic Plan B (Unlimited to fixed numbers in the UK and Western Europe) were reduced from EC\$ 99.95 to EC\$ 69.00 per month.

### **3.5 Application from Panasonic Avionics Corporation**

In a letter dated 5 November 2008, Panasonic Avionics Corporation sought clarification of the licensing requirements to offer a satellite-based connectivity solution to aircraft for mobile telephone and data (Internet) services by permitting Ku-band aircraft earth stations onboard foreign-registered aircraft to operate within Anguilla's airspace. Panasonic requested clarification of the Commission's licensing conditions for such applications.

The Commission reply dated 8 November 2008, advised Panasonic that such applications are permitted without the need for a specific license from the Commission subject to the provisions in Section 12 of the Telecommunications Act of Anguilla (R.S.A. T-6) which reads as follows:

***'Authorisation to operate in territorial waters or airspace***

***12. Notwithstanding section 9(1), a ship or aircraft being a ship or aircraft not registered in Anguilla while operating in the territorial waters or airspace of Anguilla, is not required to have authorisation from the Commission for any radiocommunication service as long as, and to the extent that, the service is operated under a valid authority of frequency authorisation issued elsewhere than in Anguilla in accordance with international agreement relating to radiocommunication in respect of ships or aircraft.'***

The Commission also confirm that the equipment has received a frequency authorization or other valid authority and that authority is in accordance with international radiocommunication agreements.

## 4.0 Other Activities

### 4.1 Frequency Coordination with France (St. Martin) and the Netherlands Antilles (St. Maarten)

The fourth tri-administration frequency coordination meeting was held from 31 March to 4 April 2008 at the offices of the Telecommunicatie en Post (BTP), Dutch Antilles, in Philipsburg, Sint Maarten. The following organisations were represented :

- L'Agence Nationale des Frequences (ANFR), France
- Le Conseil Supérieur de l'Audiovisuel (CSA), France
- Ministry of Infrastructure, Communication and Utilities (MICU), Anguilla
- Public Utilities Commission (PUC), Anguilla
- Bureau Telecommunicatie en Post (BTP), Dutch Antilles

**The main topics on the agenda were** (1) Implementation and review of the existing frequency coordination; (2) Preparation for coordination of the new 'IMT-2000/IMT-advanced (3G, LTE, and WiMax) frequency bands – 700 MHz, 2.3 GHz, 2.5GHz and 3.5GHz; (3) Coordination of FM broadcasting bands; and (4) Coordination of TV broadcasting and the introduction of Digital TV.

The final report dated 5 April 2008 on the 4<sup>th</sup> Tri-Administration Frequency Coordination meeting made the following comments regarding mobile signal strength measured in Anguilla transmitted by mobile service providers in French St. Martin.

*“Measurements on Anguilla show that many signals are in the lower signal level range but there are also a number of places, like along the coast on the west side and at the resorts, where very strong signals, up to -50 dBm, are being received, in particular from Orange.*

*Further investigation would be required to identify the frequency, cell ID and the associated base station and its antenna configuration to assess the practical possibilities to reduce the signal levels. It should still be validated if all the changes recommended in March 2006 to resolve strong signal coverage on Anguilla have actually been implemented.”<sup>2</sup>*

**Frequency coordination in the 887-890 MHz guard band** was discussed. BTP representative advised that their mobile operator ECC is authorized to use the 880-887 MHz band on the Dutch side.

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<sup>2</sup> Final Report Frequency Coordination Meeting, 8 April, 2008, page 3.

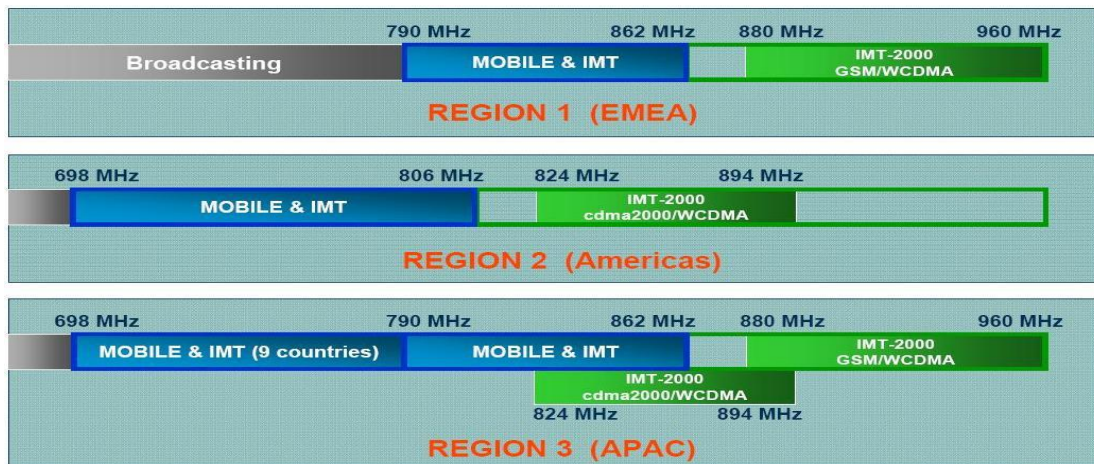
Anguilla representatives advised that Digicel still reports potential interference issues in the 890 – 897 MHz band. According to the French and Dutch frequency plans there is authorised and compatible spectrum use by Digicel on the French side of St Martin (894.2 -896.8 MHz) and by Radcom/UTS (890 – 895 MHz).

**The ANFR reported they have commenced UMTS spectrum allocation** based on a first come – first served basis. The spectrum allocation is to be in compliance with the established preferential-non-preferential coordination arrangements. Their preferential assignments will commence from 1920 MHz (duplexed with 2110 MHz) and move upwards in the band. The BTP reported that their initial frequency assignments have been made in the 1950 – 1955 MHz (duplexed with 2140 – 2145 MHz). The BTP expected a second allocation within a short period of time.

Anguilla reported that they have not commenced the allocation of UMTS spectrum however there is an existing assignment for a PCS 1900 Operator (1885 – 1890 MHz duplex with 1965 – 1970 MHz). This allocation is anticipated to shift upward to 1900 – 1910, duplex with 1980– 1990 MHz) following consultation with Digicel Anguilla.

**The new IMT-2000/IMT-Advanced spectrum bands** are becoming available for use due to technology advances and changes in historical television broadcast allocations in the USA. The main technologies are 3G, LTE and WiMax in the 700 MHz, 2.3 GHz, 2.5 GHz, and the 3.5 GHz bands.

**The 700 MHz band** was allocated at the WRX 2007 and was recently auctioned in the USA. As a result there is increasing interest in technologies for this band. The band provides good coverage and is suitable for WiMax and LTE and also for existing mature 3G technologies.



Source: Ericsson presentation “Outcome of WRC-2007”

In the United States the spectrum of the 700 MHz band is becoming available due to the migration from analogue TV to digital TV as the so called “Digital Dividend”. The actual allocations in the different ITU regions (see above Graph) are not equal. Region 2 is 698 to 806 MHz.

Anguilla reported that one of their current licensed mobile operators has requested spectrum in the 700 MHz band for WiMAX. In addition, BTP reported that they expect requests for spectrum in this band given the interest in the US market.

The ANFR reported that they have to await a Prime Minister decision with respect to the future use of this band for IMT-2000/Advanced since it requires a change of the National Frequency Allocation Table. However, for the present time the band remains allocated to broadcasting and there are operation licenses for analogue TV issued. The ANFR requested protection for these TV channels on St Barths:

- Channel 52, 722 MHz, 20 Watt, Operational
- Channel 55, 746 MHz, 20 Watt
- Channel 57, 762 MHz, 20 Watt
- Channel 58, 770 MHz, 20 Watt, Operational
- Channel 60, 786 MHz, 20 Watt
- Channel 61, 794 MHz, 20 Watt, Operational

All Administrations agreed that since it is too early to arrange a formal frequency coordination for this band the following interim approach be recommended:

- Anguilla starts any deployment from the lowest frequency, 698 MHz
- Netherlands Antilles starts any deployment from the highest frequency, 806 MHz
- When allocating spectrum special care should be taken of reaching an equitable division of the available spectrum.

**There are a number of co-existence issues in the 2.3, 2.5 and 3.5 GHz bands.** These issues related to the coordination of TDD systems and also TDD and FDD systems. The main issue is base station to base station interference. Several possible configurations have been developed to minimize the potential interference.

## **4.2 Price Cap Proceeding**

The prices for business and residence fixed-access monthly service were reduced effective 1 April 2008 a further reduction is scheduled for 1 April 2009 - see Section 3.1 for further details.

### 4.3 Review of Interconnection Prices

The Commission commenced a review of interconnection prices in June 2007. Following a review of the submissions and reply comments filed by interested parties, the Commission issued Telecom Decision PUC 2007-102 dated 13 December 2007. This decision recommended an initial reduction effective 1 April 2008 and a second reduction effective a April 2010. Interested parties were invited to file comments on the proposed interconnection prices recommended in Decision 2007-102.

Initial comments were to be filed by Cable & Wireless, Caribbean Cable and Digicel and reply comments were filed by C&W and CCC. Following a review of the submissions and replies the Commission approved the interconnection prices recommended in Decision 2007-102. By way of Decision 2008-101, dated 28 March 2008, (see Appendix I) the Commission directed the companies to file amended interconnection agreements that reflect the initial price reductions.

The following is the schedule for reducing the interconnection prices:

- Effective 1 April 2008 interconnection prices are to be reduced as follows- fixed network termination – from 5.4 EC cents to 5.0 cents; mobile network termination – from 40.0 EC cents to 35.0 cents; incoming international terminating on a mobile network – from 36.9 EC cents to 35.0 cents; and transit service – from 2.2 EC cents to 2.0 cents;
- Effective 1 April 2010 prices are to be adjusted as follows - fixed network termination – from 5.0 EC cents to 4.5 cents; mobile network termination – from 35.0 EC cents to 30.0 cents; incoming international terminating on a mobile network – from 35.0 EC cents to 30.0 cents; and transit service – from 2.0 EC cents to 1.8 cents.

In Decision 2008-101 the Commission stated that interconnection prices would be reviewed again on or before 1 July 2012. The Commission described the financial impact of the approved revisions to interconnection prices as follows:

*'94. In particular, the Commission requested that each operator provide an estimate of the financial impact on its company from the proposed changes in 2008 and also in 2010. The Commission notes that both C&W and CCC will realize a positive financial effect due to the proposed reduction in interconnection rates. The impact on Digicel is estimated to be marginally negative due to the decrease in the MTR and the nature of the traffic flows.<sup>3</sup>*

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<sup>3</sup> Telecom Decision 2008-101, 28 March 2008, paragraph 94, page 19.

#### **4.4 Annual Levy - 2007**

The annual levy is calculated to cover the annual cost of regulation pursuant to Section 48 of the Telecommunications Act R.S.A c.T6 and Section 21 of the Public Utilities Act R.S.A. c.175 and may include any surplus or deficit from a preceding fiscal year as expressed in Section 21(2).

The total annual levy for 2008 was EC\$ 609,060.93, as set out in the Assessment of Industry Levy (Telecommunications) Regulations (2007). According to section 3 of the regulations there was a surplus of EC \$300,939.07 (see 2007 Annual Report, Appendix II, page 2) with respect to the Commission's operations in the 2006 financial year. The 2008 levy amount of EC\$ 609,060.93 was the sum of the total 2008 budget of EC\$ \$910,000 less the 2006 surplus of EC\$ \$300,939.07.

## **5.0 Policy Framework**

### **5.1 Funding of Independent Regulatory Agencies**

The report<sup>4</sup> on funding mechanisms prepared by professor Brown was reviewed in the 2007 Annual Report. Other than the finalization of the report no further action was taken during 2008 on the matter of reviewing and amending the current funding formula.

Given the Executive Council's original issue, that is, the development of a surplus by the Commission, the most suitable method identified in the Brown Report was that employed by 'Ofgem' the United Kingdom regulator for the gas and electricity sectors.

### **5.2 Policy Matters**

The matter of Internet service provider licensing and the regulation of the broadcast sector require attention. With respect to the Internet, currently there is no national licensing mechanism.

Another sector not subject to a formal governance framework is cable television. While currently there is a single licensee, there is no prohibition on new entrants.

Given the growing significance of the Internet and the cable television segments in the overall information and communications sector, in order to ensure both these segments develop in an efficient and effective manner, a sound policy and governance framework is required.

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<sup>4</sup> Ashley C. Brown, The Funding of Independent Regulatory Agencies, A Special Report to the Public Utilities Commission of Anguilla, 2007.

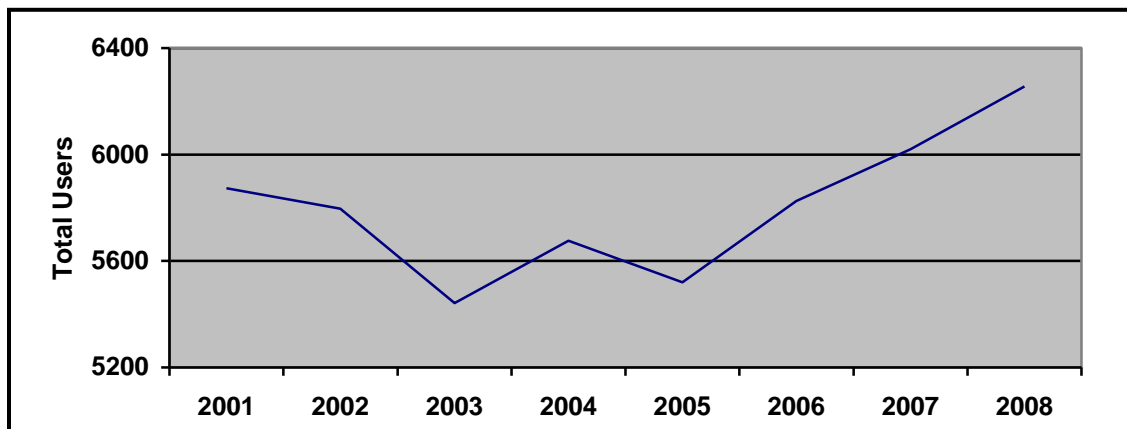
## 6.0 Sector Development, Retail and Wholesale Prices

### 6.1 Sector Development

The statistical data in Table 2 (Anguilla Telecommunication Indicators) contains information on Anguilla's population and associated telecommunication customer ratios. The Anguilla statistical department provided the population data for the years 2001- 2003 as well as for 2006, while 2004, 2005 and 2007 are estimates calculated based on a 2.8 % average annual growth rate established by the Anguilla statistics departments study entitled 'Anguilla's Demographic trends over the Last Decade'<sup>5</sup>. The 2008 population data was provided by the Anguilla Statistical department.<sup>6</sup>

Although fixed telephone lines declined by 77 in 2002 and by 354 in 2003, they increased by 305 in 2006, by 195 in 2007 and by 236 in 2008. Figure 1, presents an overall graph of total number of fixed lines for the period 2001 to 2008.

**Figure 1: Total Fixed Telephone Lines 2001 - 2008**



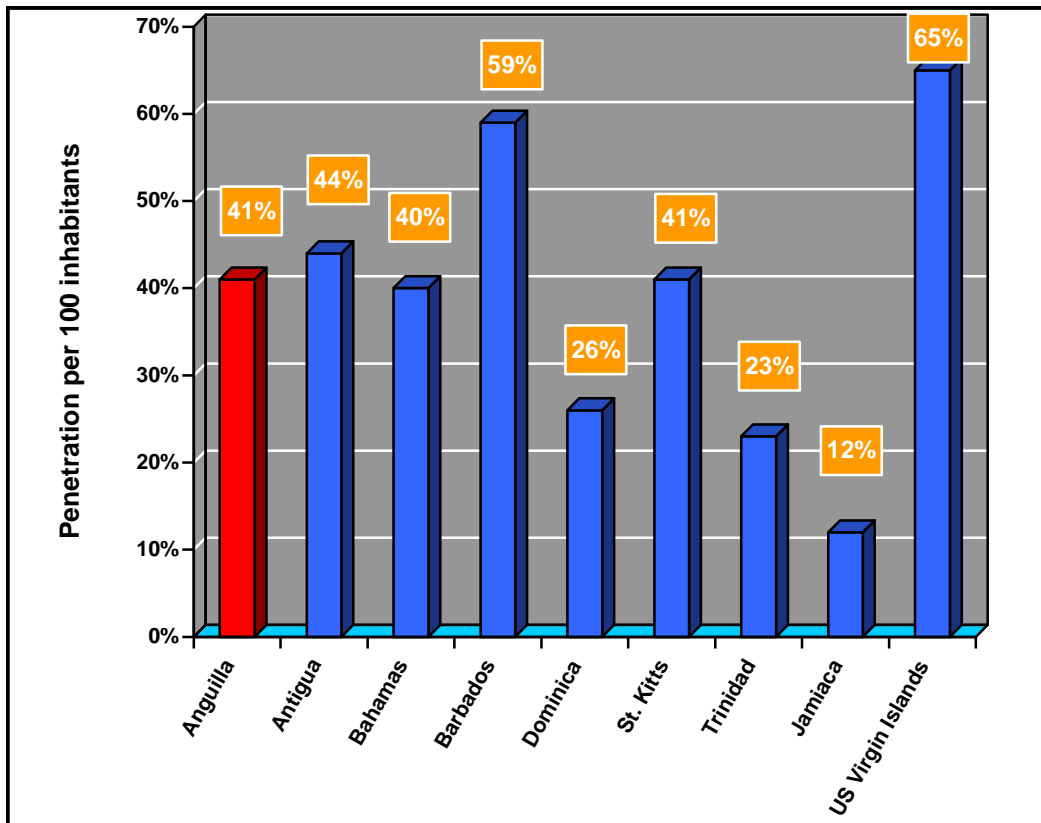
While the number of in-service fixed lines in Anguilla continued to increase in 2008, in many of the large developed economies i.e. the USA, the number of fixed lines in-service has declined for the past few years. The most frequent reasons given in USA jurisdictions for the decrease in fixed lines is due to the replacement of fixed service with mobile service.

<sup>5</sup>Anguilla Statistics Department) 'Anguilla's Demographic Trends over the last Decade.' Anguilla Statistics Department, <[http://www.gov.ai/statistics/images/Demographic Trends.pdf](http://www.gov.ai/statistics/images/Demographic_Trends.pdf)> Accessed 2<sup>nd</sup> July 2007.

<sup>6</sup> Anguilla Statistics Department 'Population Estimates and Rates for Births, Deaths, Marriages AND Divorces 1992 - 2008.' Anguilla Statistics Department, <[http://gov.ai/statistics/POP\\_HEA\\_TAB\\_09.htm](http://gov.ai/statistics/POP_HEA_TAB_09.htm)> Accessed 13 July 2009.



Figure 2: Fixed Line Telephone Penetration in the Caribbean (2008) <sup>7</sup>

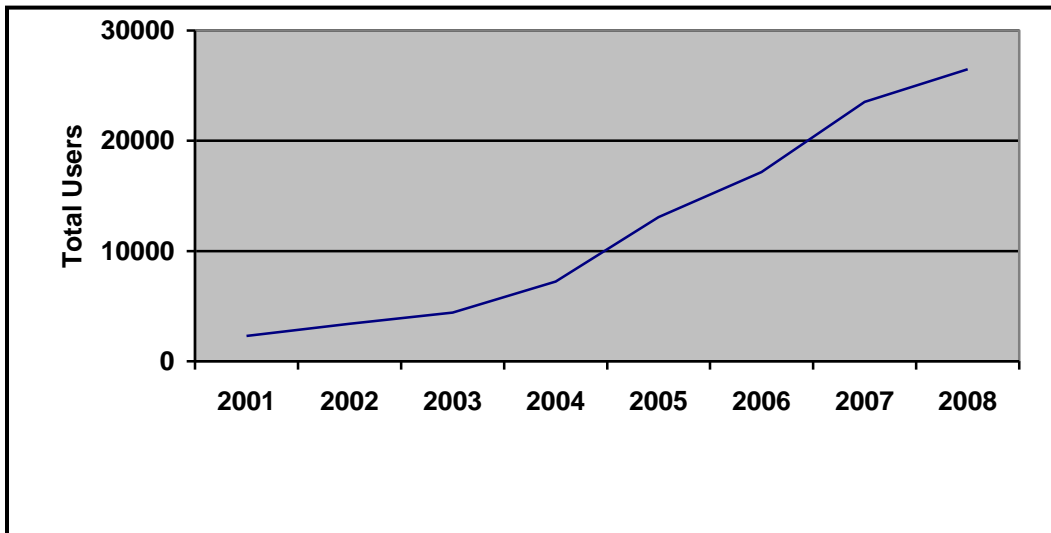


Based on the data provided by the International Telecommunication Union, the fixed telephone lines clients for 2008 remained the same as 2007 in the Caribbean Islands such as Anguilla, Bahamas, Barbados, Dominica, St. Kitts, Trinidad and the U.S Virgin Islands. However, in Jamaica the percentage number of fixed telephone lines decreased between year-ended 2007 and 2008. The 2008 year-end data for fixed lines in a number of regional economies is presented Figure 2.

<sup>7</sup> [http://www.itu.int/ITU-D/icteye/Reporting/ShowReportFrame.aspx?ReportName=/WTI/MainTelephoneLinesPublic&RP\\_intYear=2008&RP\\_intLanguageID=1](http://www.itu.int/ITU-D/icteye/Reporting/ShowReportFrame.aspx?ReportName=/WTI/MainTelephoneLinesPublic&RP_intYear=2008&RP_intLanguageID=1) Accessed July 16<sup>th</sup> 2009.

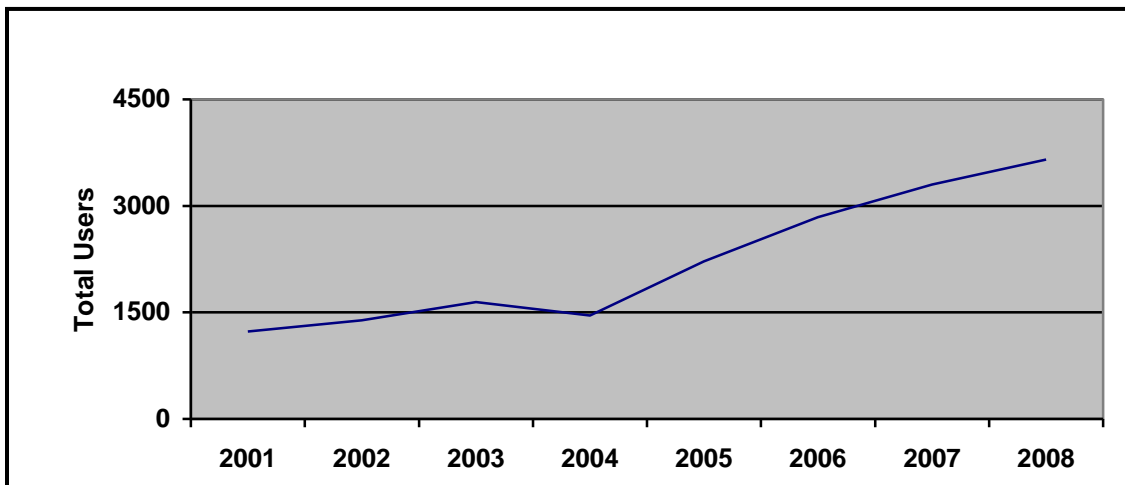
Figure 3, the number of mobile cellular customers, highlights that there was a remarkable increase in the number of mobile customers particularly from 2004 to 2008 due to the new mobile licenses issued in 2004. While the estimated population of Anguilla only increased by 3,508 (11,919 to 15,427) between 2002 and 2008, the number of cellular mobile telephone customers increased from 3,402 to 26,484 (171.7 cellular customers per 100 inhabitants), which is over 6 times the number of customers in 2002. In 2008 the number of mobile customers increased by 2,958.

**Figure 3: Total Mobile Telephones 2001 to 2008**



As computers became more affordable, more Anguillans were able to acquire them, as a result over the past few years there has been an increase in the number of broadband-Internet users. In addition, the number of users has increased due to the improved quality, speed and relative prices of the respective services. Since 2004, the number of broadband-Internet consumers has increased from 1,456 to 3,653 in 2008. This number has increased gradually over the period 2002 to 2008 from a rate of 11.67 per hundred of the population in 2002 to 23.7 in 2008. In 2008 the number of Internet customers increased to 3,653 based on information filed by the major Internet service providers.

**Figure 4: Total Broadband Access Services**



Based on an average household size of 3.1 persons as reported by the Anguilla Statistics Department, there were some 4,976 households in Anguilla as of year-end 2008. Given the number of reported broadband connections of 3,653 in 2008 on average 73% of the households had broadband Internet service by year-end 2008.

**Table 2: Anguilla Telecommunications Indicators 2002 to 2008 <sup>8</sup>**

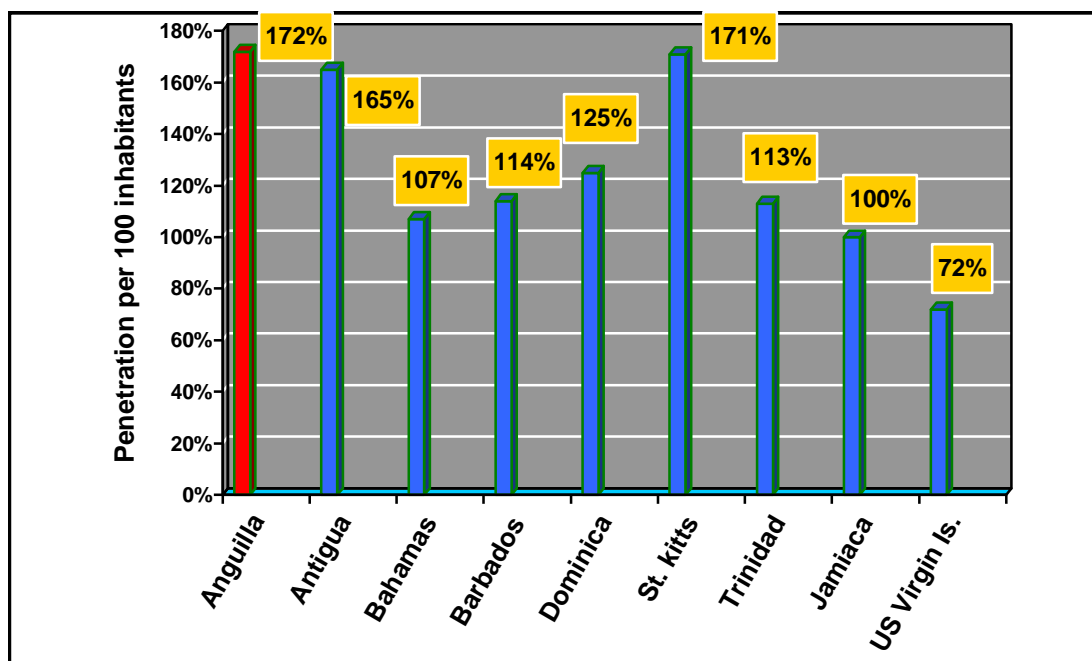
	Year Ending 31-12						
	2002	2003	2004	2005	2006	2007	2008
<b>Population<sup>9</sup></b>	11,919	12,200	12,542	12,893	14,254	14,653	15,427
<b>Fixed telephone lines in operation.<sup>10</sup></b>	5,796	5,442	5,676	5,520	5,825	6,020	6,256
<b>Fixed telephone lines per 100 inhabitants.</b>	48.63	44.61	45.26	42.81	40.87	41.08	40.55
<b>Cellular mobile telephone customers.<sup>11</sup></b>	3,402	4,427	7,229	13,061	17,150	23,526	26,484
<b>Cellular customers per 100 inhabitants.</b>	28.54	36.29	57.64	101.30	120.32	160.55	171.67
<b>Internet customers.<sup>12</sup></b>	1,391	1,648	1,456	2,218	2,839	3,300	3,653
<b>Internet customers per 100 inhabitants.</b>	11.67	13.51	11.61	17.20	19.92	22.52	23.68

<sup>8</sup> Sources of data are identified below.

<sup>9</sup> **2002 - 2003** (Actual Data); **2004, 2005 and 2007** (Estimates using 2.8 average annual growth rate as determined by the Anguilla Statistics Department) 'Anguilla's Demographic Trends over the last Decade.' Anguilla Statistics Department, <[http://www.gov.ai/statistics/images/Demographic\\_Trends.pdf](http://www.gov.ai/statistics/images/Demographic_Trends.pdf)> Accessed 28 July 2006. **2006** (Actual Data) <[http://gov.ai/statistics/POP\\_DEMO\\_HEALTH.htm](http://gov.ai/statistics/POP_DEMO_HEALTH.htm)> Accessed June 13 2007. **2008** (Actual Data) <[http://gov.ai/statistics/POP\\_%20HEA\\_TAB\\_09\\_files/sheet013.htm](http://gov.ai/statistics/POP_%20HEA_TAB_09_files/sheet013.htm)> Accessed July 13 2009.

<sup>10</sup> **2002** Anguilla Statistics Department "Table 3.5.1 - Number of Telephone Lines by Type and Internet Connections 1994-2002" <[http://www.gov.ai/statistics/CONST\\_TRANS\\_TABLES\\_260106\\_files/sheet033.htm](http://www.gov.ai/statistics/CONST_TRANS_TABLES_260106_files/sheet033.htm)> 28 July 2006;

Figure 5: Cellular Mobile Penetration in the Caribbean (2008)<sup>13</sup>



The statistical data on Anguilla mobile customers from Table 2 for 2003 to 2008 is highlighted for 2008 in Figure 5. The variation in the percentage penetration for the other Caribbean islands represented in Figure 5 may, in part, be due to differences in

**2003 - 2005** Data submitted by Companies, July 2006. **2006** Data submitted by Companies June 2007 (CCC: submitted 13 Jun 2006) (C&W: submitted 27 June 2007). **2008** Data submitted by Companies July 2009 (CCC: submitted 29 June 2009) (C&W: submitted 10 July 2009).

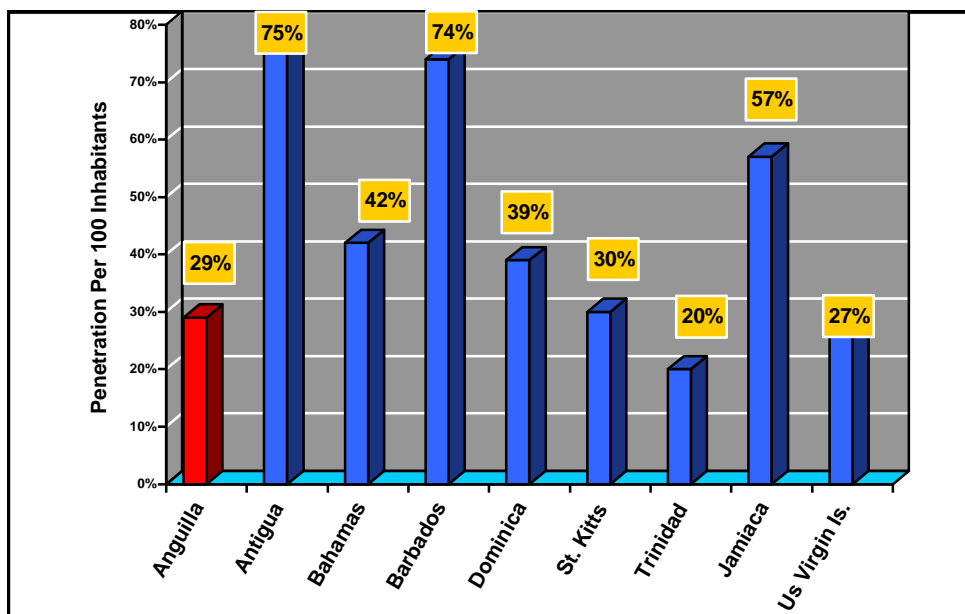
<sup>11</sup> **2002** Anguilla Statistics Department “Table 3.5.1-Number of Telephone Lines by Type and Internet Connections 1994-2002” <See website in 2 above> Accessed 28 July 2006; **2003-2005** Data submitted by Companies, July 2006. [Data concerning the total number of mobile subscribers provided in the following report for 2003 & 2004 was 4,700 and 6,700 respectively. (Dr. Richard Downes, “Mobile Opportunities in the Caribbean (2<sup>nd</sup> Edition),” T&F Informa UK Limited, May 2005, Table 2.1 - Anguilla’s Mobile Market, p. 21)] **2006** Data submitted by companies June 2007 (Digicel: submitted 20 June 2007) (C&W: submitted 27 June 2007). **2008** Data submitted by companies (Digicel: submitted 26 June 2009) (C&W: submitted 10 July 2009).

<sup>12</sup> **2002** Anguilla Statistics Department “Table 3.5.1-Number of Telephone Lines by Type and Internet Connections 1994-2002” <See website in 2 above> Accessed 28 July 2006; **2003-2005** Data submitted by Companies, July 2006. Data for 2001 to 2003 includes all Internet customers whereas data for 2004, 2005 and 2006 is for high-speed Internet customers. **2006** Data submitted by companies June 2007 (CCC: submitted 13 Jun 2006) (C&W: submitted 27 June 2007). **2007** Data submitted by companies April 2008 (CCC: submitted 16 April 2008) (C&W: submitted 09 April 2008) (Digicel: submitted 09 April 2008). **2008** Data submitted by companies (CCC: submitted 29 June 2009) (C&W: submitted by 10 July 2009)

<sup>13</sup> [http://www.itu.int/ITU-D/icteye/Reporting/ShowReportFrame.aspx?ReportName=/WTI/CellularSubscribersPublic&RP\\_intYear=2008&RP\\_intLanguageID=1](http://www.itu.int/ITU-D/icteye/Reporting/ShowReportFrame.aspx?ReportName=/WTI/CellularSubscribersPublic&RP_intYear=2008&RP_intLanguageID=1) Accessed 16 July, 2009

the measuring method to determine the number of mobile customers connected to a network at any one time. For example, in some cases such measurements are done at a particular time, likely during peak times on a daily basis, whereas other operators categorize customers as being active or inactive depending on the length of time from the last measured usage of the connection. The data in Figure 5 reflects the number of connected/active Anguilla customers reported by the respective service providers as of year-end 2008. The mobile data for the other Caribbean telecommunication providers does not specify whether or not their clients are all active and /or connected but the information is based on data on the ITU website.<sup>14</sup>

**Figure 6: Internet Users in the Caribbean (2008)**<sup>15</sup>

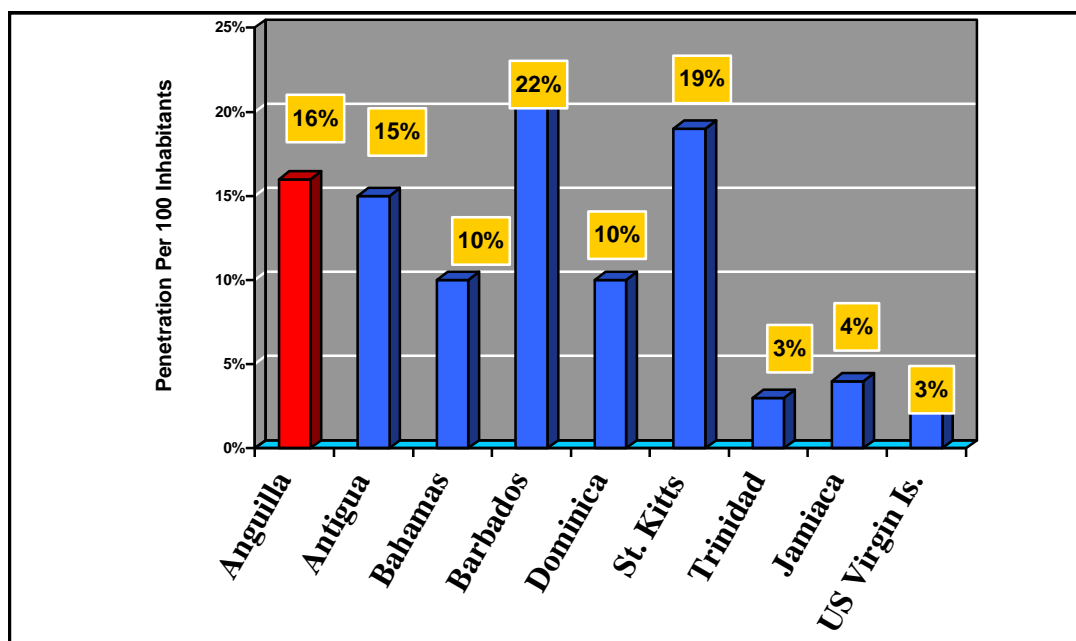


When evaluating the distribution of internet customers, the speed of the Internet service and the number of Internet customers are factors to consider when making the evaluation. In terms of the speed and quality of Internet service, both the publicized and delivered characteristics of the Internet service should be evaluated, observed and administered. At times the actual download speed is noticeably less than the publicized speed of the service. This can be affected by the network, web loading or by the quality of local internet peering arrangements and/or the performance of local server and the quality of the local access facility.

<sup>14</sup> Op. Cite, <http://www.itu.int/ITU>. Assessed 16 July, 2009.

<sup>15</sup> <http://www.internetworldstats.com/stats11.htm#south>. Accessed July 16<sup>th</sup> 2009

**Figure 7: Broadband and Internet User Penetration in the Caribbean – 2008**<sup>16</sup>



Based on statistics provided by the main telecommunication Internet providers the penetration of Anguilla broadband Internet customers decreased from 20% in 2006 to 16% in 2008. It should be noted that while the number of Internet customers increased in 2008, due to the growth in the population the number of customers per 100 inhabitants decreased.

Evaluating the level of Internet access and deciding whether the Internet access is universal remains a challenge. Questions such as whether to incorporate ‘all’ Internet users, including Internet Café access when making such a determination or to limit the measurement to only ‘broadband’ access as percentage of total households instead of as a percentage of the total population may result in different conclusions.

<sup>16</sup><[http://www.itu.int/ITU-D/icteye/Reporting/ShowReportFrame.aspx?ReportName=/WTI/InformationTechnologyPublic&RP\\_intYear=2008&RP\\_intLanguageID=1](http://www.itu.int/ITU-D/icteye/Reporting/ShowReportFrame.aspx?ReportName=/WTI/InformationTechnologyPublic&RP_intYear=2008&RP_intLanguageID=1) > Accessed 16 July, 2009.

## 6.2 Retail Prices

There are three main telecommunication providers in Anguilla, Cable and Wireless, which offers both fixed telephone, mobile service and Internet access services, Digicel which also offers mobile service and Caribbean Cable Communications, which provides fixed telephone, cable television and Internet access services. A fourth service provider, Weblinks also provides both Internet and mobile services, and was granted a cellular

mobile license in 2004, however, the company has not filed the requested statistical and price data with the Commission and therefore is not included in the statistical and price Tables.

### 6.2.1 Fixed access Mobile and Domestic Calling Prices

<b>Table 3: Domestic Monthly Fixed Line Prices <sup>17</sup></b>				
<b>Company</b>	<b>Service</b>	<b>Package</b>	<b>Price (EC\$/month)</b>	
			<b>2007</b>	<b>2008</b>
<b>CCC<sup>18</sup></b>	Residential	Regular	25.00	25.00
	Business	Regular	25.00	25.00
<b>C&amp;W<sup>19</sup></b>	Residential	Regular	42.00	38.00
	Business	Regular	87.00	78.00

The information provided by Cable and Wireless, Digicel and Caribbean Cable Communications in Tables 3 to 9 are prices for monthly fixed line rental, domestic calling, international calling, roaming and high speed internet access.

<sup>17</sup> Prices as of 31 December 2008.

<sup>18</sup> 2007 data submitted by CCC 16 April 2008. 2008 data submitted By CCC 29 June 2009.

<sup>19</sup> 2007 data submitted by C&W 16 and 19 May 2008. Effective April 1<sup>st</sup> 2008 price reduced to Residential \$38 and Business \$78. 2008 data submitted by C&W 10 July 2009. Additional charges per minute apply. \$0.06- weekends, \$0.07- evenings, \$0.09-daytime. Effective April 1<sup>st</sup> 2009 monthly charges- Residential \$35 and Business \$70.



Table 4: Domestic Calling prices (2007-2008) <sup>20</sup>						
Company	Service	Calls from	Calls To	Various Plans	EC\$/min. 2007	EC\$/min. 2008
CCC <sup>21</sup>	Fixed Lines	From CCC Fixed Lines	To CCC Fixed		Free	Free
			To other Fixed		0.08	0.08
			To Mobile Phones		0.54	0.54
C&W <sup>22</sup>	Fixed Lines	From C&W Fixed Lines	To C&W Fixed	Day	0.09	0.09
				Evening	0.07	0.07
				Weekend	0.06	0.06
			To other Fixed		0.09	0.09
			To Other Mobile		0.60	0.60
			To C&W Mobile		0.60	0.60
	Postpaid	From C&W Mobile(b100, 200, 425, 675, 950, bBiz1250, 2500,5000, 10000)	To C&W Mobile	B100,bBiz1250	0.45	0.45
			To C&W Fixed	B100,bBiz1250	0.45	0.45
			To other fixed	B100,bBiz1250	0.45	0.45
			To other Mobile	B100, bBiz1250	0.55	0.55
Digicel <sup>23</sup>	Postpaid ( See Table 8b for Prepaid Prices)	From Digicel Select (160, 330,700,1300)	To Digicel Mobiles (With Bundle)	Digicel Select 160	0.28	0.28
				Digicel select 330	0.27	0.27
				Digicel Select 700	0.23	0.23
				Digicel select 1300	0.19	0.19
			To Digicel Mobiles (outside Bundle)	Digicel Select 160	0.45	0.45
				Digicel select 330	0.45	0.45
				Digicel Select 700	0.45	0.45
				Digicel select 1300	0.45	0.45
			To Fixed& Other Mobiles	Digicel Select 160	0.55	0.55
				Digicel select 330	0.55	0.55
				Digicel Select 700	0.55	0.55
				Digicel select 1300	0.55	0.55
	Prepaid	From Digicel Flex	Digicel Mobiles	Digicel flex	0.50	0.50
			Fixed Lines	Digicel Flex	0.50	0.50
			Other Mobiles	Digicel Flex	0.50	0.50

<sup>20</sup> Table 8a: Domestic Calling Prices as of 31 December 2008

<sup>21</sup> 2007 data submitted 16 April 2008. 2008 data submitted 29 June 2009.

<sup>22</sup> 2007 data submitted on 16 and 19 May 2008. 2008 data submitted 10 July 2009

<sup>23</sup> 2007 data submitted 09 April 2008. 2008 data submitted 26 June 2009.

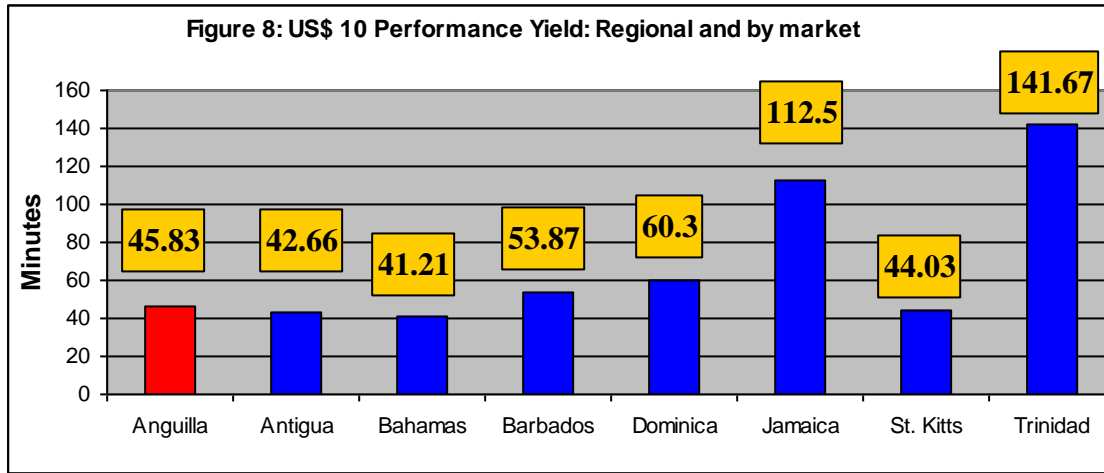
**Table 5: Domestic Calling Prices (C&W Pre-Paid) (2007-2008)** <sup>24</sup>

Company	Service	Calls From	Calls To	Various Plans	EC\$/m in. 2007	EC\$/min. 2008		
						Day	Evening/ Weekend	Late Night
C&W <sup>25</sup>	Prepaid	From C&W Mobile	To C&W Mobile	bFree One	0.50	0.50	0.50	0.50
				bFree	0.60	0.60	0.50	0.50
				bFree Anytime	0.55	0.55	0.45	0.20
			To C&W Fixed	bFree One	0.50	0.50	0.50	0.50
				bFree	0.60	0.60	0.50	0.50
				bFree Anytime	0.40	0.55	0.45	0.20
			To Other Fixed	bFree pay as you go	0.75	0.75	0.75	0.75
				bFree	0.75	0.75	0.75	0.75
				bFree Anytime	0.75	0.75	0.75	0.75
			To Other Mobile	bFree pay as you go	0.75	0.75	0.75	0.75
				bFree	0.75	0.75	0.75	0.75
				bFree Anytime	0.75	0.75	0.75	0.75

<sup>24</sup> Table 8b: Domestic Calling Price for C&W prepaid service as of December 2008.

<sup>25</sup> 2007 data submitted on 16 and 19 May 2008. 2008 data submitted 10 July 2009.

**Figure 8: US\$ 10 Performance Yield - Prepaid Mobile Service**<sup>26</sup>



This study includes simulation of a US\$ 10 recharge minute performance. Based on the graph the regional performance average for a price of US\$10 permits the consumption of 55.80 minutes. In Figure 8 only three markets are above the regional average which is Dominica, Jamaica and Trinidad. This high proportion of prepaid mobile telephone service customers has acted as a catalyst for the rise of Multi SIM users in markets such as that of Jamaica. Based on the study Multi SIM users is defined as subscribers who have active lines from more than one mobile service operator, so as to split the traffic in minutes originated according to the time band and destination network of the call, to be able to benefit from the cheapest rate available.<sup>27</sup>

### 6.2.2 International Calling Prices

Following a major re-structuring of prices in 2003 as well as following market liberalizations in 2005, international calling prices have remained at the same level and structure since 2006. For example, the international price to call USA from Anguilla declined from \$3.25 EC in 2003 to as a low as 0.90 EC in 2006. However there are significant differences in the prices charge by each of the companies. For instance, Cable and Wireless charges \$0.90 EC per minute for calling USA whereas Digicel charges \$0.70 EC and Caribbean Cable Communication \$0.27 EC.

An additional reduction in International calling prices occurred in 2007 when CCC commenced offering a price of EC \$ 0.27 per minute from Anguilla to most countries including to the UK, USA, Western and Eastern Europe and Canada. As a result, the per minute price for CCC international calls is lower than the domestic rate for most mobile calls. Mobile prices remain high for domestic calling as shown in Tables 8 and 9 compared to international prices.

<sup>26</sup>Analysis of Prepaid Mobile Telephony Rates in the Caribbean: Signals Telecom Consulting March 2009. Chart 1-US\$10 Performance Yield; Regional and by market (4Q08). ( Modified from page 15)

<sup>27</sup> Signals Telecom Consulting

<b>Table 6: Prices for International Direct Dialed Calls from Anguilla (2006-2008)</b>				
<b>Company</b>	<b>Destination</b>	<b>Time Band <sup>28</sup></b>	<b>Price per Min (EC\$) 2006</b>	<b>Price per Min (EC\$) 07/08</b>
<i>CCC<sup>29</sup></i>	St. Martin/St. Maarten	Fixed line Anytime	0.50	0.27
	USA, Canada, UK and the Caribbean (excluding Cuba, French Guiana and Haiti)	Fixed line Anytime	0.60	0.27
	All Western & Eastern Europe, Australia, New Zealand, Japan, Hong Kong, China, Malaysia, Singapore, South Africa, Taiwan, and many more.	Fixed line Anytime	0.67	0.27
<i>C&amp;W<sup>30</sup></i>	Saba, St. Eustace, St. Martin, St. Maarten, St. Kitts & Nevis, Antigua & Barbuda, BVI, Montserrat & Guadeloupe	Day	0.60	0.60
		Evening	0.50	0.50
		Weekend	0.40	0.40
	USA, Canada, UK, Ireland and the rest of the Caribbean	Day	0.90	0.90
		Evening	0.80	0.80
		Weekend	0.70	0.70
Rest of the World	Day	1.50	1.50	
	Evening	1.25	1.25	
	Weekend	1.00	1.00	
<i>Digicel<sup>31</sup></i>	Dominica, St. Lucia, Antigua & Barbuda, Grenada, St. Kitts & Nevis, St. Vincent & the Grenadines, Montserrat, St. Martin, St. Maarten	Day	0.70	0.70
		Evening	0.60	0.60
		Weekend	0.50	0.50
	Rest of the Caribbean	Day	0.85	0.85
		Evening	0.85	0.85
		Weekend	0.75	0.75
	UK, USA & Canada	Day	0.70	0.70
		Evening	0.70	0.70
		Weekend	0.70	0.70
	Rest of the World	Day	1.30	1.30
Evening		1.30	1.30	
Weekend		1.30	1.30	
Cuba	Day	3.00	3.00	
	Evening	3.00	3.00	
	Weekend	3.00	3.00	

<sup>28</sup> **Time Bands:** Day Mon to Fri, 8am to 6pm; Evening Mon to Fri, 6pm to 8am; Weekend All Day Saturday and Sunday.

<sup>29</sup> **2007:** Submitted by CCC 19 May 2008. **2008** Data submitted by CCC 29 June 2009.

<sup>30</sup> **2007:** Submitted by C&W 16 and 19 May 2008. **2008** Data submitted by C&W 10 July 2009.

<sup>31</sup> **2007:** Submitted by Digicel 07 May 2008. **2008** Data submitted by Digicel 26 June 2009.

### 6.2.3 Flat Rate Calling Prices

<b>Table 7: Flat Rate Calling Plans (2008)</b>			
<b>Company</b>	<b>Service Name</b>	<b>Price (EC\$)</b>	
		<b>2007</b>	<b>2008</b>
<b>CCC<sup>32</sup></b>	<b>North American &amp; UK</b>	\$134.00	\$134.00
<b>C&amp;W<sup>33</sup></b>			
	<b>NetSpeak - Plan A: Unlimited Calling to US and Canada</b>	\$139.90	\$69.00
	<b>NetSpeak - Plan B: unlimited Calling to UK and Western Europe Fixed numbers</b>	\$139.90	\$69.00
	<b>NetSpeak - Plan C: Unlimited Calling to C&amp;W Caribbean</b>	\$179.85	\$99.00
	<b>NetSpeak – Overseas Number</b>	\$15.95	\$15.95
	<b>NetSpeak - Toll-Free Number<sup>34</sup></b>	\$39.95	\$39.95

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<sup>32</sup> CCC data submitted 29 June 2009.

<sup>33</sup> Data submitted C&W 10 July 2009 Plan A, B, C- Calls to fixed and mobile numbers in the USA and Canada and to fixed numbers in the UK and Europe. Calls to mobile numbers are charged at the out of plan rate.

<sup>34</sup> Additional usage charged at a per-minute rate for the country.

## 6.2.4. Mobile Roaming Prices

<b>Table 8: C&amp;W Roaming Service Prices (\$EC) 2008</b> <sup>35</sup>				
<b>1. Postpaid Plans (EC\$ per minute) First minute/ additional minutes</b>				
	<b>Mobile Calls</b>			
<b>Roaming Destination</b>	<b>Local</b>	<b>Back to bmobile</b>	<b>Other</b>	<b>Incoming Calls</b>
CWWI bmobile	HOME	HOME	\$8.10	FREE
Caribbean Preferred	\$2.03	\$3.38	\$8.10	\$2.03
USA	\$2.03	\$3.38	\$8.10	\$2.03
UK	\$2.70	\$4.05	\$10.80	\$2.70
Rest of World	\$3.38	\$6.75	\$10.80	\$3.38
<b>2. Prepaid Plans (EC\$ per minute) First minute/ additional minutes</b>				
<b>Roaming Destination</b>	<b>Local</b>	<b>Back to bmobile</b>	<b>Other</b>	<b>Incoming Calls</b>
CWWI bmobile	HOME	HOME	\$8.64	FREE
Caribbean Preferred	\$2.57	\$3.92	\$8.64	\$2.57
USA	\$2.57	\$3.92	\$8.64	\$2.57
UK	\$3.24	\$4.59	\$11.34	\$3.24
Rest of World	\$3.92	\$7.29	\$11.34	\$3.38

Cable and Wireless Roaming Service Prices at year-ended 2008 for the postpaid mobile remained the same as those at year-ended 2007. Roaming service prices for prepaid mobiles increased by 0.54 cents EC for each roaming destination to local mobiles, back to bmobile, other and incoming calls. But prices to the UK and Rest of the world increased by \$7.29 EC and \$4.59 EC other mobiles.

<sup>35</sup> Information provided by C&W – 10 July 2009

**Table 9: Digicel Roaming Service Prices (EC\$) 2008<sup>36</sup>**

<b>1. Prepaid Plans (EC \$ per minute)</b>			
Country	Receive Calls	Calls within the country	Calls Home
Digicel Countries	1.30	1.32	1.32
USA	2.70	2.67	5.37
Other Countries	2.70	3.37	6.72
<b>2. Postpaid Plans (EC \$ per minute)</b>			
Country	Receive Calls	Calls within the country	Calls Home
Digicel countries	0.78	0.78	0.77
USA	2.11	2.11	3.48
Other Countries	2.67	2.67	5.37

Digicel’s Roaming Service Prices for year-ended 2008 prices also remained the same as their 2007 prices. Comparing the prices Tables 8 and 9, C&W roaming service prices are much less than Digicel prices. For example, roaming calls from USA to local numbers using a postpaid mobile with Digicel is \$3.48 EC while with C&W price is \$2.03 EC per minute.

## **6.2.5 Domestic Internet Prices**

For the duration of 2007 to 2008 the types of speeds for Internet services remain the same for both major service providers. The prices for basic and premium services also remained essentially the same. Consequently customers benefited by way of achieving higher download speeds for the same price paid for lower speed services in previous years. As reflected in Table 10, Internet prices and services in 2008 show that the prices and the download speed remained constant compared to the services and prices offered in 2007. As a result, the unit price of Internet access capacity declined in 2007 and 2008 compared to 2006.

### **Broadband Internet Access**

According to Wikipedia website<sup>37</sup> the term broadband-Internet access which is often shortened to broadband, is high data rate Internet access typically contrasted with dial-up access over a 56k modem. Broadband is often called high-speed Internet, because it usually has a high rate of data transmission. In general, any connection to the customer of 256 kbit/s or greater is considered broadband Internet.

<sup>36</sup> Information provided and submitted by Digicel, 26 June 2009.

<sup>37</sup> [http://en.wikipedia.org/wiki/Broadband\\_Internet\\_access](http://en.wikipedia.org/wiki/Broadband_Internet_access)

The International Telecommunication Union Standardization recommendation I.113 defined broadband as a “transmission capacity that is faster than primary rate Integrated Services Digital Network (ISDN), at 1.5 to 2 Megabits per second. However, even this definition seems to be out of date as basic Internet access speeds increased notably in the past years. For example, the Internet Access services listed in the Commission’s 2006 Annual Report, Table 9, page 26, ranged from a download speed of 256 Kbps to a maximum of 2.56 Mbps. By 2007 the minimum speed was 1 Mbps and the maximum speed had increased by a factor of more than three to 8.192 Mbps.

<b>Table 10: Monthly Prices for Internet Access (2007-2008)</b> <sup>38</sup>				
<b>Company</b>	<b>Service Name</b>	<b>Speed (Mbps)</b>		<b>Price (EC\$)</b>
		<i>Down</i>	<i>Up</i>	
<b>CCC</b>	<b>Residential</b>			
	Silver	2.048	1.544	107.00
	Gold	3.072	1.544	144.00
	Platinum	6.144	1.544	239.00
	<b>Commercial</b>			
	SelectNet I (Business)	3.072	1.544	359.00
	SelectNet II (Business)	6.144	1.544	476.00
SelectNet III (Business)	8.192	1.544	595.00	
<b>C&amp;W</b>	<b>Residential ( 1 year)</b>			
	Mega Ultra	1.000	0.512	109.00
	Mega Plus Select	2.000	0.512	149.00
	Mega Max Delux	3.000	0.512	199.00
	<b>Commercial (1 year)</b>			
	Premier	3.000	0.512	349.00
	Premier Plus	4.000	1.000	449.00
Premier Max	6.000	1.000	649.00	

However, one of the continuous issues related to Internet access speeds is the advertised versus the actual speed.

The actual speed is frequently less than the advertised speed. In situations where large files are being transferred the difference in the speed becomes more apparent as customers expect to realize the advertised speed both at peak and off peak times. In some jurisdictions, Internet service providers they are placing a capacity “cap” on available customers who use large amounts of capacity in order to provide a reasonable level of access capacity to all customers during peak periods.

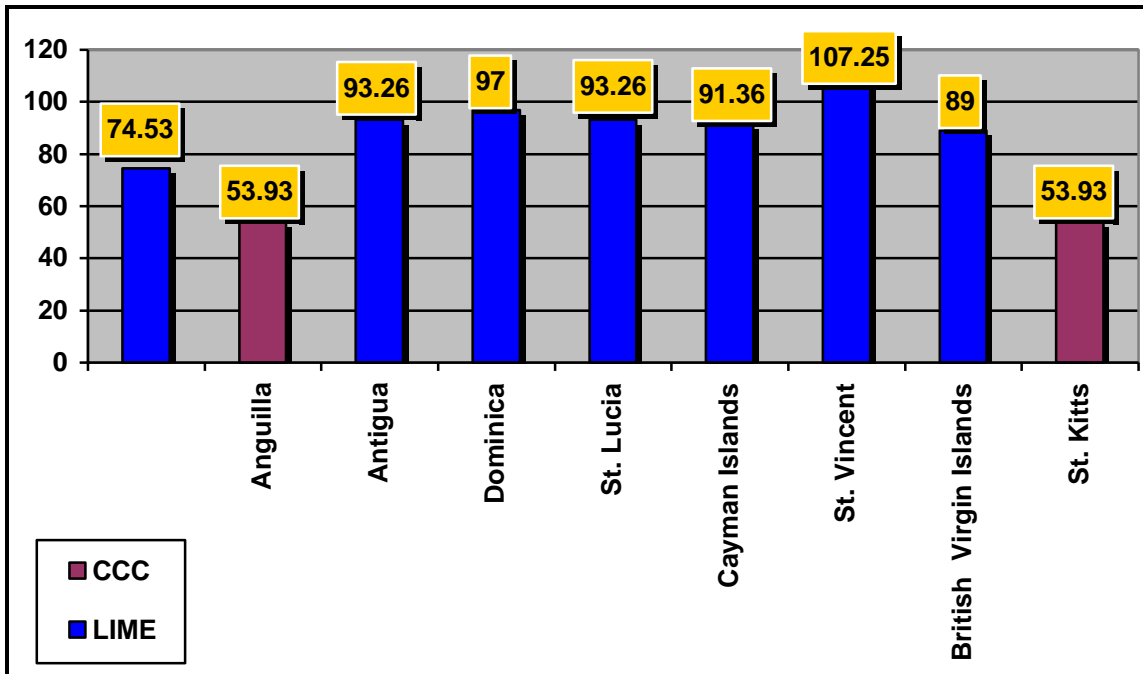
<sup>38</sup> Data: Submitted by companies (CCC-29 June 2009, C&W-data submitted 10 July 2009).



## 6.2.6 Regional Internet Access Prices

Based on the data presented in Signals' February 2009 report, Anguilla had the lowest price package for 3 Mbps in 2008 between the two telecommunication providers namely Cable and Wireless and Caribbean Cable Communication, at an average of \$64.23US ( $74.53+53.93/2$ ). Anguilla's price is reported as \$74.53US if using Lime (C&W) and \$53.93US if using CCC for 3 Mbps. Based on company filings for year-end 2008 services and prices, Table 8 above, 3 Mbps service is available at the same prices listed in the Signal February 2009 report, which makes them comparable to the lowest prices in the Caribbean region, as shown in Figure 9 below.

**Figure 9: Price of Access at 3Mbps<sup>39</sup>**



The graph shows a number of internet providers in different Caribbean Islands which offer a 3 Mbps download speed for residential customers. In the case of the speeds of 3 Mbps an interesting situation arises: average prices for access via CATV and fixed wireless are almost the same. This situation has risen because of the aggressive nature of Digicel's rates in the Cayman Islands and British Virgin Islands<sup>40</sup>.

The rapid changes in the variety of available Internet access speeds and prices contribute to the difficulty in presenting Internet access price comparisons. These rapid changes reflect not only the increased capability of the service providers but also the degree of competition in the marketplace as well as the value consumers place on speed in terms of Internet access services.

<sup>39</sup> Comparison of Broadband Rates in the Caribbean: Signals Telecom Consulting, February 2009. Chart 11-Price of Access at 3 Mbps. (Modified from page 28)

<sup>40</sup> Signals Telecom Consulting Modified from page 15

## 6.3 Wholesale Prices

With respect to an undertaking by the Commission in Telecom Decision PUC 2005-102 to review interconnection prices on or before 1 April 2008, the Commission initiated such a review in 2007. (see also Section 4.3)

The Commission approved of revised Interconnection Prices by way of Decision 2008-101, dated 28 March 2008. The revised prices were effective 1 April 2008 and 1 April 2010 and are shown in Table 10 below.

<b>Table 11: Wholesale Interconnection Prices Per Minute</b>						
<b>Service</b>	<b>Prior to 1 April 2008</b>		<b>Effective 1 April 2008</b>		<b>Effective 1 April 2010</b>	
	<b>EC cents</b>	<b>US cents<sup>41</sup></b>	<b>EC cents</b>	<b>US cents</b>	<b>EC cents</b>	<b>US cents</b>
a. PSTN Term. Service	5.4	2.0	5.0	1.85	4.5	1.67
b. Mobile Term. Service	40.0	14.81	35.0	12.96	30.0	11.1
c. Mobile Term. Service - Transit Portion	2.2	0.81	2.0	0.74	1.8	0.67
d. Incoming International to PSTN Term. Service	5.4	2.0	5.0	1.85	4.5	1.67
e. Incoming International to Mobile Term. Service	36.9	13.67	35.0	12.96	30.0	11.1
f. Incoming International to Mobile Term. Service – Transit Portion	2.2	0.81	2.0	0.74	1.8	0.67
g. Special Access Services –access to 999 & 911	3.5	1.30	3.25	1.20	3.0	1.11
h. PSTN Transit – PSTN Transit Service	2.2	0.81	2.0	0.74	1.8	0.67

<sup>41</sup> Based on an exchange rate of EC\$ 2.7 per US\$.

## 7.0 Financial Reporting

### 7.1 Financial Report – 2008

This annual report is prepared in compliance with the requirement in Section 19 (Annual Report) that the Commission submit such a report to the Governor-in-Council. Section 19 reads as follows:

*‘Annual report*

*19. (1) Within three months of the completion of the audit of the Commission's accounts, the Commission shall submit to the Governor-in-Council—*

*(a) a copy of its audited accounts; and*

*(b) a written report of its operations and activities for that financial year (the annual report) together with a copy of the audited financial statements.*

*(2) The annual report shall contain such matters as the Governor-in-Council may prescribe’.*

The audited financial results for the year 2008 are presented in Appendix II of this report.

## 8.0 Future Challenges and Opportunities

### 8.1 Human Resource Development

The Commission did not actively recruit any permanent technical staff during 2008 but continued to periodically retain external consultants for advice on certain technical matters such as spectrum management and interconnection.

During 2008 the Commission retained two Anguilla-based, university-level summer students to conduct research and perform certain analytical undertakings. The program of hiring Anguilla university students has been on-going for the past three years. The program of retaining Anguilla university students as summer interns provides certain technical resources to the Commission and also an opportunity to evaluate candidates for permanent positions with the Commission following completion of their studies. During the Summer of 2008 the Commission retained Ms. K. Horsford, University of Bristol (LLB), Bristol United Kingdom and Ms. S. Hughes, University of West England (Accounting and Finance) as Summer intern students.

### 8.2 Regulatory Framework

Currently the Commission's main function is the administration of the Telecommunications Act (R.S.A c.T6). Section 7 of the PUC Act provides for a broader mandate, in particular sub-section 7(3)(a) which reads as follows:

- (3) Subject to subsection (1), the Commission has the following general functions—*
- (a) to secure, as far as it is economical to meet them, that all reasonable demands in Anguilla for electricity, telecommunications and piped water are met;'*

During 2008 no new legislation was enacted to expand the Commission's mandate to either the electric or water sectors.

# **Appendix I**

## **Telecom Decision PUC 2008 - 101**

**In the matter of a review of prices included in interconnection agreements between Cable and Wireless (West Indies) Limited (C&W) and the following operators: Caribbean Cable Communications (CCC); Weblinks Limited (Weblinks); and Wireless Ventures Anguilla Limited (Digicel).**

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## Telecom Decision PUC 2008-101

The Valley, Anguilla – 28 March 2008

In the matter of a review of prices included in interconnection agreements between Cable and Wireless (West Indies) Limited (C&W) and the following operators: Caribbean Cable Communications (CCC); Weblinks Limited (Weblinks); and Wireless Ventures Anguilla Limited (Digicel).

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## Telecom Decision PUC 2008-101

### I Background

#### ***Scope of Proceeding***

1. The national regulatory framework provides for an ‘integrated’ public telecommunications service which requires that all public networks be interconnected. Section 5(1) of the **Telecommunications Interconnection and Access to Facilities Regulations R.R.A. c. T6-4 (IAF Regulations)** stipulates that every operator or service provider has a duty to interconnect with other service providers.
2. Cable & Wireless (West Indies) Limited (C&W) is a licensed public telecommunications network operator and fixed-line and mobile service provider in Anguilla. C&W is the incumbent operator and received a new license on 14 December 2004.
3. Weblinks Limited (Weblinks) is a licensed public telecommunications network operator and mobile service provider and received a license on 10 September 2004.
4. Wireless Ventures (Anguilla) Limited (WVA) (Digicel) is a licensed public telecommunications network operator and mobile service provider with a license granted by the PUC on 5 November 2004.
5. Caribbean Cable Communications (CCC) is a licensed public telecommunications network operator and fixed-line service provider and received a license on 14 December 2004.
6. C&W’s license, Annex 2, Section 1.3, states that for purposes of this **Licence**, the Licensee is dominant with respect to a number of telecommunications services in Anguilla including those described in section 1.3.3 as follows:

*‘Services of terminating mobile telephone calls on Licensee’s own mobile or fixed network....’*
7. The Commission, in Decision 2005-102, dated 22 November 2005, at paragraphs 9 and 35, approved the following interconnection prices:
  - a. *Part 2. Termination Services – **PSTN Terminating Service**: A composite price not to exceed **5.4 EC cents** per minute. The parties may elect to adopt peak and off peak pricing structures with the maximum peak price not to exceed 5.4 EC cents.*

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- b. *Part 2. Termination Services – Mobile Terminating Service: A composite price not to exceed 40 EC cents per minute.*
  - c. *Part 2. Termination Services – Mobile Terminating Service – Transit portion: A composite price per minute not to exceed 2.2 EC cents per minute.*
  - d. *Part 2. Termination Services - Incoming International to PSTN Service - A composite price not to exceed 5.4 EC cents per minute. The parties may elect to adopt peak and off peak pricing structures with the maximum peak price not to exceed 5.4 EC cents.*
  - e. *Part 2. Termination Services - Incoming International to Mobile Terminating Service: A composite price not to exceed 36.9 EC cents per minute.*
  - f. *Part 2. Termination Services - Incoming International to Mobile Terminating Service – Transit portion: A composite price per minute not to exceed 2.2 EC cents per minute.*
  - g. *Part 3. Special Access Services – Provision of access to 999 and 911 emergency services. A composite price not to exceed 3.5 EC cents per minute.*
  - h. *Part 4. PSTN Transit Services – PSTN Transit service – A composite price not to exceed 2.2 EC cents per minute.*
8. The current interconnection agreement between C&W and Digicel was approved by the Commission **Decision 2005-105** dated 15 December 2005 and the agreement between C&W and CCC was approved by **Decision 2005-104** dated 14 December 2005.



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### ***The Proceeding***

9. In **Telecom Decision PUC 2005-102**, dated 22 November 2005, paragraph 37, the Commission undertook to review interconnection rates within two years of the date of Decision 2005-102.

### **Notice and Responses**

10. In compliance with paragraph 37 of **Decision 2005-102**, a Public Notice for the current proceeding was published in the Gazette, Volume 34, No. 8, 22 June 2007, and reads, in part, as follows:

*“Pursuant to section 5 of the Telecommunications Administrative Procedures Regulations R.R.A. T6-1 notice is hereby given that (the) Commission invites interested parties to file comments on the matter of Interconnection prices (see Part 2 below). This proceeding is related to the Commission's undertaking to review interconnection prices in Telecom Decision PUC 2005-102, dated 22 November 2005, Section III (Directions on Procedure), paragraphs 36 to 38.*

*In connection with this proceeding and pursuant to section 11 of the Public Utilities Commission Act R.S.A. c. P175, licensed operators with current interconnection agreements are required to file the following information on or before four weeks from the date of this public notice with the Commission on a confidential basis, having regard to section 41 of the Public Utilities Commission Act R.S.A. c. P175.”*

11. In response to the public notice and the invitation to file comments, C&W, CCC and WVA Ltd. filed initial submissions with the Commission.
12. Reply comments were filed by C&W, dated 22 August, by CCC dated 23 August and Digicel dated 21 August 2007.
13. Following a review and consideration of the comments and reply comments, the Commission issued Telecom **Decision PUC 2007-102** dated 13 December 2007.
14. Telecom Decision **PUC 2007-102** recommended the prices<sup>1</sup> set out in Table 1 below be effective 1 April 2008 and 1 April 2010.

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<sup>1</sup> Telecom Decision PUC 2007-102, paragraph 71

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<b>Table 1: Present and Proposed Interconnection Prices Per Minute</b>						
<b>Service</b>	Present Price		Proposed Price - Effective 1 April 2008		Proposed Price - Effective 1 April 2010	
	EC cents	US cents <sup>2</sup>	EC cents	US cents	EC cents	US cents
a. PSTN Term. Service	5.4	2.0	5.0	1.85	4.5	1.67
b. Mobile Term. Service	40.0	14.81	35.0	12.96	30.0	11.1
c. Mobile Term. Service - Transit Portion	2.2	0.81	2.0	0.74	1.8	0.67
d. Incoming International to PSTN Term. Service	5.4	2.0	5.0	1.85	4.5	1.67
e. Incoming International to Mobile Term. Service	36.9	13.67	35.0	12.96	30.0	11.1
f. Incoming International to Mobile Term. Service – Transit Portion	2.2	0.81	2.0	0.74	1.8	0.67
g. Special Access Services –access to 999 & 911	3.5	1.30	3.25	1.20	3.0	1.11
h. PSTN Transit – PSTN Transit Service	2.2	0.81	2.0	0.74	1.8	0.67

15. In **Decision 2007-102** interested persons were invited to file comments on the matter of the recommended interconnection prices as set out in **Decision 2007-102** and any other relevant matters. Initial comments were to be filed on or before 25 January 2008 and reply comments filed on or before 25 February 2008.

<sup>2</sup> Based on an exchange rate of EC\$ 2.7 per US\$.

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16. In response to the invitation to file comments, C&W, CCC and Digicel filed submissions with the Commission. In reply, submissions were received from C&W, and CCC.
17. The traffic and revenue data filed in response to paragraph 74 of **Decision 2007-102** was submitted in confidence to the Commission by C&W, CCC and Digicel.
18. The submission of C&W dated 25 January 2008 includes comments on the recommended interconnection prices and also the traffic and revenue data requested by the Commission in Decision 2007-102.
19. A number of deficiencies were identified by the Commission in the traffic and revenue data filed by C&W, CCC and Digicel in response to the directions in **Decision 2007-102**. The companies subsequently filed amended reports to address these deficiencies.

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## **II Commission Analysis and Findings**

### ***Current and Proposed Interconnection Prices***

20. Table 1, paragraph 14, sets out the present and proposed prices for interconnection services.
21. The Commission, in **Decision 2007-102**, recommended a two-phase decrease in all interconnection prices including mobile and fixed network termination prices as set out in Table 1 above. The initial decrease is scheduled for 1 April 2008 and the second decrease is schedule for 1 April 2010.

### ***Mobile Termination Service Rate (MTR)***

22. In response to the Commission's recommended interconnection prices in **Decision 2007-102**, C&W and CCC agreed with the proposed reductions in mobile termination prices in their respective responses.
23. Digicel opposed the reduction in mobile prices and also submitted that a deferment in the timing of the proposed reductions from April 2008 to April 2010 would greatly strengthen the case for an initial reduction.<sup>3</sup>
24. In support of its position for maintaining the current MTR, Digicel submitted comments dated 25 January 2008 including a benchmarking study dated 24 August 2007 that was conducted for one of its affiliated companies operating in the Trinidad and Tobago market.<sup>4</sup>
25. The Trinidad and Tobago benchmark study submitted by Digicel concluded with the following statement:

*'We have constructed a benchmark of EU mobile termination rates as carefully as possible so as to provide a proxy for Digicel's cost-based mobile termination in Trinidad & Tobago. As with any benchmarking, this exercise is necessarily inexact, but we can say with confidence that a cost-based mobile termination rate for Digicel would be in the range 10.86-15.33 US cents per minute (67.83-97.01 T&T cents per minute) with our base case benchmark estimate of 13.67 US cents per minute or 86.48 T&T cents per minute.'*<sup>5</sup>

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<sup>3</sup> Digicel Response, 25 January 2008, pages 3 and 4.

<sup>4</sup> David Rogerson et al., 'A benchmark for cost-based mobile termination in Trinidad & Tobago - A Report for Digicel', Ovum Consulting, 24 August 2007.

<sup>5</sup> Report for Digicel, Ovum Consulting, Section 4.3, page 8.

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26. As previously noted Digicel proposed that the timing of any reduction be delayed until April 2010 and compared the timing of MTR adjustments in the European Union (EU) to those proposed for Anguilla. In its submission, Digicel commented as follows:

*'Given that the average EU mobile operator entered the market 10 or more years ago and the rates in question in the current proceeding were determined in 2005, Digicel believes that the case for a first reduction in the MTR would be greatly strengthened if it were to occur in, say, April 2010, rather than April 2008.'*<sup>6</sup>

27. The glide paths implemented in the EU are generally in the order of 3 to 5 years and most commenced in or around 2004. In addition, achievement of a high level mobile penetration rate in Anguilla compared to that in many of the EU countries occurred over a much shorter period i.e. two years versus more than five years. Based on data<sup>7</sup> filed by the mobile operators in Anguilla, the mobile market penetration rate (mobile customers per 100-population) in Anguilla reached a level of more than 120% by year-end 2006 within approximately two years of Digicel entering the market.
28. The mobile teledensity in Anguilla is currently comparable to or higher than that in the eight EU countries included in the Ovum Benchmarking Study.
29. In addition, many EU jurisdictions did not exercise regulatory oversight of MTRs until some years after the mobile service was initially offered. One of the key factors was the enactment of the 'EU Communications Framework' in 2002. It was only after the 'Framework' was adopted and EU states introduced 'directives' pursuant to it that they commenced regulatory oversight of their MTRs.<sup>8</sup>
30. In the absence of suitable costing results, and having regard to the time and effort generally associated with developing, implementing, applying and analyzing costing methodologies and their subsequent results, the Commission concurs with Digicel's submission regarding the benefits of benchmarking studies for gauging the appropriate level for MTRs. The Commission also recognizes the challenges in finding and selecting a suitable set of benchmarks.

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<sup>6</sup> Digicel Response, 25 January 2008, pages 3 and 4.

<sup>7</sup> PUC Anguilla Annual Report 2006, Table 1, page 15.

<sup>8</sup> Op. cit., 'Ovum Benchmarking Study', (August 2007), footnote 2, page 3.

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31. On the matter of whether a set of EU MTRs is suitable for establishing MTRs in Anguilla, the Commission notes the following comments<sup>9</sup> included in the Ovum study:

*'There is a high degree of commonality between the mobile networks of the EU and the mobile networks in T&T. All these networks use the GSM standard, the networks are constructed using the same or similar design rules, and the major network components are purchased on world markets (and thus have similar costs regardless of the country of deployment). Cost-based rates for mobile termination in the EU are therefore likely to be similar to those in T&T.'*

32. Without commenting on the applicability of the EU benchmark for Trinidad & Tobago, the Commission notes the significant differences between Anguilla and the eight EU countries selected for the study. The differences in GDP per capita, geographic area (sq. km), number of mobile telephones, population and network topography.

33. C&W made the following submission in its reply comments<sup>10</sup> of 25 February 2008 on the matter of selecting suitable benchmarks:

*'An international benchmarking exercise, such as the one proposed by Digicel, is not as easy an exercise as Digicel would have the Commission believe. The results of any such study are highly sensitive to multiple assumptions and factors. Ovum's own "sensitivity analysis" in section 4.2 of their study shows that using slightly different assumptions and inputs results in most cases in benchmark rates that are lower than the USD 0.1367 headline benchmark rate in Ovum study (including one as low as USD 0.1086).'*

34. The Commission concurs with C&W's view on the 'sensitivity' of assumptions and other factors in attempting to select comparable benchmarks.

35. An example of this sensitivity is presented by C&W in its reply comments of 25 February 2008 in paragraphs 8 and 9. By employing the incumbent's MTR and exchange rates as of 30 June 2007 and 31 December 2007 for comparison purposes, C&W notes that the 'revised' average MTR for the eight countries in the Ovum Benchmark Study were 12.72 US cents and 11.90 US cents respectively.

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<sup>9</sup> Ibid., paragraph 4, page 3

<sup>10</sup> C&W Reply, 25 February, 2008, paragraph 4, page 2.

## Public Utilities Commission of Anguilla

### Telecom Decision PUC 2008-101

36. C&W then compared these revised benchmarks with those presented in the Ovum Study and submitted the following observations:

*'Both of these revised benchmarks are significantly lower than the US\$ 0.1367 that Digicel put forward as the "appropriate" benchmark rate (and more in line with, if a little lower than, the Commission's proposed rate of US\$ 0.1296 for 1 April 2008). It is also not clear how applicable even these revised benchmarks will be going forward, as European MTRs continue to fall (e.g. Spain and UK MTRs will fall again on 1 April 2008).'*<sup>11</sup>

37. One of the significant variables in many MTR benchmarking studies is the currency exchange rates employed to convert the rates in different countries to a common currency.
38. C&W commented, in part, as follows on the matter of exchange rates and MTR benchmark studies:

*'Another fundamental assumption is the foreign exchange rate that is applied to covert (convert) from local currencies into U.S. dollars. Small changes in this assumption can have a material impact on the benchmark rate. For example, simply changing the exchange rates used to convert the MTRs from Euros into U.S. dollars from those used by Ovum to the exchange rates that existed on 11 February 2008 change(s) the benchmark rate from USD 0.1367 to USD 0.1219.'*<sup>12</sup>

39. In a footnote to the above comment C&W expanded on its view of the implications of changes in currency exchange rates and results of MTR benchmarking studies and offered a further explanation that reads, in part, as follows:

*'The U.S. dollar is also currently at historically low levels. One of the dangers of trying to base Anguilla MTRs on foreign data is the risk that MTRs fluctuate with foreign exchange movements, something which does not make sense. An appropriately constructed benchmarks study should use average exchange rates, to smooth out fluctuations.'*<sup>13</sup>

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<sup>11</sup> Ibid. paragraph 9, page 4.

<sup>12</sup> Ibid. paragraph 6, page 2.

<sup>13</sup> Ibid. Footnote 3, page 2.

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40. The study filed by Digicel employs an exchange rate of 1EU\$ to 1.367 US\$.<sup>14</sup> C&W submitted that ‘average exchange rates’ should have been employed, stating that:  
*‘An appropriately constructed benchmarks study should use average exchange rates, to smooth out fluctuations.’*
41. It is unclear based on the data presented in the study whether the study is based on a single fixed exchange rate as of a particular date or on an average from a range of rates over a particular time period.
42. While the Ovum Study filed by Digicel in this proceeding does not contain an extensive discussion or sensitivity analysis showing the impact on the benchmark results due to changes in the EU/US\$ exchange rate, it does refer to the ‘ITU/‘infoDev’ ICT Toolkit which provides a more comprehensive discussion on the matter of benchmarking and exchange rates.
43. The following comment on the use of exchange rates in benchmarking studies is contained in the InfoDev Toolkit<sup>15</sup>:
- “Exchange rates: Rates need to be converted to the local currency, or some other single monetary unit. This conversion can use either market exchange rates or purchasing power parity (PPP) exchange rates. It makes sense to use PPP exchange rates when the majority of the regulated firm’s costs are local currency denominated and locally sourced, such as staff costs. If the firm’s costs largely consist of repaying foreign currency denominated loans and purchasing capital equipment on the international market, then market exchange rates are generally more appropriate as a basis for comparing prices and costs. When using PPP exchange rates, it is best to use rates estimated by recognized international institutions such as the World Bank, International Monetary Fund or OECD,”*
44. However, even with these recognized constraints, the use of price benchmarking is a useful tool for comparing mobile and fixed termination prices in different jurisdictions.

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<sup>14</sup> Op. cit. ‘Ovum Study’, (August 2007), Figure 3.1, page 7.

<sup>15</sup> The ITU/infoDev ICT Toolkit - <http://icttoolkit.infodev.org/en/Section.2149.html> (Accessed 14 March, 2008).



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45. The following comments on benchmarking are contained in the InfoDev Toolkit<sup>16</sup>:

*‘Benchmarking has two main purposes in interconnection pricing. In situations where detailed cost models can be estimated, benchmarking can be used as a common sense check on the results of the modeling. Alternatively, benchmarking can be used directly to set interconnection prices.*

*Benchmarking can be very useful to regulators if undertaken carefully.*

*Undertaking a full [forward-looking cost modeling](#) exercise is challenging and time-consuming. In some markets the detailed information required may not be available. Regulators in many jurisdictions have used benchmarking to set initial interconnection rates (for example Botswana, New Zealand).*

*Where benchmarked rates allow competition to develop satisfactorily, rates based on benchmarking may be used for extended periods.*

*In a benchmarking exercise, adjustments need to be made for differences among jurisdictions, for example exchange rates, traffic patterns, or the cost of shipping network equipment.’*

46. The Commission notes the reference to ‘glide-paths’ in the benchmarking study<sup>17</sup> filed by Digicel:

*‘Several EU regulators have adopted a glide-path to ensure a smooth transition to their estimated (future) cost-based rate. Typically these glide-paths may be over 2-3 years. For example, the French regulator has set rates through to 2008, the Hungarian and Spanish regulator has determined a glide-path to 2008, while the latest glide-path in the UK runs until 2010.’*

47. The ‘glide path’ recommended by the Commission results in a MTR in April 2010 of 30 EC cents or about 11.1 US cents. As the present MTR of 35 EC cents went into effect in November 2005 and with the recommended two-phase adjustment, the Commission has set out a ‘glide-path’ of some four years and four months – November 2005 to April 2010.

48. The Commission notes that four of the eight countries used in the Ovum benchmark study - France, Hungary, Spain and the UK – are also countries employing a glide-path for adjusting their MTR. Three countries have a glide-path up to 2008 whereas

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<sup>16</sup> [ICT Regulation Toolkit Module 2. Competition and Price Regulation, 3.3.4 Benchmarking Interconnection Rates](#)

<sup>17</sup> Op. cit., ‘Ovum Study’, (August 2007), footnote 11, page 8.

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the UK has one up to 2010. As a result it is reasonable to assume that further adjustments will occur, or have already occurred, in the MTRs employed in the study completed in August 2007.

49. Digicel noted that such adjustments are to be expected and made the following statement in its submission<sup>18</sup>:

*'The most recent information provided by the European Commission<sup>19</sup> shows that the average MTR in the European Union was US\$0.1676 (€0.114) in September 2006.*

*Admittedly, the rate may well have further declined by 10% to 15% between September 2006 and January 2008, but even if so it would still be well in excess of the US\$0.1296 which the PUC proposes should apply from 1 April 2008.'*

50. In addition to the reference to 'average MTR in the European Union' Digicel filed the above-mentioned benchmarking study that concluded with a base case benchmarking estimate of 13.67 US cents, 3 cents less than the overall European Union average as of September 2006.
51. Digicel's comparison of the Commission's proposed MTR effective 1 April 2008 of 12.96 US cents with the total EU average of 16.96 from September 2006 is somewhat disingenuous even with the suggested adjustment of 10-15%.
52. For example, the benchmarking study submitted by Digicel in the current proceeding has a range of from 10.86 to 15.33 US cents with a mid-point of 13.10 US cents, based on the eight 'selected' countries with data as of 1 August 2007.
53. Adjusting this range by 10% for the timing difference between August 2007 and April 2008, produces a range of 9.77 to 13.80 US cents with a midpoint of 11.79 cents. The Commission's proposed rate of 12.96 US cents is at the high end of this 'adjusted' range of the Ovum Benchmark Study.
54. In addition, one of the major variables between the 'average MTR in the European Union' as determined by the September 2006 measurement of the EU benchmark cited in the Digicel response<sup>20</sup> and the benchmarks in the Ovum Study<sup>21</sup> is the US/EU

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<sup>18</sup> Digicel Response, 25 January 2008, page 3.

<sup>19</sup> COM(2007) 155 (29 March 2007), "The 12th Implementation Report", Volume 1 p19.

<sup>20</sup> Digicel Response, 25 January 2008, page 3.

<sup>21</sup> Op. cit., 'Ovum Study' (August 2007), page 7.

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exchange rate with the former being 1.47 US\$ per 1.00 Euros and the latter being 1.367 US\$ per 1.00 Euros.

55. The use of benchmarking studies to gauge the appropriateness of present and proposed MTRs as well as FTRs is, as previously noted, a viable alternative to a full costing study having regard to the time and effort required to develop a suitable costing methodology and produce useable results.
56. A suitable benchmark should reflect as much as possible the ‘efficient’ level of cost to provide the related termination service in the national environment in which it is provided. Incongruent networks due to significant differences in network topology or irrelevant comparisons due to wide variations in exchange rates should be avoided when selecting a suitable benchmark.
57. The promotion of efficiency and sustainable competition enhances the benefits to end users and are factors to be considered in setting termination rates pursuant to **IAF Regulations**, in particular section 4(1) which reads as follows:

*“**Functions of the Commission***

*4. (1) The Commission shall, consistent with the Act and these Regulations, encourage and, where appropriate, ensure, the adequacy of interconnection between public telecommunications networks and public telecommunications services in such a way as to –*

*(a) promote efficiency;*

*(b) promote sustainable competition;*

*(c) giving maximum benefit to end users; and*

*(d) ensuring that operators and service providers are compensated for providing interconnection services. (Emphasis added)*

58. Given the level of market development in Anguilla and the time-period employed for having the MTRs move towards a more cost-oriented level, the Commission finds that the recommended MTRs as set out in Table 1 are just and reasonable and in the public interest having regard to the need to set a suitable glide-path for moving the MTR to a more cost-oriented level.

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### Two-Sided Markets

59. Digicel in its response of 25 January, 2008 raised the matter of ‘two-sided’ markets and submitted the following comments:

*“Digicel believes that it is inappropriate to assume that Digicel’s on-net retail prices can be assumed to act as the outer bounds of Digicel’s origination and termination costs. Mobile networks are two-sided markets and as such wholesale interconnection and retail prices are interrelated.*

*This means, the literature suggests, that it is, unfortunately perhaps, simply not possible to infer anything about a network’s costs by looking at pricing on either side of the market. Specifically, it is not possible to infer that a network’s wholesale price must be below its retail prices.”<sup>22</sup> (Emphasis added)*

60. Digicel submitted that the Commission ‘assumed’ the position, that ‘on-net’ retail prices are the ‘outer bounds’ of Digicel’s origination and termination costs. The Commission in recommending the proposed MTRs did not make any such assumption but only ‘noted’ the comparison between certain retail prices and the wholesale price for mobile termination. If the Commission had adopted such a position, the recommended MTR would be set within the range of 9.5 to 27.5 EC cents and not at the proposed level of 35 for April 2008 and 30 EC cents for April 2010.
61. The Commission concurs with Digicel’s view as presented in its submission of 25 January 2008 that ‘*wholesale interconnection and retail prices are interrelated*’. Given that a mobile company is dominant with respect the termination of calls on its network, the issue of setting mobile termination prices that are fair and reasonable having regard to the requirements of the **Telecommunications Act R.S.A. c. T-6, (Telecom Act)**, raises additional complexity in the context of a two-sided market.
62. Some guidance on this matter is set out in the **Telecom Act** section 17(2)(c) and relates to the pricing of wholesale services involving an interconnection arrangement and reads as follows:

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<sup>22</sup> Digicel’s Response, 25 January 2008, page 4.

## Public Utilities Commission of Anguilla Telecom Decision PUC 2008-101

*'(c)provide the elements of interconnection, to other operators and service providers, in a manner that is at least equal in both quality and rates to that provided by the operator or service provider to its own business units or to any body corporate with which it is affiliated or to any other party to which the operator or service provider provides interconnection and without regard to the types of users to be served, or the types of services to be provided, by such other operator or service provider';* (Emphasis added)

63. With the existence of a monopoly on mobile termination on their networks, mobile service providers have the means to employ anti-competitive or predatory pricing practices given the 'two-side' nature of mobile markets.
64. While the equitable distribution of cost recovery in a multi-segmented market is a complex challenge, the **Telecom Act** provides general guidance on such matters with respect to the impact on competition. Section 7(1)(d) of the **Telecom Act** reads as follows:

*'(d)(License Operators should)... not, in a manner that might lessen, or might have the effect of lessening, competition, engage in anti-competitive pricing and other related practices and, in particular, shall refrain from using revenues or resources, from a telecommunications network or a telecommunications service in respect of which the operator or service provider is dominant, to cross-subsidise unfairly any other telecommunications network or telecommunications service, without the prior written approval of the Commission;'*

65. The Commission supports the notion that a fully effective marketplace is the best mechanism for setting and maintaining prices at an efficient level, however, when the relationship between prices for the same service appear to be materially inconsistent, the Commission has the responsibility of raising the matter for review whether such markets are single or multi-sided, given the requirements of s.7(1)(d), s.17(2)(c), s.20(2)(c) and s.20(3) of the **Telecom Act**.
66. The relationship between wholesale and retail prices was also addressed in C&W's reply comments of 25 February 2008 at paragraph 12 and reads, in part, as follows:

*'12. With respect to Digicel's comments about the relationship between on-net pricing and wholesale prices, C&W Anguilla submits that Digicel is proposing that the Commission endorse an economically inefficient and generally anticompetitive market. It is inefficient to charge above-cost MTRs simply in order to subsidize certain below-cost retail prices.'*

## Public Utilities Commission of Anguilla Telecom Decision PUC 2008-101

67. However, Digicel took a different view in terms of the issue of anticompetitive or predatory pricing in this proceeding and submitted the following comments:

*'Moreover, what is at stake in this proceeding is not anti-competition or predatory pricing as the operators that employ this pricing strategy are not dominant in a relevant retail market.'*

68. While Digicel may not be dominate in the retail side of the mobile market, they are dominant in the wholesale side for mobile termination on its network and due to the nature of the two-sided market and the resulting interrelationship between retail and wholesale prices the potential exists for anticompetitive and predatory pricing.
69. C&W and Digicel both raise a number of fundamental issues related to the retail-wholesale price relationship in the mobile market. Two initial questions that arise are to what degree does a 'surplus' exists i.e. does the price exceed cost, on either side of the market and - who benefits from any such surplus - shareholders or customers?
70. One example of a retail price bearing a distorted relationship with a related wholesale price is that of the mobile to fixed retail calling prices assessed by both C&W and Digicel. Given the current FTR of 5.4 EC cents and MTR of 40.0 EC cents, a retail price of 75 EC cents appears incongruent with the underlying price/cost structure. Notwithstanding the two-sided market theory, such pricing may discourage and thereby distort demand and/or may be anti-competitive and therefore not in the public interest.
71. In his December 2006 paper, Weyl provides a description of the dilemma for service providers, customers and regulators with respect to setting prices in a two-sided market environment and outlines it as follows:
- 'I find that competition, price controls and subsidies always reduce the price level, defined as the sum of prices on the two sides of the market. However, price controls and competition that are "unbalanced" may raise prices on one side of the market.'*<sup>23</sup>
72. Weyl identifies the potential for undesirable price increases on one side of a two-sided market in the case where price controls and competition are 'unbalanced'. In other words, a balance between some degree of price control as well as effective competition is required in a two-sided market to maintain a 'balance' between prices on both sides of a two-sided market.

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<sup>23</sup> E.G. Weyl, 'The Price Theory of Two-Sided Markets', December 2006, Abstract, page 1.

## Public Utilities Commission of Anguilla

### Telecom Decision PUC 2008-101

73. The Commission recognises that notwithstanding the policy development in the area of two-sided markets, the Commission is obligated to apply the Act, the regulations and the Code in making decisions on prices for interconnection services.

#### *PSTN Terminating Service - Fixed Termination Rate (FTR)*

74. Commission **Decision 2007-102** recommended that the fixed termination rate be decreased from 5.4 EC cents to 5.0 EC cents effective 1 April 2008 and a further reduction to 4.5 EC cents on 1 April 2010.

75. In recommending the revised FTRs the Commission summarised its comments<sup>24</sup> as follows:

*'64. Having regard to the 'adequacy of interconnection' and the objectives of 'promoting efficiency' and 'sustainable competition' as well as maximizing the benefits to end users while at the same time ensuring service providers are*

*compensated for providing interconnection services, requires that the Commission sets interconnection rates having regard to each of these objectives. Setting rates too high would be both inefficient and not benefit the end users. Whereas setting rates too low may not sufficiently compensate service providers nor result in sustainable competition.*

*65. The Commission in recommending the rates set out below has attempted to balance these various criteria and set rates that are fair and reasonable for all of the licensed service providers and also the end users.'*

76. C&W, in its reply comments, opposed the proposed reduction in the fixed termination rate and submitted that the Commission would not have recommended a decrease in the FTR if it had considered the traffic data showing that the overall traffic on the fixed network had declined over the past few years.

77. C&W, in its comments of 25 January 2008, suggested the Commission relied on changes in certain traffic data as the basis for recommending the new FTR rates set out in **Decision 2007-102**. C&W submitted that:

*'15. It was this traffic that the Commission appears to have relied upon to reach the conclusion, noted in paragraph 69 of the Decision, that there was an increase, albeit a lower volume increase, than was seen with mobile traffic. Of course, that*

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<sup>24</sup> Telecom Decision PUC 2007-101, 13 December 2007, paragraphs 64 and 65.

## Public Utilities Commission of Anguilla Telecom Decision PUC 2008-101

*this traffic was seen to grow between December 2005 and April 2007 is self-evident because it essentially started from nothing in November 2005.*<sup>25</sup>

And further at paragraph 19 of C&W's submission of 25 January 2008,

*'19. Had the Commission reviewed data on "on-net" traffic and traffic between C&W Anguilla's two networks prior to the Decision, C&W Anguilla believes that the Commission would have come to a different conclusion from that in paragraph 69, and might not have proposed a lower price for PSTN Terminating Access Service.'*

78. The Commission's observation in paragraph 69 was solely related to traffic volumes 'to and from fixed networks as a result of interconnection' and therefore did not pertain to the traffic volume within C&W's fixed network.

79. C&W acknowledged in the submission of 25 February 2008 that the Commission considered other factors besides changes in the volume of traffic in recommending the new FTRs and stated as follows:

*'24. In arriving at its Decision, the Commission expressly took into account factors other than traffic.'*<sup>26</sup>

80. C&W added that even considering the factors other than traffic, the Commission should not decrease the FTR and made the following submission:

*'25. C&W Anguilla submits that these other objectives cannot be met if the Commission were to reduce the PSTN Terminating Access Service rate in the absence of any evidence suggesting that the per-minute costs of that service might have declined. In particular, the objectives of "efficiency", "sustainable competition" and "adequately compensating service providers" cannot be achieved if prices are lowered below costs. While end-users might appear to benefit, this would only be in the short-term, and it is difficult to conclude that benefits to end-users would be "maximized" in these circumstances.'*

81. C&W submits that the objectives of 'efficiency', 'sustainable competition', and 'adequately compensating service providers' will not be achieved if the FTR is below 'costs'. The Commission concurs with C&W on this point.

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<sup>25</sup> C&W filed a correction dated 7 March 2008 to paragraph 15 of their Submission of 25 January 2008 to amend the reference to 'paragraph 68' to a reference to 'paragraph 69' of the Commission Decision 2007-102.

<sup>26</sup> Cable & Wireless (West Indies) Limited, Submission (Abridged version), 25 January 2008, paragraph 23, page 7.



## Public Utilities Commission of Anguilla Telecom Decision PUC 2008-101

82. The Commission notes the range of costing results set out in C&W's 2005 Cost Submission<sup>27</sup> dated 19 May 2005 and the related comments that read, in part, as follows:

*'These adjustments produce a termination cost of ### EC\$. We freely admit that a proper cost-volume analysis of service provision might result in a LRIC below this figure. However, this approach gives us a conservative proxy for the bottom end of our sought-after range.*

*Thus, the PSTN terminating service charge in the Agreement of ### EC\$ falls between the stand-alone and the LRIC of ### and ### EC\$ respectively.'*

83. The Commission also notes that the current FTR of 5.4 EC cents is above the lower end of the cost range identified by C&W in its study and the approved FTR of 5.4 EC cents also includes an allowance for access cost.
84. Without prejudice to any subsequent review of C&W's costing methodology and given the 'conservative' approach cited for establishing the range as well as accounting for the access cost adjustment, the Commission is of the view that the recommended MTR of 4.5 EC cents to be effective 1 April 2010 is likely to remain within C&W's range of stand-alone and long run average incremental cost.
85. In addition, the Commission notes that with the current retail rates for fixed to fixed calls of 6, 7 and 9 EC cents per minute, the resulting termination portion, based on a fifty/fifty apportionment, is a termination rate of between 3 and 4.5 EC cents per minute compared to the proposed FTRs of 5 and 4.5 EC cents.
86. In section 20(3) of the **Telecom Act** the following framework is provided with respect to 'retail' (internal) and wholesale (external) prices:

*'(3) A service provider shall provide rates that are fair and reasonable and shall not discriminate unduly among similarly situated persons, including the service provider and any body corporate with which it is affiliated'. (Emphasis added)*

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<sup>27</sup> Cable & Wireless (West Indies) Limited, Cost Submission, Cingular/C&W Interconnection Agreement, 19 May 2005 (Abridged Version), page 10.

# Public Utilities Commission of Anguilla

## Telecom Decision PUC 2008-101

87. In more particular terms, section 17(2)(c) of the **Telecom Act** sets out the requirements for pricing interconnection services and reads as follows:

*'(c) provide the elements of interconnection, to other operators and service providers, in a manner that is at least equal in both quality and rates to that provided by the operator or service provider to its own business units or to any body corporate with which it is affiliated or to any other party to which the operator or service provider provides interconnection and without regard to the types of users to be served, or the types of services to be provided, by such other operator or service provider;*  
(Emphasis added)

88. In setting the FTR at the present level in November 2005, the Commission made reference to a number of criteria such as the ratio of the mobile to fixed rate as well as the level of the retail prices relative to the wholesale price of termination.

89. The Commission made the following observations regarding C&W's submission on the MTR/FTR ratio and benchmarking filed in the initial Interconnection Proceeding in 2005<sup>28</sup>:

*'18. On the matter of the application of a 'benchmark' ratio for fixed to mobile prices as referred to in WVA Ltd.'s submission, C&W submitted that evidence from their research suggested that the ratio should be no more than 1:6 instead of 1:33 as submitted by WVA Ltd. C&W cites the source of their reference as a report by Mr. David Rogerson of Ovum Limited.'*<sup>29</sup>

90. The current and proposed MTR/FTR ratios are as follows: (current)  $40/5.4 = 1:7.4$ ; (proposed April 08)  $35/5 = 1:7.0$ ; and (proposed April 2010)  $30/4.5 = 1:6.7$ . The trend in the MTR/FTR ratio is from the current level of 1:7.4 to the April 2010 ratio of 1:6.7.

91. The mobile/fixed ratio is one of a number of 'benchmarks' that may be applied to assess the reasonableness of the 'relative' levels of mobile and fixed rates.

92. Having regard to both the empirical evidence filed in this proceeding and the present retail prices for certain network calling services as well as the requirements in the **Telecom Act** and the **IAF Regulations** with respect to interconnection prices, the Commission concludes that the recommended FTRs of 5.0 EC cents effective 1 April 2008 and 4.5 EC cents effective 1 April 2010 are just and reasonable.

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<sup>28</sup> Commission Decision PUC 2005-102, 22 November 2005, paragraphs 18 and 19.

<sup>29</sup> C&W submission to the Commission dated 14 November 2005, page 3, footnote 2.

# Public Utilities Commission of Anguilla

## Telecom Decision PUC 2008-101

### ***Financial Impact***

93. The Commission is mindful of the requirements set out in the **IAF Regulations**, section 4(1), to consider the objectives of ‘efficiency’, ‘sustainable competition’, ‘maximum benefit to end users’ and also that operators are ‘compensated for providing interconnection’ when reviewing and setting interconnection prices.
94. In particular, the Commission requested that each operator provide an estimate of the financial impact on its company from the proposed changes in 2008 and also in 2010. The Commission notes that both C&W and CCC will realize a positive financial effect due to the proposed reduction in interconnection rates. The impact on Digicel is estimated to be marginally negative due to the decrease in the MTR and the nature of the traffic flows.
95. For the adjustment in wholesale prices to have the ‘maximum benefit to end users’, related adjustments in the retail prices will need to be implemented. The Commission will continue to monitor retail prices to determine whether the reductions in wholesale prices are reflected in lower end-user prices or if they are absorbed by the company.

### ***Approval of revised Interconnection Prices***

96. Pursuant to s.10(3) of the **Public Utilities Act R.S.A. c. P175)** and s.4 of the **IAF Regulations** the Commission hereby amends the prices set out in paragraph 9 of **Telecom Decision PUC 2005-102** dated 22 November 2005. The revised prices to be effective 1 April 2008 and 1 April 2010 are those set out in paragraph 14 of this Decision.

**Public Utilities Commission of Anguilla**  
**Telecom Decision PUC 2008-101**

### **III Other Matters**

#### ***International Termination***

97. The matter of the price charged for terminating incoming international traffic on domestic networks in Anguilla was raised during this proceeding. As a result, the Commission has directed each licensed operator to file on a confidential basis with the Commission a list of the prices charged for terminating incoming international traffic on its network(s) in Anguilla (see Directions on Procedure, paragraph 102).

### **IV Directions on Procedure**

98. The following directions on procedure are issued pursuant to s. 17(2)(h) of the **Telecom Act**, s. 4(2)(d) of the **IAF Regulations**, and s. 31(a) of the **Telecommunications Administrative Procedures Regulations**.
99. The Commission directs C&W, Digicel, CCC and Weblinks to amend Part 2 of the Tariff Schedule in their respective domestic interconnection agreements to reflect the prices hereby approved and set out in Table 1. The respective changes should be effective on the date proposed, that is, the initial price revisions are effective 1 April 2008. A subsequent direction to file the revised prices to be effective 1 April 2010 will be issued by the Commission on or before 1 April 2010.
100. Therefore the parties to the current interconnection agreements are hereby directed to file for approval by the Commission an amendment to Part 2 of the Tariff Schedule of their current Interconnection Agreement that reflects the interconnection prices approved pursuant to paragraph 96 and set out in paragraph 14 of this Decision. The parties are directed to file the amended Tariff on or before 25 April 2008.
101. The Commission will commence a review of the prices for interconnection on or before 1 July, 2012 to determine whether the prices should be adjusted having regard to the operators' operating costs and traffic trends and the overall development of the market in terms of customer base and usage trends. Licensed service providers may also initiate a review of the interconnection prices by filing either a benchmarking study and/or a costing methodology to support their position for any changes in the interconnection prices either before or during the Commission's next scheduled review.

## Public Utilities Commission of Anguilla

### Telecom Decision PUC 2008-101

102. As licensed network operators that are a party to an interconnection agreement, C&W, CCC, Digicel and Weblinks are hereby directed to file on or before 28 April 2008 with the Commission on a confidential basis the current international termination rates charged by them to international operators or affiliated operators for terminating incoming international traffic on their domestic networks in Anguilla. Each operator is directed to identify the name of the operator that is party to each agreement, the effective date of the agreement and the price charged for terminating incoming traffic, and the type (mobile or fixed) of network in Anguilla on which the traffic is to be terminated.

Issued by the Commission at the Valley, Anguilla on this 28 day of March 2008



Executive Chairman, Public Utilities Commission

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# **Appendix II**

**Report of the Chief Auditor**  
**on the**  
**Accounts of**  
**The Public Utilities Commission**  
**of**  
**Anguilla**  
**2008**

**(Attached letter dated 30 September 2009 from the Chief Auditor,  
Mr. M. L. Daynes, to the Executive Chairman and Members of the  
Public Utilities Commission of Anguilla)**

## **To the Chairman and Members of the Public Utilities Commission**

### **Certificate and Report of the Chief Auditor on the financial statements of the Public Utilities Commission, 2008**

I certify that I have audited the accompanying financial statements of the Public Utilities Commission for the year ended 31 December 2008 under Section 18 of the Public Utilities Commission Act 2003. These comprise the Statement of Income and Expenditure, the Statement of Changes in Equity, the Statement of Financial Position and the Statement of Cash Flows and related notes. The financial statements have been prepared in accordance with the accounting policies set out within them.

#### *Respective responsibilities of the Public Utilities Commission and the Auditor*

The Public Utilities Commission is responsible for the preparation and fair presentation of the financial statements in accordance with Section 18(3) of the Public Utilities Commission Act, 2003, and directions made by the Minister of Finance under the Financial Administration and Audit Act, 2006. This responsibility includes designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances. Under Section 19 of the Public Utilities Commission Act 2003, the Commission is responsible for forwarding to the Governor-in-Council the audited accounts, including my certificate and report thereon.

#### *Auditor's Responsibility*

My responsibility is to express an opinion on the financial statements based on my audit, and to report to you. I conducted my audit in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. Those standards require me to comply with ethical requirements and to plan and perform the audit to obtain reasonable assurance that the financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

#### *Opinion*

In my opinion, the financial statements give a true and fair view, in accordance with the Public Utilities Commission Act, 2003 and directions made by the Minister of Finance under the Financial Administration and Audit Act 2006, of the state of affairs of the Public Utilities Commission as at 31 December 2008 and its deficit and its cash flows for the year then ended in accordance with International Financial Reporting Standards.

#### *Report*

I have no observations to make on these financial statements.



**M L DAYNES**  
Chief Auditor  
30 September 2009

National Audit Office  
157-159 Buckingham Palace Rd  
London SW1W 9SP

**Appendix III**

**(2008 Audited Financial Statements)**

**PUBLIC UTILITIES COMMISSION**

**ANGUILLA**

**FINANCIAL STATEMENTS**

**FOR THE YEAR ENDING**

**31 DECEMBER 2008**



**PUBLIC UTILITIES COMMISSION  
FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 31 DECEMBER 2008**

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**PUBLIC UTILITIES COMMISSION**  
**Statement of Income and Expenditure**  
**FOR THE YEAR ENDED 31 DECEMBER 2008**  
**EXPRESSED IN EASTERN CARIBBEAN DOLLARS**

<b>INCOME</b>	<b>NOTES</b>	<b>2008 EC\$</b>	<b>2007 Restated EC\$</b>
Levy	2	609,062.00	446,336.00
Miscellaneous Income	2	8,129.01	14,831.89
<b>Total Income</b>		<b>617,191.01</b>	<b>461,167.89</b>
 <b>EXPENSES</b>			
Staff Cost	3	469,125.18	400,028.53
Commission Expenses	4	11,880.00	7,560.00
Office Expenses	5	95,811.13	93,831.56
Equipment Expenses	6	12,181.11	24,293.41
Travel & Entertainment	7	26,762.38	25,477.28
Consultants	8	137,829.48	121,920.13
Conferences & Training	12	34,816.40	59,023.46
Other Expenses	13	14,149.12	23,134.88
<b>Total</b>		<b>802,554.80</b>	<b>755,269.25</b>
<b>Deficit</b>		<b>(185,363.79)</b>	<b>(294,101.36)</b>

**PUBLIC UTILITIES COMMISSION**  
**Statement of Financial Position**  
**for the year ended 31 December 2008**

*EXPRESSED IN EASTERN CARIBBEAN DOLLARS*

	NOTES	2008 EC\$	2007 Restated EC\$
<b>Non-Current Assets</b>			
Office Equipment	14	8,883.50	14,811.26
<b>Current Assets</b>			
Trade & Other Receivables	10	8,312.84	9,630.86
Cash at Hand & in Bank	9	34,115.50	167,091.61
Total Current Assets		<u>42,428.34</u>	<u>176,722.47</u>
Total Assets		<u>51,311.84</u>	<u>191,533.73</u>
<b>Current Liabilities</b>			
Trade & Other Payables	11	139,902.61	94,760.71
Total Liabilities		<u>139,902.61</u>	<u>94,760.71</u>
<b>NET ASSETS (LIABILITIES)</b>		<u>(88,590.77)</u>	<u>96,773.02</u>
<b>Equity:</b>			
General Fund		96,773.02	390,874.38
Surplus/(Deficit)		<u>(185,363.79)</u>	<u>(294,101.36)</u>
Total Equity		<u>(88,590.77)</u>	<u>96,773.02</u>

Approved by Executive Chairman of the Board:



Name: \_\_\_\_\_  
**William Withers (Executive Chairman)**

**Dated: 21 August 2009**

**PUBLIC UTILITIES COMMISSION**  
**Statement of Changes in Equity**  
**for the year ended 31 December 2008**

**EXPRESSED IN EASTERN CARIBBEAN DOLLARS**

	EC\$
Balance as of 1 January 2007	390,874.38
Deficit for the year (2007)	<u>(294,101.36)</u>
Balance as of December 31st, 2007	96,773.02
Deficit for the year (2008)	<u>(185,363.79)</u>
<b>Balance as of December 31st, 2008</b>	<b><u>(88,590.77)</u></b>

Note: The General Fund represents the net assets (liabilities) of the Commission which include the surplus (deficit) position resulting from the activities of the Commission.

# PUBLIC UTILITIES COMMISSION

## Statement of Cash Flows for the year ended 31 December 2008

EXPRESSED IN EASTERN CARIBBEAN DOLLARS

		2008	2007
		EC\$	Restated EC\$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>	<b>NOTES</b>		
Deficit for the year		(185,363.79)	(294,101.36)
<b>Items not affecting cash:</b>			
Accumulative Depreciation - Office Equipment	14	<u>5,927.76</u>	<u>5,927.76</u>
		(179,436.03)	(288,173.60)
<b>Changes in operating assets and liabilities</b>			
Trade & Other Receivables	10	1,318.02	13,030.20
Trade & Other Payables	11	<u>45,141.90</u>	<u>(112,486.19)</u>
<b>Net Cash from Operating Activities</b>		<b><u>(132,976.11)</u></b>	<b><u>(387,629.59)</u></b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		-	-
<b>Net cash provided by Investing Activities</b>		-	-
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
Net cash provided by financing activities		-	-
Net cash increase for the period		(132,976.11)	(387,629.59)
Cash at the beginning of the period		<u>167,091.61</u>	<u>554,721.20</u>
Cash at end of the period		<b><u>34,115.50</u></b>	<b><u>167,091.61</u></b>

**PUBLIC UTILITIES COMMISSION  
FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2008  
Expressed in Eastern Caribbean Dollars**

**NOTES TO THE FINANCIAL STATEMENTS**

**1. GENERAL INFORMATION**

**1.1 Function of the PUC**

The Public Utilities Commission is a statutory body corporate established by the Public Utilities Commission Act of 2003. The Commission commenced operations on April 7, 2004 in the Valley Anguilla, BWI and their primary function is the administration of the Telecommunications Act R.S.A c.T6. Section 3 of the Telecom Act describes the main functions of the Commission with respect to the regulation of the telecommunications sector.

**1.2 Basis of Preparation**

The principal accounting policies applied in the preparation of these financial statements are set out below. These policies have been consistently applied to all the years presented, unless otherwise stated.

The financial statements are prepared in accordance with International Financial Reporting Standards (IFRS), the Public Utilities Act, 2003 and under the historical cost convention.

**1.3 Income**

The levy income is recognized on an accrual basis in accordance with the annual industry levy set in accordance with Section 21 of the PUC Act raised on public utilities, telecommunication suppliers and holders of frequency authorizations. The levy income set for each financial year is also determined by the financial results used to meet the requirements under Section 21 (2) of the PUC Act as amended by the PUC Amendment Act (2007).

**PUBLIC UTILITIES COMMISSION  
FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2008  
Expressed in Eastern Caribbean Dollars**

**NOTES TO THE FINANCIAL STATEMENTS**

**1.4 Office Equipment**

Office Equipment is stated at historical cost, less accumulated depreciation and impairment losses, if any. Historical cost includes expenditure that is directly attributable to the acquisition of the assets. Assets with a cost exceeding EC\$10,000 which have a life of more than one financial year have been stated at historic cost less depreciation. All repairs and maintenance are charged to the statement of income during the financial period in which they are incurred.

Depreciation is calculated using the straight-line method to allocate the cost of each asset to their residual values, if any, over the estimated useful lives indicated below:

Office Equipment	4-5 years
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Gains and losses on disposals are determined by comparing proceeds with carrying amount. These are included in the statement of surplus.

**1.5 Expenses**

Operating expenditure (expenses) are costs and charges associated with the annual running of the functions of the PUC and will include depreciation of assets and financing when appropriate.

**1.6 Financial Assets**

The Commission classifies its financial assets as prepayments, accounts receivables/debtors all cash equivalents. Accounts receivables and prepayments are non derivative financial assets with fixed or determinable payments that are not quoted in an active market.

**( a ) Trade and Other Receivables**

Trade and other receivables comprise prepayments and other receivables and are recognized initially at fair value and subsequently measured at amortised cost using the effective interest method, less provision for impairment.

**PUBLIC UTILITIES COMMISSION  
FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2008  
Expressed in Eastern Caribbean Dollars**

**NOTES TO THE FINANCIAL STATEMENTS**

**Financial Assets Continued**

(b) **Cash and cash equivalents**

Cash and cash equivalents are carried in the balance sheet at cost. For the purpose of cash flow statements, cash and cash equivalents comprise cash on hand, deposits with the bank and bank overdrafts held at call with banks. In the event there is a bank overdraft, it is included in the balance sheet under the category current liabilities

**1.7 Financial Liabilities**

Trade and other payables comprise accounts payable and accruals and are recognized initially at fair value and subsequently measured at amortised cost using effective interest method.

**1.8 Exchange Rate/Foreign Currency**

Items included in the financial statements of the Commission are measured using the currency of the primary economic environment in which the entity operates ('the functional currency'). The Commission's functional and presentation currency is Eastern Caribbean Dollars.

**1.9 Employee Benefits**

*(a) Pension Costs*

The Commission's contribution to the Government's defined benefit pension plan is charged to the statement in the period to which the contribution relates. The Commission does not have its own pension plan and its pension costs are limited to contributions made.



**PUBLIC UTILITIES COMMISSION  
FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2008  
Expressed in Eastern Caribbean Dollars**

**NOTES TO THE FINANCIAL STATEMENT**

**Employee Benefits Continued**

*(b) Medical Benefits*

The Commission's contribution to the Government's Group Medical Plan, provided by Nagico Insurances is charged to the statement to which the contribution relates. The Commission does not have its own medical plan and claims are limited to maximum payment of EC\$250,000.00.

**(c) Post employment obligations**

The Commission recognizes a liability and an expense for gratuity due to its employees based on the terms of the employment contracts.

**1.10 Operating Leases**

Leases where the lessor retains substantially all the risks and rewards of ownership of the assets are classified as operating leases. Operating lease payments are recognized as an expense. The lease contract commenced on 4 October 2004 and ends on 30 September 2009. There are nine (9) remaining months under the lease, with a remaining rental obligation of EC\$42,451.20. The PUC has an option to renew the lease at the end of the contract.

**1.11. Related Parties**

Parties are considered related if one party has the ability, directly or indirectly, to control the other party or exercise significant influence over the other party in making financial and operational decisions. Parties are also considered to be related if they are subject to common control or common significant influence. Related parties may be individuals or corporate entities. Transactions between related parties are based on terms similar to those offered to non-related parties.

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**1.12 Standards, amendments and interpretations effective in 2008 and early adoption of standards and interpretations**

The financial statements of the Commission are prepared in accordance with International Financial reporting standards (IFRS), with first time adoption effective for the year ended 31 December 2008. All relevant standards, amendments and interpretations both in issue and available for early adoption have been considered as part of this first time adoption exercise. The impact of the first time adoption of IFRS is set out in Note 1.15.

**1.13 FINANCIAL INSTRUMENTS**

The cash requirements of PUC are met through the generation of revenue in line with accounting policy note 2 and no specific credit risk to PUC has been identified. Financial instruments play a more limited role in creating and managing risk than would apply to non-public sector body. The majority of financial instruments relate to contracts to buy non-financial items in line with the PUC expected purchase and usage requirements and the PUC is therefore exposed to little credit, liquidity or market risk.

**1.14 CRITICAL ACCOUNTING ESTIMATES AND JUDGEMENTS**

There are no critical accounting estimates or judgments relating to these financial statements which impact on the financial position as at 31 December 2008.

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**1.15 IMPACT ON FIRST TIME ADOPTION OF NEW AND REVISED STANDARDS**

The date of transition to IFRS reporting standards was 1 January 2007 and a reconciliation of the general fund from the previous reporting standards to the restated position at the date of transition is shown below.

<b>(A) 1 January 2007</b>	<b>General Fund</b>
	EC \$
As previously reported	475,468.98
Effect of compliance with IAS 19, Employee Benefits Amendments:	
Gratuity cost/accrual change	( 78,450.00)
Employee benefits – vacation leave cost/accrual change	<u>(6,144.60)</u>
As restated	<b><u>390,874.38</u></b>

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**Impact on first time adoption of new and revised standards continued**

**(B)**

**Reconciliation of the general fund as at 1 January 2008**

	<b>General Fund As Restated EC \$</b>
As previously reported	111,070.02
Net change from restatement of January 2007 General Fund as shown in statement of changes in equity	( 84,594.60)
Effect of compliance with IAS 19, Employee Benefits Amendments:	
Gratuity cost/accrual change	71,318.00
Employee benefits – vacation leave cost/accrual change	<u>(1,020.40)</u>
<b>As restated</b>	<b><u>96,773.02</u></b>

**(C)**

**Reconciliation of Income and Expenditure Account reported in 2007**

Staff costs in note 3

	<b>Previous standards</b>	<b>Effect of transition to IFRS</b>	<b>IFRS</b>
IAS19 Employee Benefits		<b>As Restated</b>	<b>As Restated</b>
	<b>EC\$</b>	<b>EC\$</b>	<b>EC\$</b>
Gratuity	85,582.35	(71,318.00)	14,264.35
Employee benefits – vacation leave	<u>-</u>	<u>1,020.40</u>	<u>1,020.40</u>
<b>Deficit for the year</b>	<b><u>(364,398.96)</u></b>	<b><u>70,297.60</u></b>	<b><u>(294,101.36)</u></b>

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	<b>2008</b>	<b>2007</b>
	<b>EC\$</b>	<b>EC\$</b>
<b>2. INCOME</b>		
Levy	609,062.00	446,336.00
Interest	8,129.01	14,331.89
Miscellaneous Income	<u>-0-</u>	<u>500.00</u>
<b>Total Income</b>	<b><u>617,191.01</u></b>	<b><u>461,167.89</u></b>
<b><u>Annual Industry Levy</u></b>		
Net estimated expenditure (Surplus)/Deficit from last available audited accounts	910,000.00	902,504.22
	<u>(300,939.07)</u>	<u>(456,168.22)</u>
<b>Total Levy</b>	<b><u>609,060.93</u></b>	<b><u>446,336.00</u></b>

For the 2008 levy, the latest available audited accounts were for the year ended December 31<sup>st</sup>, 2006 (for the 2007 levy – year ended 31 December 2005).

**3. STAFFING COSTS**

The Commission has employed an Executive Director, an Administrative Officer and Office Assistant. The staff cost are analyzed as follows:

		<b>Restated</b>
<b>Salaries</b>		
Executive Director	299,923.13	266,799.48
Vacation Pay	71.96	1,020.40
Bonus	-0-	7,838.00
Gratuity	26,722.16	14,264.35
Administrative Officer	100,648.00	81,102.02
Office Assistant/Other Staff	<u>27,125.53</u>	<u>14,948.63</u>
<b>Total</b>	<b><u>454,490.78</u></b>	<b><u>385,972.88</u></b>
<b>Other Staff Cost</b>		
Employer's Social Security	4,624.00	5,204.05
Employer's Pension Costs	2,809.44	2,343.04
Employer's Health Insurance	<u>7,200.96</u>	<u>6,508.56</u>
<b>Total</b>	<b><u>14,634.40</u></b>	<b><u>14,055.65</u></b>
<b>Total Staff Cost</b>	<b>469,125.18</b>	<b>400,028.53</b>

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	2008 EC\$	2007 EC\$
<b>4. COMMISSION EXPENSE</b>		
Commission Allowances	<u>11,880.00</u>	<u>7,560.00</u>
<b>Total Commissioner's Expenses</b>	<b><u>11,880.00</u></b>	<b><u>7,560.00</u></b>
<b>5. OFFICE EXPENSES</b>		
Advertising	180.00	-
Depreciation Expense	5,927.76	5,927.76
P.O.Box Rental	140.00	140.00
Rent	56,601.60	56,601.60
Telephone	14,017.90	13,136.91
Electricity	15,315.41	12,806.08
Office Supplies	3,560.54	4,579.60
Other Office Expenses	<u>67.92</u>	<u>639.61</u>
<b>Total Office Expense</b>	<b><u>95,811.13</u></b>	<b><u>93,831.56</u></b>
<b>6. EQUIPMENT EXPENSES</b>		
Purchase of Office Equipment	12,181.11	19,139.98
Purchase of IT Equipment	-	5,153.43
<b>Total Equipment Expenses</b>	<b><u>12,181.11</u></b>	<b><u>24,293.41</u></b>
<b>7. TRAVEL &amp; ENTERTAINMENT</b>		
Entertainment	910.51	6,214.46
Staff travel	<u>25,851.87</u>	<u>19,262.82</u>
<b>Total Travel Costs</b>	<b><u>26,762.38</u></b>	<b><u>25,477.28</u></b>
<b>8. CONSULTANTS</b>		
Audit Fee	17,800.00	27,857.00
Accounting Fees	15,299.66	18,736.30
Consulting Fees	<u>104,729.82</u>	<u>75,326.83</u>
<b>Total Consulting Fees</b>	<b><u>137,829.48</u></b>	<b><u>121,920.13</u></b>

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	<b>2008</b>	<b>2007</b>
	<b>EC\$</b>	<b>EC\$</b>
<b>9. CASH AND BANK</b>		
Chequing Account	3,426.97	47,483.65
Savings Account	<u>30,688.53</u>	<u>119,607.96</u>
<b>Total Cash at Bank</b>	<b><u>34,115.50</u></b>	<b><u>167,091.61</u></b>
<b>10. TRADE AND OTHER RECEIVABLES</b>		
Other debtors	3,596.04	-
Prepayment (rent/membership fees)	<u>4,716.80</u>	<u>9,630.86</u>
<b>Total Debtors and Prepayments</b>	<b><u>8,312.84</u></b>	<b><u>9,630.86</u></b>
<b>11. TRADE AND OTHER PAYABLES</b>		<b>Restated</b>
Accruals: Consulting Fees	5,645.22	20,544.68
Accounts Payable: (Staff & Other)	61,524.54	19,283.18
Provision for Audit Fees/Accounting Fees	<u>72,732.85</u>	<u>54,932.85</u>
<b>Total Creditors, Accruals &amp; Provisions</b>	<b><u>139,902.61</u></b>	<b><u>94,760.71</u></b>
<b>12. CONFERENCES &amp; TRAINING</b>		
Conferences	30,552.77	32,425.01
Training	<u>4,263.63</u>	<u>26,598.45</u>
<b>Total Training</b>	<b><u>34,816.40</u></b>	<b><u>59,023.46</u></b>

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	<b>2008</b>	<b>2007</b>
	<b>EC\$</b>	<b>EC\$</b>
<b>13. OTHER EXPENSE</b>		
Bank Charges	80.00	100.00
Membership & Association Fees	14,069.12	17,362.79
Sponsorship	<u>-</u>	<u>5,672.10</u>
Total	<b><u>14,149.12</u></b>	<b><u>23,134.89</u></b>
 <b>14. NON- CURRENT ASSETS</b>		<b>2008</b>
		<b>Office Equipment</b>
Cost at the beginning of period 1 January 2008		29,638.78
Additions		<u>-</u>
<b>Cost as at 31 December 2008</b>		<b><u>29,638.78</u></b>
 <b><u>Depreciation</u></b>		
Accumulative Depreciation –1 January 2008		14,827.52
Add depreciation charge for the period 2008		<u>5,927.76</u>
<b>Accumulative depreciation – 31 December 2008</b>		<b><u>20,755.28</u></b>
 <b><u>Net Book Value</u></b>		
Net Book Value – 31 December 2007		14,811.26
<b>Net Book Value – 31 December 2008</b>		<b>8,883.50</b>



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**15. Related-party transactions**

The PUC sponsoring department within the Government of Anguilla is the Department of Infrastructure. The Department of Infrastructure is regarded as related party. The PUC has had a small number of various transactions with government departments and other central government bodies.

No Commission member, key manager or other related parties has undertaken any material transactions with the Commission during the year.

The key management of the Commission includes the Executive Chairman who is also a Commission member and other members of the Commission. The compensation paid or payable to key management for employee services is disclosed in Note 3 and Note 4. There were no contributions paid or payable by key management or the Commission to the government defined benefit plan relating to employment at the Commission.

**16. Authorised for issue**

The financial statements were authorised for issue on 30 September 2009.