

Regulatory Authority of Bermuda

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Attention Kyle Masters

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Your Ref SC-1222-2013

Appleby Ref 427521.0001/JSW/HJT

By Email & By Hand

6 November 2014

Dear Sirs

Ex Parte Communication: ECA Section 78 Transitional Spectrum Investigation SC-1222/2013

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We write on behalf of Bermuda Digital Communications Ltd (**BDC**) and Bermuda Digital Broadband Ltd (**BDB**) (together **CellOne**) regarding the transitional investigation of the spectrum assignments under Section 78 of the Electronic Communications Act 2011.

On 6 November 2014, our John Wasty called Louise Charleson of Cox Hallett Wilkinson Ltd., counsel to the RA. We requested an opportunity to meet with the RA to discuss a proposed resolution to our clients' concerns with the Draft Final Decision in this proceeding and described the outline of a possible solution proposed by our clients.

Counsel to the RA asked that we reduce any proposed solution to writing and submit it for consideration.

As stated in its previous filings, BDC believes it is fully entitled to retain its currently licensed 850 MHz spectrum. BDC further understands that the RA remains concerned with BDC continuing to be licensed for all of the 850 MHz band. BDC submits this proposal in an effort to reach a mutually agreeable resolution of BDC's position in light of the RA's apparent concerns. Accordingly, BDC proposes the following in exchange for retaining 100% of its 850 MHz assignment:

- A. *Abstain from Lower 700 MHz B & C Process.* BDC would agree not to submit an application for the superior Lower 700 MHz B and C Blocks and would support Digicel's application for same, to the extent there were any competing applicants. This proposal would address the RA's apparent concern that BDC has an unfair advantage with regard to prime low-band spectrum.

- B. *Relinquish Right to 2.6 GHz.* BDC will agree to relinquish all 186 megahertz of BDB's spectrum (2500-2686 MHz) – spectrum which effectively cost BDC in excess of \$2 million with the purchase of Hardell Cable TV – without challenge. The 2.6 GHz band is a valuable asset for BDC as a future overlay to its initial 850 MHz LTE deployment to add capacity and data speed performance at a reasonable cost.
- C. *Waive Right to Judicial Review.* If BDC and the RA reach terms of agreement, BDC will waive its rights to judicial review of the Transitional Spectrum Investigation conducted by the RA.

Allowing BDC and Digicel to retain their existing spectrum holdings while increasing the probability of awarding the superior Lower 700 MHz B & C Blocks to Digicel will meet the RA's objectives of: (i) promoting deployment of competitive advanced services by the carriers best positioned to do so quickly; (ii) avoiding conferring an advantage on, or prejudicing, any one provider; and, (iii) benefitting consumers by stimulating the launch of competing LTE services in 2015. Finally, the RA will be promoting a reasonable business (and regulatory) climate that is focused on development and that promotes investment in new services that will benefit the Bermudian economy.

If this proposal fails to address the RA's concerns or there are aspects of our proposed solution that require clarification, including buildout deployment timing considerations, CellOne is available at your earliest opportunity to discuss the issues of concern to the RA and find a mutually satisfactory resolution.

Please address any enquiries concerning this *ex parte* notice to our Mr Wasty.

Yours faithfully



APPLEBY (BERMUDA) LIMITED