

**COMMENTS ON RESPONSES**  
**TO**  
**SECOND 700 MHz SPECTRUM POLICY**

**LIME**

Landline | Internet | Mobile | Entertainment

By E-mail to: [consultations@tcitelecommission.tc](mailto:consultations@tcitelecommission.tc)

**06 August 2012**

## I. Introduction

1. CWI Caribbean Limited, on behalf of its affiliate Cable and Wireless (TCI) Limited, trading as LIME ("**LIME**"), is pleased to provide comments on responses submitted by Digicel (Turks and Caicos) Ltd on 26 July 2012 and by Andrews Communications Limited ("**Andrews**") on 20 July 2012 to the Commission's document titled '*Second 700 MHz Spectrum Consultation Document*' (the "**consultative document**") published 29 May 2012. LIME will address in particular Andrews' claim to the rights to use 700 MHz spectrum, and their claim to require immediately the Lower B and C and Upper C blocks.

2. LIME expressly states that failure to address any issue raised in the responses does not necessarily signify its agreement in whole or in part with any operator's comments. LIME reserves the right to comment on any issue raised in the consultation at a later date.

## II. Comments on Responses

### **Andrews' Insistence that it has a 700 MHz Licence**

3. Andrews continues to insist that it has rights to use any or all of the 700 MHz spectrum. This Andrews contends is so through the application of a series of inferences, deductions and rationalizations, arising from Andrews' claim that "*in 1997 it was granted by the Executive Council approval in relation to the use of spectrum that was far ranging.*" Andrews relies upon a 3 July 1997 letter issued by the Ministry of Tourism, Communications and Transportation for their claim to 700 MHz spectrum. LIME notes that the letter does not actually mention any spectrum in the 700 MHz band.

4. LIME submits that this letter, assuming it was ever capable of assigning spectrum to Andrews (which LIME disputes), is no longer valid. Section 62(1) of the *Telecommunications Ordinance 2004* (the "**Ordinance**") is explicit that any pre-existing licences or enabling instruments were only valid until 31 December 2004 or such later

date as the Governor acting on the advice of the Executive Council may publish in the Gazette. That date has long since passed.

5. LIME has already, in its previous submission, referenced the fact that section 34 of the Ordinance authorises the Commission to issue Spectrum licences. It is clear that sections 8(3) and 31 of the Ordinance effectively grant the Commission the sole power to assign spectrum under section 34 in the Turks and Caicos Islands. This authorization is not vested in the Executive Council. Nor can section 37(2) apply here, as the letter is not sufficient to “legally authorize” Andrews to use 700 MHz spectrum and, to date, Andrews has not produced a licence issued under the *Wireless Telegraphy Ordinance*, or indeed any other ordinance, covering 700 MHz spectrum.

6. LIME has also reviewed Andrews’s Telecommunications and Spectrum Licence (the “**Andrews Licence**”), issued by the Commission on 12 May 2006 and posted on the Commission’s website. Section 6.1 of the Andrews Licence, read in conjunction with section 31 of the Ordinance, is explicit that Andrews’ rights to use spectrum are limited to the spectrum set out in Annex D of the Andrews Licence. Annex D of the Andrews Licence does not contain any reference to the assignment of 700 MHz spectrum, which it would have, if Andrews did in fact have a valid claim to 700 MHz spectrum at the time.

7. In any event, under the new licensing regime, spectrum is no longer included in the telecommunications licence, and it does not appear from a survey of the Commission’s website that any spectrum licence has been granted to Andrews. LIME notes that the Commission has advised in the consultative document that ‘... *the Commission confirms that Andrews does not currently hold a spectrum licence in TCI for the 700 MHz band. Moreover, to date, the Commission has not received a spectrum licence application from Andrews.*<sup>1</sup>

8. LIME continues to rely on the Commission’s assurances that ‘...*Andrews does not currently hold a spectrum licence in TCI for the 700 MHz band...*’

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<sup>1</sup> Pgs. 23,24

9. LIME specifically, and in particular, reserves all its rights on this aspect of the consultation having to do with Andrews' insistence that it holds a licence for 700 MHz spectrum which allows it to use all or any of the 700 MHz spectrum.

### **Andrews' "Requirement" for 700 MHz Spectrum**

10. Finally, with respect to Andrews' claim for an "immediate requirement for the Lower B, Lower C and Upper C blocks", LIME notes that these are the very blocks actively being used in the United States and for which manufacturers are producing handsets. Andrews is in effect seeking to control the 700 MHz band, in the event their claim based on the July 1997 letter fails. This should not be permitted to happen.

### **III. Closing Remarks**

11. LIME thanks the Commission for the opportunity to participate in the consultation. Kindly send any communication in relation to this consultation to:

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