



Telecommunications Decision 2014 – 4

Decision on the Review of Interconnection Rates

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**Turks and Caicos Islands
Telecommunications Commission**

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Summary

In this Decision, the Telecommunications Commission (the "Commission") has determined that the maximum allowable mobile termination, fixed termination and related transit rates in the Turks and Caicos Islands ("TCI") will be reduced in a phased manner over the course of the next three years. The Commission expects that these reductions will result in consumer benefits over the course of the coming years, including in the form of lower retail calling prices.

The Commission initiated a public consultation to review the current mobile termination rate ("MTR"), fixed termination rate ("FTR") and transit service rates in TCI because it was of the preliminary view that the current maximum allowable rate limits for these interconnection services are high relative to underlying costs based on evidence from Caribbean and European jurisdictions. The consultation process allowed interested parties to provide submissions in response to the evidence and proposals in this respect set out in the Consultation Document issued by the Commission in February 2014. Cable & Wireless (TCI) Ltd. ("LIME"), Digicel (TCI) Ltd., and Islandcom Telecommunications Ltd. provided input through this process.

As in the case of its previous review of the MTR in 2011, the Commission adopted a comprehensive benchmarking approach to determine fair and reasonable interconnection rate maxima based on comparable interconnection rate information in 14 Caribbean jurisdictions. This approach includes a benchmark sample normalization adjustment to take into account demographic, socio-economic and other environment differences between the benchmark jurisdictions and TCI.

Based on the Commission's benchmarking analysis, and taking into account the submissions of interested parties, the Commission has determined that the maximum allowable interconnection rates should be reduced starting July 1st, 2014 as follows:

Date	Maximum Allowable Level		
	MTR	FTR	Transit Rate
Current	\$0.0850	\$0.0300	\$0.0150
As of July 1, 2014	\$0.0750	\$0.0220	\$0.0110
As of April 1, 2015	\$0.0675	\$0.0195	\$0.00975
As of April 1, 2016	\$0.0600	\$0.0170	\$0.0085

The Commission notes that under the price cap mechanism for regulated fixed-line services, reductions in the MTR must be flowed through simultaneously in the form of equal reductions to the FTM calling rate. Thus, consumers will benefit from FTM rate reductions as a result of the above-noted MTR reductions.

Immediately following the release of this Decision, the Commission will issue a Recommendation to Government requesting that modifications be made to section 19(2) of the Interconnection and Access to Telecommunications Facilities Regulations to implement the above-noted interconnection rate maxima determinations. In the event the Recommendation is adopted by the Government after July 1, 2014, the first mandated reduction in the interconnection rate maxima would become effective as of that date. The subsequent April 1, 2015 and 2016 mandated interconnection rate maxima reductions would remain unchanged.

1 Introduction

1. Pursuant to the *Telecommunications Policy 2013* (the "Policy"), sections 23, 24 and 25 of the *Telecommunications Ordinance 2009* (the "Ordinance") and sections 4, 14, 15, 18 and 19 of the *Telecommunications (Interconnection and Access to Telecommunications Facilities) Regulations 2009* as amended by the Governor on 31 March 2011¹ (the "Interconnection Regulations"), the Telecommunications Commission (the "Commission") issued the "Review of Interconnection Rates Consultation Document" on February 10, 2014 (the "Consultation Document").
2. The Consultation Document initiated a consultation process in which the following directly-affected licensed operators in Turks and Caicos Islands ("TCI") were deemed as interested parties:
 - Cable & Wireless (TCI) Ltd ("LIME"),
 - Digicel (TCI) Ltd ("Digicel"), and
 - Islandcom Telecommunications Limited ("Islandcom")
3. The specific interconnection rates under review in the Consultation Document were:
 - i) the mobile termination rate ("MTR"),²
 - ii) the fixed termination rate ("FTR"),³ and
 - iii) transit rates, including:
 - a. the LIME transit rate ("LTR"), which is charged by LIME when transit over its fixed network is required to terminate calls to LIME's mobile subscribers,⁴ and
 - b. the Transit Service rate ("TSR"), which is charged to transit call traffic over a fixed network to a domestic third-party service provider.⁵

¹ Directive issued by the Governor's Office on 31 March 2011 amending section 19(2) of the Interconnection Regulations.

² Referred to as the PLMN Terminating Access Services "Mobile Termination Part" under Part 2 of the Tariff Schedule associated with the parties' Interconnection Agreements.

³ Referred to as PSTN Terminating Access Services "Usage Charges" under Part 2 of the Tariff Schedule associated with the parties' Interconnection Agreements.

⁴ Referred to as the PLMN Terminating Access Services "Transit Part" under Part 2 of the Tariff Schedule associated with the parties' Interconnection Agreements. The Tariff notes that this transit charge is only applied when the Service Supplier (i.e., LIME) transits the call over its fixed network for termination on a mobile network.

⁵ Referred to as PSTN Transit Services "Usage Charges" under Part 4 of the Tariff Schedule associated with the parties' Interconnection Agreements.

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4. The Consultation Document also considered whether termination rates for international FTRs and MTRs should be set at the same level as domestic FTRs and MTRs.⁶
5. The Consultation Document included a proposed updated and expanded benchmarking methodology to set the maximum allowable levels for the MTR, FTR and transit rates following the same benchmarking approach adopted in Telecommunications Decision 2011-2, *Decision on the Mobile Termination Rate Review*, issued by the Commission on January 24, 2011 ("Decision 2011-2"). Based on this approach, the Commission put forward a set of proposals to reduce the maximum allowable levels for the MTR, FTR and transit rates over a three year phase-in period starting April 2014 (the "Proposals"). The Proposals also included setting international FTRs and MTRs at the same level as domestic FTRs and MTRs.
6. The consultation process established by the Consultation Document was structured in two phases. In the first phase, interested parties ("Respondents") were invited to submit Initial Responses to comment on the Consultation Document, which included 15 specific questions (the "Consultation Questions"). In the second phase, Respondents could submit Reply Responses to comment on the Initial Responses of other Respondents in whole or part.
7. The Commission received initial responses from Digicel and LIME, both dated March 10, 2014, and from Islandcom, dated March 11, 2014 (the "Initial Responses"). In addition, the Commission received comments on parties' responses from LIME, dated March 21, 2014 (the "Reply Response"). None of the information included in any of the Initial Responses or the Reply Response (together, the "Responses") was filed in confidence.
8. In what follows, Chapter 2 reviews the Responses to each Consultation Question. In each case, the Commission provides its assessment of the Responses and, where applicable, its conclusions regarding their impact, if any, on the final interconnection rate determinations (the "Determinations") set out in this Decision. Chapter 3 sets out the Commission's Determinations. Chapter 4 addresses implementation matters including the Commission's recommendation to Government to amend section 19 of the Interconnection Regulations to reflect its Determinations (the "Recommendation"), the corresponding procedural directive to all three licensed operators to give effect to the amended section 19 of the Interconnection Regulations (the "Directive") and the corresponding amendment to Digicel's Network Licence (the "Digicel Licence Amendment") (altogether, the "Implementation Measures").

⁶ International FTRs and MTRs are referred to as the Incoming International Call Termination to PSTN and PLMN "Usage Charges", respectively, under Part 2 of the Tariff Schedules associated with the parties' Interconnection Agreements.

2 Responses to the Consultation Document

9. This Chapter provides a review and assessment of the Responses on each of the 15 Consultation Questions, along with the Commission's conclusions in each case. Where substantial doubt has been raised with respect to the validity or reasonableness of the Commission's preliminary conclusions or the Proposals set out in the Consultation Document, the Commission has made modifications to address such issues. All such modifications are reflected in the Determinations set out in Chapter 3.

2.1 Legal Basis and Implementation Procedure

10. Chapter 2 of the Consultation Document summarized the legal and regulatory provisions relating to the Commission's authority to review and set on its own motion the maximum allowable level of interconnection rates in TCI. Chapter 2 also described the proposed procedure to implement any revisions to interconnection rate maxima found warranted as a result of this regulatory proceeding. Consistent with Decision 2011-2, the proposed implementation procedure would involve issuing a Recommendation to the Government to amend section 19 of the Interconnection Regulations to reflect the Commission's Determinations set out in this Decision along with an associated Directive to the affected licensed operators to make the necessary changes to their respective interconnection agreements.
11. In this respect, Consultation Question #1 asked Respondents to comment on:

... the Commission's proposed legal basis and procedure for implementing any revisions to the maximum allowable interconnection rates under review.
12. In their Responses, both LIME and Islandcom indicated that they agreed with the proposed approach to implement revisions to the maximum allowable interconnection rates.⁷
13. On the other hand, while Digicel did not comment on the proposed implementation approach, in response to this Consultation Question Digicel raised what it considered to be a legal issue relating to the inclusion of certain jurisdictions in the benchmarking sample used by the Commission to determine the Proposals. The Commission addresses Digicel's concerns in this respect in Sections 2.8, 2.9 and 2.10 below (which deal with the MTR, FTR and Transit Rate Proposals).
14. Therefore, taking into account the generally supportive Responses, and based on the supporting rationale provided in the Consultation Document, the Commission adopts the procedural approach to implement revisions to the maximum allowable interconnection rates proposed in the Consultation Document. Accordingly, the Determinations in Chapter 3 and the Implementation Measures in Chapter 4 reflect this conclusion.

⁷ LIME Initial Response, paragraph 7 and Islandcom Initial Response, page 1 of 4.

2.2 Proposed Fixed Termination Dominance Recommendation

15. Chapter 2 of the Consultation Document considered that all licensed fixed network operators offering voice telephony services in TCI should be deemed dominant in the market for wholesale fixed voice telephony services on their own network, as is already the case for wholesale mobile voice telephony services. To reflect this, the Consultation Document proposed to include an amendment to the Interconnection Regulations as part of its Recommendation.
16. In this respect, Consultation Question #2 asked Respondents to comment on:

... the Commission's proposal to recommend to the Government that the Interconnection Regulations be amended so that all fixed carriers are presumed to be dominant with respect to termination on their respective fixed network. If you disagree with the proposal, provide supporting rationale.
17. In its Initial Response, LIME agreed with the Commission's proposals in this respect.⁸ Islandcom indicated that given it does not provide fixed network services at this time, it would defer to the Commission on this matter.⁹ Digicel did not comment on this question.
18. Taking into account the generally supportive Responses, comments, and based on the supporting rationale provided in the Consultation Document, the Commission confirms that all fixed carriers should be deemed dominant with respect to wholesale termination on their respective fixed networks, as proposed in the Consultation Document. Accordingly, the Determinations in Chapter 3 and the Implementation Measures in Chapter 4 reflect this conclusion.

2.3 Decision 2011-2 Interconnection Rate Policy Conclusions

19. As noted in Chapter 3 of the Consultation Document, pursuant to section 4 of the Interconnection Regulations, and consistent with the Ordinance, the Commission is required to 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) give maximum benefit to end users; and
 - d) provide that carriers and service providers are compensated for interconnection services.
20. Chapter 3 of the Consultation Document reviewed each of these policy objectives. Given that they had been previously reviewed in detail in the context of the first MTR review in

⁸ LIME Initial Response, paragraph 8.

⁹ Islandcom Initial Response, page 1 of 4.

2010-11 which resulted in Decision 2011-2 (the "First MTR Proceeding"), the present review was focussed on the question of whether any changes in approach were necessary for the present review of not only the MTR, but all interconnection rates. In this respect, the Commission took into account the appropriate pricing principle for interconnection rates (i.e., long run incremental cost plus a contribution to fixed and common costs or "LRIC+"), the expected benefits for end-users resulting from the application of the adopted pricing principle, the methodology to be used for setting interconnection rate maxima (i.e., benchmarking), continued reliance on the principle of interconnection rate symmetry across all licensed operators, and the continued use of a phase-in process for any reductions in interconnection rate maxima found to be warranted as a result of this proceeding. In the Consultation Document, the Commission indicated that it considered that the findings and conclusions on these matters reached in Decision 2011-2, which applied to the MTR at the time, should apply to all interconnection rates under review in the present proceeding, specifically including the FTR and transit rates.

21. As explained in the Consultation Document, the Commission also considered that it would be appropriate to once again rely on a benchmarking approach, as adopted in Decision 2011-2, to determine appropriate interconnection rate maxima under review. The updated benchmarking analysis expands the scope of the exercise to include FTRs and transit rates, updated rate observations and the inclusion of Jamaica which brings the benchmark sample of Caribbean jurisdictions to 14 in total (i.e., the "Updated Benchmark Sample").¹⁰

22. In this respect, Consultation Question #3 asked Respondents to comment on:

... the Commission's policy considerations and regulatory proposals emanating from Decision 2011-2 in relation to the present review of MTR, FTR and transit rate levels, including:

- i. the principle that interconnection rates should, as best as possible, reflect LRIC plus a contribution to fixed and common costs;**
- ii. lower interconnection rates should result in end-user benefits;**
- iii. reliance on benchmarking for the purpose of setting maximum allowable interconnection rates;**
- iv. reliance on the principle of rate symmetry for interconnection rates; and**
- v. phasing in any reductions in the maximum allowable interconnection rate found to be necessary and appropriate.**

Where alternative proposals are offered in relation to any one of these issues, please provide supporting evidence and rationale in each case.

23. Islandcom indicated that it agreed with all five of the above-noted proposed policy positions. It added one notable qualification. With respect to the use of benchmarking, Islandcom noted that "in the absence of cost data, and to keep regulatory costs manageable and low, benchmarking is appropriate provided that local demographics,

¹⁰ Details of the updated benchmarking analysis, including the Updated Benchmarking Sample, are provided in Annex 1 of the Consultation Document.

socio-economic and other factors relevant to TCI are considered, which Islandcom recognizes is the Commission's position and practice in this regard."¹¹

24. LIME indicated in its Initial Response that it supports the principles espoused by the Commission.¹² LIME added that while it endorses conducting LRIC studies to set interconnection rates, it was satisfied that the rates derived from the benchmark sample used by the Commission for Decision 2011-2 were reasonable, given that the Commission had normalized the benchmark sample to make it more comparable to TCI. Therefore, LIME indicated that it supports the Commission's proposal to use a benchmarking methodology in this proceeding to set the MTR, FTR and transit rates, provided the benchmark samples used are normalized to make them more comparable to TCI. In this latter respect, however, LIME proposed that certain jurisdictions be excluded from the Updated Benchmark Sample, namely Jamaica and the French Antilles jurisdictions of Martinique, Guadeloupe, St. Martin and St. Bartholomew (the "French West Indies" or "FWI"). LIME's proposals in this regard are addressed in Sections 2.8, 2.9 and 2.10 below (which deal with the MTR, FTR and Transit Rate Proposals).
25. Digicel did not comment on this specific question. However, like LIME, it also proposed that the same above-noted jurisdictions be excluded from the Updated Benchmark Sample. Digicel's proposals, which are identical to those of LIME in this regard, are also addressed in Sections 2.8, 2.9 and 2.10.
26. Therefore, taking into account the generally supportive Responses, and based on the supporting rationale provided in the Consultation Document, the Commission adopts the general policies and principles adopted in Decision 2011-2, including the use of a benchmarking approach for the purpose of determining interconnection rate maxima for the MTR as well as the FTR and transit rates. Accordingly, the Determinations in Chapter 3 and the Implementation Measures in Chapter 4 reflect this conclusion.

2.4 MTR Levels and Trends

27. Section 4.1 (including Figures 1, 2 and 3) of the Consultation Document provided MTR levels and trends for the Caribbean for the period April 2008 to January 2014, along with trendline projections to March 2017. Based on the Updated Benchmark Sample, two sets of MTR levels and trends in the Caribbean region were provided: the first was based on an "All-Sample" benchmark average (covering all 14 benchmark jurisdictions) and the second was based on the average of the Cost-Based benchmark MTRs (covering 10 benchmark jurisdictions). In both cases, the average MTRs in the region were shown to have declined significantly since 2008 and, based on National Regulatory Authority ("NRA") established glide paths and historical trends, MTRs are expected to decline further still to roughly \$0.05 or \$0.06 per minute by March 2017.¹³ The current MTR in TCI of \$0.085 is well above these projected rate levels.

¹¹ Islandcom Initial Response, page 2 of 4.

¹² LIME Initial Response, paragraph 9.

¹³ Note that in what follows all reported rates are in US dollars and reflect per minute charges, unless otherwise noted.

28. Similar average MTR level and trend information was provided for Europe, which also showed that the average MTR in Europe had declined significantly over the last decade or so and is expected to decline further still to under \$0.02 by 2017 – less than one quarter the current rate level in TCI.
29. In this respect, Consultation Question #4 asked Respondents to comment on:

... whether the observed downward trend in MTRs in the Caribbean region and Europe are consistent with the view that average MTRs in those regions are moving closer to the underlying costs of terminating calls on mobile networks (based on the latest available mobile network technologies). If not, explain why not. In responding to this question, please provide supporting rationale, fully explaining all data sources, assumptions and calculations as may be necessary.
30. Islandcom agreed that the downward trend in MTRs is fully consistent with the notion that MTRs are moving towards and are now more closely related to the underlying costs of providing the mobile call termination service.¹⁴
31. Neither LIME nor Digicel provided comments on the specific level or trends of MTRs in the Caribbean region or for that matter in Europe. Instead, they both took issue with the inclusion of Jamaica and the two FWI jurisdictions (i.e., Guadeloupe & Martinique and St. Martin & St. Barthelemy) in the Updated Benchmark Sample. Their concerns in this respect related to the costing methodology used to set the MTRs in these jurisdictions. The Commission addresses these concerns in Section 2.8 (which deals with the MTR Proposal).
32. Therefore, taking into account that no Respondent disputed the Commission's preliminary findings, and based on the supporting rationale provided in the Consultation Document, the Commission concludes that the overall downward trend in average MTRs in the Caribbean and Europe suggests that MTRs have been moving closer to the underlying costs of terminating calls on mobile networks based on the latest available mobile network technologies. Based on the above analysis, the Commission has decided that the current maximum allowable MTR of \$0.0850 is no longer a reasonable upper limit, and the rate should be decreased.

2.5 FTR Levels and Trends

33. Section 4.2 (including Figures 4 and 5) of the Consultation Document provided FTR levels and trends for the Caribbean for the period April 2009 to January 2014, along with trendline projections to March 2017. In this case, the "All-Sample" benchmark average FTR in the Caribbean region has declined steadily since 2009 and, based on NRA-established glide paths and historical trends, FTRs are expected to decline further to roughly \$0.0139 by March 2017. The current FTR in TCI of \$0.0300 is more than double this projected rate level.
34. Similar average FTR level and trend information was provided for Europe, which also showed that the average FTR in Europe had declined over the last eight years and is

¹⁴ Islandcom Initial Response, page 2 of 4.

expected to decline somewhat further still to roughly \$0.0070 by 2017 – less than one quarter the current rate level in TCI.

35. In this respect, Consultation Question #5 asked Respondents to comment on:
- ... whether the observed downward trend in FTRs in the Caribbean region and Europe are consistent with the view that average FTRs in those regions are moving closer to the underlying costs of terminating calls on fixed networks (based on the latest available fixed network technologies). If not, explain why not. In addition, please provide supporting rationale, including any additional FTR benchmarking information that may be available that is of relevance to this Consultation, fully explaining all data sources, assumptions and calculations as may be necessary.**
36. Islandcom stated that the FTR trend information provided in the Consultation Document does indeed appear to show that FTRs are on a downward trend and are also moving more closely towards cost. However, since Islandcom does not operate a fixed network, it declined to speculate on what is driving the downward trend.
37. For its part, LIME stated that FTRs are already at or near cost-based levels – i.e., it claimed that policies in most jurisdictions worldwide for establishing FTRs have not deviated significantly from an adherence to cost orientation. It added that the shallow slope of the FTR benchmark lines in Figures 4 and 5 of the Consultation Document are consistent with this conclusion.¹⁵
38. Otherwise, LIME recommended that the two FWI jurisdictions be removed from the Updated Benchmark Sample due to LIME's concerns with the costing methodology used to set the FTR in the FWI jurisdictions. The Commission addresses this issue in Section 2.9 (which deals with the FTR Proposal).
39. Digicel offered no comments on the FTR levels or trends. However, the Commission assumes that Digicel's concerns relating to the inclusion of Jamaica and FWI in the Updated Benchmark Sample apply in the case of determining the average benchmark FTR for the Caribbean region. As noted above, this issue is addressed in Section 2.9.
40. Therefore, taking into account the generally supportive Responses, and based on the supporting rationale provided in the Consultation Document, the Commission concludes that the downward trend in average FTRs in the Caribbean and Europe suggests FTRs have been moving closer to the underlying costs of terminating calls on fixed networks, Based on the above analysis, the Commission has decided that the current maximum allowable FTR of \$0.03 is no longer a reasonable upper limit, and the rate should be decreased.

2.6 Transit Rate Levels and Trends

41. Section 4.3 (including Figures 6 and 7) of the Consultation Document provided transit rate levels and trends for the Caribbean for the period April 2009 to January 2014, along with trendline projections to March 2017. In this case, using the available benchmark

¹⁵ LIME Initial Response, paragraph 15.

jurisdictions with publicly available transit rates (i.e., 10 in total), the average transit rate in the Caribbean region was shown to be relatively stable since 2009 and, based on NRA-established glide paths and historical trends, it is expected to remain so to March 2017 at a level of roughly \$0.0075. The current FTR in TCI of \$0.0150 is roughly double this projected rate level.

42. Similar average transit rate level and trend information was provided for Europe which also showed that the average transit rate in Europe had declined over the last eight years and is expected to decline further still to roughly \$0.0010 by 2017 – roughly one fifteenth the current rate level in TCI.
43. In this respect, Consultation Question #6 asked Respondents to comment on:

... whether the observed level and trends in transit rates in the Caribbean region and Europe are consistent with the view that average transit rates are moving closer to the underlying costs of transiting call traffic over a fixed network. If not, explain why not. In responding to this question, please provide supporting rationale, including any additional transit rate benchmarking information that may be available that is of relevance to this Consultation, fully explaining all data sources, assumptions and calculations as may be necessary.
44. Islandcom noted that it does not provide transit services and, therefore, deferred to the Commission's judgement on this issue.
45. LIME indicated that it believes that the trend in the benchmark transit rates is correlated to the trend in fixed transit costs. It added that, as with the FTR, the transit rates are generally set at cost-based levels which, in LIME's view, is consistent with the relatively flat slope of the benchmark transit rate trendline. According to LIME, this suggests that the average benchmark transit rates are already very close to the underlying cost of transit.¹⁶
46. Digicel provided no comment on this Consultation Question. However, it did provide an estimate of transit costs using information for British Telecom (“BT”) in the United Kingdom (“UK”). Based on that information, Digicel suggested that transit costs could be in the order of \$0.0020 or less. This estimate is consistent with the European transit rate information provided in Figure 7 of the Consultation Document. Further, Digicel argued that LIME's current transit rate is far above cost.¹⁷
47. The Commission notes that average transit rates in the Caribbean have been relatively flat for some time. This does not necessarily imply they are reflective of cost, but rather that they may not have been reviewed in many cases for some time. In contrast, the European transit rates have been steadily declining in recent years. In any event, as noted, the current transit rate in TCI is more than double the Caribbean regional average and roughly fifteen times higher than the European average. Based on these considerations, the Commission has decided that the current maximum allowable transit rate of \$0.015 is no longer a reasonable upper limit, and the rate should be decreased.

¹⁶ LIME Initial Response, paragraph 16.

¹⁷ Digicel Initial Response, pages 5 and 6 of 6.

2.7 International Call Termination Rates

48. Section 4.4 of the Consultation Document argued that call termination functionality is the same regardless of where a call originates, be it domestic or international. Hence, the underlying costs of call termination service should be the same regardless of the point of origination of a call. The Commission also noted that since the Ordinance and Interconnection Regulations require that call termination services be cost-oriented, it was of the preliminary view that international FTRs and MTRs should be the same as their domestic equivalents. As well, the Commission added that setting domestic and international call termination rates to the same levels is common practice and, in fact, is the case for the vast majority of the jurisdictions included in the Updated Benchmark Sample.
49. In this respect, Consultation Question #7 asked Respondents to comment on:
- ... whether there is any significant difference in the cost of terminating calls on a fixed or mobile network in TCI depending on whether the call originates domestically or internationally. If so, provide supporting evidence including detailed network diagrams as necessary. In addition, please comment on whether there are any other grounds to support differential domestic and international call termination rates, which supporting rationale, data and examples as necessary.**
50. Islandcom claimed that there is a cost differential in terminating calls depending on whether the call originates domestically or internationally. It noted that calls originating overseas must be brought into TCI on a network that TCI carriers must maintain and that these costs are in addition to local switching and local network cost. Thus, Islandcom noted that international termination is effectively the local termination rate plus the cost of international facilities spread over the volume of international calls.¹⁸
51. The Commission agrees with Islandcom that in the case of a call originating overseas there are two components to consider relating to the termination of that call in TCI: (i) international transit component and (ii) domestic termination component. The preliminary view in the Consultation Document, however, pertained solely to the second component: domestic call termination. Islandcom did not explain in its comments whether and, if so, why there would necessarily be a cost difference relating to the domestic termination component of a call when it originates overseas versus domestically.
52. LIME, in its Initial Response, did not comment on the costs of terminating domestic versus international calls. Instead, it recommended that the Commission forbear from regulating termination rates for all international calls, irrespective of the network on which such calls terminate. In support of this recommendation, LIME claimed that there are various market pressures preventing increases in international terminations rates. These include increased competition among international carriers, existence of arbitrage, and external intervention by the NRA in the United States ("US"), the Federal Communications Commission ("FCC").

¹⁸ Islandcom Initial Response, page 3 of 4.

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53. In addition, LIME claimed that reducing international call termination rates in TCI would do little, if anything to reduce retail call rates to international destinations for consumers in TCI and would have negative effects on service providers in TCI due to reduced revenues. Further still, LIME claimed that there is no overriding policy or market-related need to regulate international call termination rates particularly since no domestic operator is exposed to competitive harm or prejudice where these rates may be different. LIME also added that permitting a higher rate for international originated traffic is beneficial to TCI.¹⁹
54. Digicel also did not comment on the costs of terminating domestic versus international calls in its Initial Response. Rather, Digicel highlighted what it considers to be retail level "price gouging" of overseas operators such as AT&T, Verizon, Sprint and T-Mobile in the US and BT in the UK when it comes to their call rates to fixed and mobile lines in TCI. In this respect, Digicel listed a variety of standard calls rates to TCI for each of these foreign carriers, which ranged from roughly \$1.50 to \$4.00 per minute. Digicel claimed that, in contrast, retail call rates from TCI to the US and the UK are often many times less expensive on a per minute basis.
55. Consequently, Digicel strongly disagreed with any attempt to regulate international fixed or mobile termination rates. It suggested that any intervention in this respect should be made contingent on something akin to the FCC's benchmarking order, but aimed at retail rates. In addition, Digicel suggested that consideration should only be given to regulating international termination rates in TCI in respect of those countries where available standard dialing rates were comparable to the international retail rates offered in TCI.
56. In its Reply Response, LIME reiterated that there would be no public interest served by lowering international termination rates, since it claimed there would be no benefit to TCI consumers from doing so. As well, it added that given the potential harm to operators, LIME claimed that any intervention in the market would in fact be contrary to the public interest.²⁰
57. The Commission notes that LIME and Digicel's comments with respect to international termination rates are very similar. LIME has suggested that the Commission forbear from regulating international termination rates, whereas Digicel appears to suggest that the Commission not regulate international termination rates which, in effect, would amount to forbearance. However, the Commission notes that the record of this proceeding does not provide the grounds to issue a forbearance decision. LIME has simply claimed that market forces are sufficient to ensure international termination rates are reasonable. No specific evidence was provided to show that the competitive pressures highlighted by LIME have had any effect on international termination rates in TCI to date or would ensure that these rates would be cost-oriented as required under the Ordinance and Interconnection Regulations. The same applies in Digicel's case. It simply cited foreign retail international a call rates to TCI. Consequently, the Commission considers that there is no basis on which it could forbear from regulating international termination rates at this time.

¹⁹ LIME Initial Response, paragraphs 17 – 20.

²⁰ LIME Reply Response, page 2.

58. At the same time, LIME and Digicel have also suggested that reducing international termination rates may not benefit TCI consumers in the form of lower overseas call rates. In addition, LIME has suggested that lower international termination rates could harm domestic carriers to the extent their revenues are lower than otherwise. Here as well, the Commission considers that there is insufficient evidence on the record of this proceeding to assess these claims. Consequently, the Commission considers that further investigation of the potential costs and benefits of lowering international termination rates, in line with reductions to domestic termination rates, is required before the Commission can render a decision on international termination rates. Therefore, the Commission has decided not to recommend changes to the existing international FTR and MTR at this time.
59. However, the Commission notes that it intends to consider this matter further in the near future. To this end, the Commission may request that parties provide specific data and information necessary to evaluate claims made in this proceeding and, more generally, the potential pros and cons of aligning international and domestic FTRs and MTRs.

2.8 MTR Proposals

60. Section 5.2 of the Consultation Document included two alternative proposals to establish maximum allowable MTRs. Under the first “All-Sample Proposal”, the maximum allowable MTR would be reduced from the current rate level of \$0.0850 to \$0.0750 as of April 2014, \$0.0700 as of April 2015 and \$0.0650 as of April 2016. Under the second “Cost-Based Proposal”, the maximum allowed MTR would be reduced to \$0.0750 as of April 2014, \$0.0650 as of April 2015 and \$0.0550 as of April 2016.
61. The Consultation Document set out the rationale for considering the Cost-Based Proposal to be the superior of the two Proposals and, on this basis, the Commission considered that it represented the option that would best ensure that the maximum allowable MTR in TCI moves to a level that is as close as possible to a LRIC cost standard including a proportionate contribution towards fixed and common costs.
62. In this regard, Consultation Question #8 asked Respondents to comment on:
- ... the Commission's All-Sample and Cost-Based MTR Proposals, including which of the two proposals is preferable, and explain why. To the extent parties believe an alternative MTR proposal would be more appropriate, please describe any such proposals in detail and include supporting rationale and data as may be relevant.**
63. Islandcom indicated that it agrees that the Cost-Based Proposal represents the superior option of the two proposals. In addition, it agreed that it would serve to move the level of the MTR in TCI as close as possible to a LRIC cost standard including a proportionate contribution towards fixed and common costs and, moreover, that this would serve to increase consumer welfare.
64. On the other hand, LIME had two objections with regard to the MTR Proposals. First, as noted above, it objected to the inclusion of Jamaica and the two FWI jurisdictions in the Updated Benchmark Sample which were used to derive both MTR Proposals. It noted that under section 15(2)(d) of the Interconnection Regulations, the costing methodology used to set interconnection rates must include three distinct components:

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- i) a reasonable rate of return for that carrier or service provider on the capital employed,*
 - ii) all attributable operating expenditures, depreciation and*
 - iii) a proportionate contribution toward such carrier's or service provider's fixed and common costs.*
65. LIME noted that the current MTRs in Jamaica, Guadeloupe & Martinique and St. Martin & St. Barthelemy are based on a "pure LRIC" costing approach, which does not include the third cost component noted above.²¹ Therefore, LIME argued that inclusion of these jurisdictions would be inconsistent with the Interconnection Regulations and "consequently unlawful in TCI".²²
66. Digicel raised a similar concern in its Initial Response. It also suggested that, in view of section 15(2)(d) of the Interconnection Regulations, it would "not be legally correct" in its view for Jamaica and the two FWI jurisdictions to be included in benchmark sample.²³
67. Second, LIME also argued that the All-Sample average rather than Cost-Based average should be used for used to establish new MTRs. It claimed that relying on a sub-sample, particularly one based on the lowest sampled rates, would be flawed and similar to the "best practice approach" rejected in the First MTR Proceeding. Digicel suggested that to the extent a sub-sample was used, it should be based on the highest sampled rates to reflect TCI's lower economies of scale and riskier operating environment.
68. In response to LIME and Digicel's claims that the inclusion of Jamaica, Guadeloupe & Martinique and St. Martin & St. Barthelemy potentially contravenes Interconnection Regulations the Commission provides the following comments.²⁴ First, the Commission notes section 15(1) of the Interconnection Regulations grants it the authority to determine the methodology to be used for determining when a carrier's or service provider's rates are cost-oriented, subject to the principles set out in section 15(2) of the Interconnection Regulations, which includes the provision cited by both LIME and Digicel. However, the Interconnection Regulations do not explicitly specify any particular methodology for setting interconnection rates. For instance, they neither endorse the use of benchmarking, nor prohibit it. For that matter, the Interconnection Regulations also do not specifically require that a LRIC-based methodology be used to set interconnection rates. Accordingly, in the Commission's view, claims that the Interconnection Regulations in some way dictate how a benchmarking methodology should implemented are unfounded.

²¹ The Commission notes that Table A1 in Annex 1 of the Consultation Document provides list of benchmark sample jurisdictions with cost based MTRs, and includes a listing of the cost basis in each case. There are, however, two inadvertent errors in the table: (i) Cayman Islands is mis-identified as a "pure LRIC" jurisdiction when in fact its MTR is currently based on a LRIC+ costing methodology and (ii) Jamaica is mis-identified as LRIC+ jurisdiction when in fact its MTR is currently based on a pure LRIC costing methodology.

²² LIME Initial Response, paragraph 12.

²³ Digicel Initial Response, page 4 of 6.

²⁴ The Commission notes that LIME suggested in its Reply Response that Islandcom would also likely agree that Jamaica, Guadeloupe & Martinique and St. Martin & St. Barthelemy should be excluded from the Updated Benchmark Sample. However, the Commission disagrees with LIME's arguments in this respect. Nowhere in its Initial Response did Islandcom suggest that it had any concerns with the Updated Benchmark Sample. In fact, it agreed with the Commission's benchmarking methodology in response to Consultation Question #15 (page 4 of its Initial Response).

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The Interconnection Regulations do not prohibit the inclusion of any individual jurisdictions in a benchmark sample depending on the costing methodology used in that jurisdiction or, for that matter, any other characteristic of a selected jurisdiction. The Commission notes that the benchmark sample selection criteria in the present proceeding are the same as those used in the proceeding which resulted in Decision 2011-2.²⁵ The Commission continues to consider that these criteria provide a sound and reasonable basis to establish a representative sample of comparable jurisdictions for interconnection rate benchmarking purposes for TCI.

69. Second, the mere fact that one of more jurisdictions included in a benchmark sample have MTRs set on the basis of a pure LRIC costing approach while the others are based on LRIC+ and/or other methodologies does not imply that the resulting benchmark average is inconsistent with the rate principle set out in section 15(2)(d) of the Interconnection Regulations. In the case at hand, there are a mix of approaches for the setting of MTRs that have been followed in the 14 jurisdictions included in the Updated Benchmark Sample – i.e., including LRIC+, pure LRIC, Fully Allocated Costs ("FAC") and other approaches. Consequently, the Commission considers that the resulting benchmark average from such a diverse sample is fully consistent with the interconnection rate principles set out in the Interconnection Regulations, including section 15(2)(d).
70. Third, the results of the Commission's benchmarking methodology yield proposed MTR maxima which are well above the MTRs found in Jamaica and the two FWI jurisdictions. Consequently, even if those three jurisdictions do not include a contribution to fixed and common costs, the MTR Proposals clearly do so given they are based on sample of 10 to 14 jurisdictions in total, the vast majority of which include a contribution to fixed and common costs. Furthermore, the MTRs in a number of the other jurisdictions are likely overstated given they are now outdated and no longer based on current or forward looking mobile technologies and, therefore, likely include excessive contribution components.
71. Consequently, the Commission does not agree that Jamaica, Guadeloupe & Martinique and St. Martin & St. Barthelemy should be excluded from the Updated Benchmark Sample for the purpose of setting the maximum allowable MTR. Moreover, the Commission notes that this conclusion is consistent with Decision 2011-2.²⁶ Therefore, the Commission considers that the benchmarking analysis outlined in the Consultation Document is appropriate for setting the maximum allowable MTR as well as the FTR and transit rates.
72. That said, however, the Commission notes that the MTR Determination (set out in Section 3.2 below) is based on a revised version of the Cost-Based MTR Proposal included in the Consultation Document. Specifically, relative to the Cost-Based MTR Proposal, the MTR Determination includes an upward adjustment to the maximum allowable MTR of \$0.0025 and \$0.0050 for fiscal years ("FY") FY2015-16 and FY2016-17, respectively. These adjustments were made to mitigate LIME and Digicel's

²⁵ See Annex 1 of the Consultation Document.

²⁶ In the First MTR Proceeding, Digicel had also argued that FWI should be excluded from the benchmark analysis because the regulator had used the pure LRIC approach as the basis for the setting of the MTRs in FWI. The Commission, however, maintained FWI in the benchmarking analysis included in Decision 2011-2 for a number of reasons (see paragraphs 56 to 57 of Decision 2011-2).

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concerns regarding the level of contribution towards fixed and common costs included in the maximum allowable MTRs. With this adjustment, the Commission considers that the MTR Determination increases the up-side margin above pure LRIC and results in a very conservative and cautious approach to the setting of maximum allowable MTRs going forward.²⁷

73. With respect to LIME's second proposal that the Commission rely on the All-Sample rather than Cost-Based Proposal to revise the MTR maxima, the Commission provides the following comments. First, the Commission does not consider that the Cost-Based Proposal is similar in nature to the "best practice" sub-sample approach contemplated by the Commission in the First MTR Proceeding. In that case, the "best practice" sub-sample comprised the four lowest MTR jurisdictions of the total sample of 13 jurisdictions at the time. As such, it represented a relatively small subset of the overall sample. That is not the case with the Cost-Based Proposal in the present proceeding, which includes 10 jurisdictions or the vast majority of the 14 total jurisdictions sampled. Consequently, the Commission considers that the Cost-Based Proposal provides a fair and reasonable basis for benchmarking purposes in the case of the MTR.
74. Second, the Commission considers that relying on the Cost-Based Proposal better ensures that the MTR moves closer to costs (including a contribution to fixed and common costs) over time compared to the All-Sample Proposal. Consequently, the Commission considers Cost-Based Proposal more appropriately serves the objectives set out in section 4 of the Interconnection Regulations. Further, the Commission notes that Islandcom supported the Cost-Based Proposal. The Commission agrees with Islandcom's comment in this respect that the Cost-Based Proposal should result in greater consumer welfare compared to the All-Sample Proposal.
75. In sum, the MTR Determination set out in Section 3.2 below is based on the Cost-Based MTR Proposal with the above-noted revisions to further increase the up-side margin above pure LRIC.

²⁷ The Commission notes that these adjustments to the Cost-Based MTR Proposal are supported by the results of a further benchmark sensitivity analysis involving alternative non-pure LRIC based MTRs for Jamaica and the two FWI jurisdictions. Alternative benchmark analysis scenarios were considered using "upward-adjusted" MTRs for Jamaica and the FWI jurisdictions based on LRIC+ rather than pure LRIC MTR levels. The higher MTR levels were based on Jamaican and FWI-related NRA MTR determinations. In Jamaica, the Office Utilities Regulation ("OUR", the Jamaican NRA) also calculated the total long run incremental cost ("TLRIC") of MTRs (in addition to pure LRIC). TLRIC is a higher cost measure than pure LRIC. Therefore, for its sensitivity analysis the Commission revised the pure LRIC-based Jamaica MTR upwards to reflect the higher cost measure of TLRIC. Similarly, ARCEP (the French NRA) also calculated the total service cost ("TSC") of MTRs (in addition to pure LRIC). TSC is a higher cost measure than pure LRIC. Therefore, for its sensitivity analysis the Commission revised the pure LRIC-based FWI MTRs upwards to reflect the higher cost measure of TSC. The results of the sensitivity analysis indicated that the maximum allowable MTRs set out under the MTR Determination satisfy the benchmarking rate maxima determination requirements, including benchmark sample sensitivity and normalization criteria.

2.9 FTR Proposal

76. Section 5.3 of the Consultation Document included the FTR Proposal which involved reducing the current the maximum allowable FTR from \$0.0300 to \$0.00220 as of April 2014, \$0.0195 as of April 2015 and \$0.0170 as of April 2016.
77. For the purpose of developing the FTR Proposal, the Commission relied on the All-Sample Average for the setting of the maximum allowable FTR and used the Cost-Based Average to ensure that the proposed maxima are above cost, as in the First MTR Proceeding. This approach was followed in this case since it was viewed as more conservative and cautious approach given that this is the first review of the FTR conducted by the Commission.²⁸ The Commission considered that the FTR Proposal would ensure that that the FTR in TCI moves to a level that is closer to a LRIC cost standard including a proportionate contribution towards fixed and common costs.
78. In this regard, Consultation Question #9 asked Respondents to comment on:
- ... the Commission's FTR Proposal. To the extent parties believe an alternative FTR proposal would be more appropriate, please describe any such proposals.**
79. Islandcom noted that it does not have a fixed network at this time and, therefore, declined to comment on the FTR Proposal.
80. Digicel also did not specifically comment on the FTR Proposal. However, the Commission assumes that Digicel considers that the two FWI jurisdictions should be excluded from the benchmark sample used to develop the FTR Proposal.²⁹
81. For its part, LIME argued that Guadeloupe & Martinique and St. Martin & St. Barthelemy should be excluded from the benchmark sample used to set FTR maxima since the FTRs in these two jurisdictions have been set on the basis of a pure LRIC costing approach. Its arguments for the exclusion of these jurisdictions were the same as in the case of the MTR, namely that pure LRIC is inconsistent with section 15(2)(d) of the Interconnection Regulations.³⁰
82. For the same reasons as provided above in Section 2.8, the Commission does not agree that Guadeloupe & Martinique and St. Martin & St. Barthelemy should be excluded from the benchmark sample used to set FTR maxima. The Commission notes that the FTR Determination is already calculated based on a conservative and cautious approach that results in significant up-side margin above pure LRIC. Therefore, the Commission does not consider it appropriate or necessary to revise the FTR Proposal as in the case of the MTR Proposal in Section 2.9.³¹ Accordingly, the FTR Determination set out in Section

²⁸ The Commissions notes that LIME stated in its Initial Response (paragraph 15) that FTRs are already at or near cost-based levels in most jurisdictions which implies that there would be no effective difference between All-Sample and Cost-Based FTR Proposals in any event.

²⁹ The Commission can confirm, however, that the FTR in Jamaica was not based on a pure LRIC costing approach and, therefore, any concerns Digicel would likely have in this case would likely only pertain to the two FWI jurisdictions.

³⁰ LIME Initial Response, paragraphs 12 and 22.

³¹ As in the case of the MTR Determination, the Commission also carried out a sensitivity analysis for the two FWI jurisdictions as a further measure of support for the FTR Determination. The sensitivity analysis once again involved upward adjustments to the pure LRIC-based FTRs in effect in the two FWI jurisdictions to higher cost-based levels as determined by the NRA for FWI. The results of the sensitivity analysis indicated that the maximum allowable FTRs set out

3.3 below is equivalent to the All-Sample Average FTR Proposal included in the Consultation Document.

2.10 Transit Rate Proposal

83. Section 5.4 of the Consultation Document included the Transit Rate Proposal which involved reducing the current the maximum allowable transit rate from \$0.01500 to \$0.00110 as of April 2014, \$0.00975 as of April 2015 and \$0.00850 as of April 2016.
84. As in the case of the FTR, the Commission relied on the All-Sample Average for the setting of the maximum allowable transit rate and used the Cost-Based Average to ensure that the proposed maxima are above cost.³² Moreover, in some jurisdictions transit rates were not publicly available and, therefore, could not be included in the benchmark sample (as, for instance, in the case for the two FWI jurisdictions). As a result, the Updated Benchmark Sample included 10 rather than 14 observations in the case of transit rates. Overall, the Commission considered that the Transit Rate Proposal would ensure that that transit rates in TCI move to a level that is closer to a LRIC cost standard including a proportionate contribution towards fixed and common costs.
85. In this regard, Consultation Question #10 asked Respondents to comment on:
- ... the Commission's Transit Rate Proposal. To the extent parties believe an alternative LTR and/or TSR proposal(s) would be more appropriate, please describe any such proposals in detail and include supporting rationale and data as may be relevant.**
86. Islandcom agreed with the Commission that transit rates could be lowered.
87. LIME once again suggested that two FWI jurisdictions should be excluded from the benchmark sample used to set the allowed maxima for transit rate. However, as noted, the Updated Benchmark Sample does not include transit rates in the case of FWI since these rates are not regulated by ARCEP and are not publicly available.³³
88. Digicel on the other hand argued that the LIME transit rate or LTR of \$0.0150 far exceeds the cost of this service. It claimed the transit charge is little more than a top-up to LIME's MTR and, in effect, represents an asymmetric MTR in LIME's favour. Based on an illustrative example using data for BT in the UK, Digicel suggested that the cost of LIME's transit service is likely less than \$0.0020. Moreover, assuming LIME has implemented a Next Generation Network architecture, Digicel further argued that there should be no transit service component regardless of whether a call from a Digicel

under the FTR Determination satisfy the benchmarking rate maxima determination requirements, including benchmark sample sensitivity and normalization criteria.

³² The Commissions notes that LIME stated in its Response (paragraph 16) that, as with FTRs, transit rates are already set at cost-based rates in most jurisdictions which implies that there would be no effective difference between All-Sample and Cost-Based Transit Rate Proposals in any event.

³³ Ibid.

customer was directed to a LIME fixed or mobile customer line. In other words, Digicel suggested that there should be no LTR.³⁴

89. In its Reply Response, LIME claimed that statements made by Digicel regarding transit service were false.³⁵ LIME argued that transit service includes first and foremost a switching function. The fixed network switch must route calls based on the digits dialed, monitor the duration of calls for charging purposes, and produce a billing record. This billing record is then passed on to a billing platform for billing purposes and a Carrier Services platform for inter-administration accounting. Further, LIME argued that the predominant driver of interconnect link costs is the number and capacity of ports (or “tributary cards”), which is unrelated to the length of the link. According to LIME, the portion of interconnect link costs driven by distance is marginal. LIME also noted that the cost drivers for transit, in the regulatory cost models used in the Caribbean region, are well defined and should be very familiar to Digicel. Otherwise, LIME provided no further comments on the level of transits service costs based on current technology.
90. The Commission notes that its benchmarking approach is aimed at moving interconnection rates closer to cost, but does not ensure that they are set equal to cost including a contribution to fixed and common costs. The information provided by Digicel suggests that the Transit Rate Proposal may leave transit rates well above cost even once the three-year transition period is complete. The Commission recognizes that the TSR can be avoided by carriers interconnecting with one another directly and, thereby, eliminating the need for a third-party transit service. On the other hand, the LTR is currently unavoidable given LIME's legacy network architecture and historical tariff structure. The Commission notes, however, that the Transit Rate Determination sets the maximum allowable LTR and TSR and, as such, does not prevent parties from negotiating lower rates which are closer or equal to costs. However, any such lower negotiated rates should be made available on a non-discriminatory basis to all interconnecting carriers.
91. The Commission considers that if there is evidence that can be provided to demonstrate that the LTR should be reduced further than contemplated in this Decision or even eliminated entirely, then Digicel should file a formal dispute, including supporting evidence, to have the LTR reviewed by the Commission.
92. Accordingly, the Transit Rate Determination set out in Section 3.4 below is equivalent to on the All-Sample Average Transit Rate Proposal set out in the Consultation Document.

2.11 International FTR and MTR Proposals

93. Section 5.5 of the Consultation Document set out proposals to maintain the international FTR at the same level of its domestic equivalent and to transition the international MTR to the same level as the domestic MTR over the course of three years.
94. In this regard, Consultation Question #11 asked Respondents to comment on:

³⁴ Digicel Initial Response, pages 5 and 6 of 6.

³⁵ LIME Reply Response, page 2 and 3.

.. the Commission's International FTR and MTR Proposals, including which of the two international MTR proposals is preferable to the other, and explaining why. To the extent parties believe an alternative international FTR and/or MTR proposals would be more appropriate, please describe any such proposals in detail and include supporting rationale and data as may be relevant.

95. As noted in Section 2.7 above, the Commission has decided to not recommend changes to the existing international FTR and MTR at this time and, therefore, the International FTR and MTR Proposals set out in the Consultation Document are withdrawn for now.

2.12 Proposed Recommendation and Directive

96. Consultation Question #12 asked Respondents to comment on:

... the Commission's Proposed Recommendation to Government and the associated Directive, along with supporting rationale for any proposed changes to either the Recommendation or Directive.

97. Islandcom indicated that it generally agrees that the proposed Recommendation and associated Directive are sufficient to bring all carriers into compliance with the Determinations set out in this Decision. Similarly LIME indicated that it had no objection to the structure of the proposed Recommendation and associated Directive. Digicel did not comment on this question.
98. Consequently, the Commission has maintained the structure of the proposed Recommendation and associated Directive set out in the Consultation Document, and modified the details of the Recommendation to reflect the Determinations in this Decision.

2.13 Digicel's Operating Licence Conditions

99. Consultation Question #13 asked Respondents to comment on:

The Commission's preliminary view that with the Proposed Recommendation to Government there would be no additional requirement to amend Digicel's Licence to bring into effect any changes to the FTR maxima resulting from this proceeding. If you disagree, provide the supporting rationale and explain which specific provisions in Digicel's Licence would have to be modified in your opinion.

100. The Commission notes that Digicel did not provide a response to this question.
101. Islandcom indicated in its response that it generally believes that the proposed changes to Digicel's license are not necessary as it is already subject to all regulations and laws in effect and as amended within TCI.³⁶
102. LIME, on the other hand, indicated that while the Recommendation would ensure Digicel's compliance with the new FTR maxima arising from this proceeding, it would

³⁶ Islandcom Initial Response, page 4 of 4.

not resolve the fundamental issue from LIME's perspective that all similarly-situated licences should contain similar licence terms. It added that since Digicel is dominant with respect to its fixed network for call termination, like LIME, Digicel's Licence should be modified to include the dominance designation. In the alternative, LIME suggested that the Commission could remove the dominance designation from LIME's Operating Licence.

103. In addition, LIME also noted that Sections 16, 17 and 18 of the Ordinance establish a transparent process for the Commission to make a finding of dominance in respect of operators and networks or services and to modify the applicable licences accordingly. LIME added that it considers that it is clear that the publication of proposed changes to persons with similar licences is intended to foster transparency and promote non-discrimination in terms and conditions of similarly situated licenses. Therefore, LIME recommended that the Commission use this consultation as a means to achieve the objectives of clauses 16, 17 and 18.
104. In view of LIME's arguments on this question, the Commission agrees that an amendment to Digicel's Network Licence should be made to reflect the Commission's determination that all fixed network operators should be considered dominant in respect of wholesale voice call termination on their respective fixed networks. Accordingly, the Commission has set out the necessary licence amendment in Section 4.3 below.

2.14 Price Cap Flow-Through and Timing of Next Review

105. Section 7.1 of the Consultation Document noted that under Telecommunications Decision 2009-4, *Decision on the Second Price Cap Regime*, LIME was required to reduce its fixed-to-mobile ("FTM") domestic calling rate in lock-step with any reductions in the MTR. Last year, the Commission completed a review of the Second Price Cap Regime when it issued Telecommunications Decision 2013-3, *Fixed Services Price Regulation Review Decision*. In Decision 2013-3, the Commission maintained a price cap on LIME's FTM. Given this fact, the Commission indicated that LIME would be required to reduce the FTM rate cap in lock-step with any reductions in the maximum allowable MTR as a result of this regulatory proceeding.
106. In addition, the Commission indicated that it expects the next interconnection rate review should take place in late 2016 so that revised rates, if found necessary at that time, could be implemented as of April 2017.
107. In this regard, Consultation Question #14 asked Respondents to comment on:

... the proposed flow through of any approved MTR changes to LIME's retail FTM call rates, the planned timing of the next interconnection rate review, and any other matters relevant to the Commission's review of the interconnection rates in TCI.
108. Islandcom indicated in its Response that it agrees with the flow-through of any approved MTR changes to LIME's FTM. In addition, Islandcom generally agreed with the proposed timing of the next interconnection rate review. However, it suggested that changing circumstances, such technology changes, may warrant an earlier review.

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109. In its Response, LIME argued that there is no requirement under the current retail price cap regulations to flow-through changes in the MTR to LIME's FTM rate. LIME argued that the present regime simply caps the FTM rate and, therefore, in its view the Commission erred when it stated that there is a mandated flow-through requirement in this respect.³⁷
110. Further, LIME claimed that the evidence provided in the Consultation Document (i.e., in Table 2 at page 14) shows that LIME reduced its retail mobile call rates following the MTR reductions implemented as a result of Decision 2011-2 in the absence of any mandated flow-through requirement for mobile rates. LIME suggested that this is "incontrovertible evidence that the market is working and therefore any intervention on the part of the Commission is unnecessary and potentially harmful to competition."³⁸
111. Otherwise, LIME agreed with the Commission that there should be a review of interconnection rates in late 2016.
112. In response to LIME's comments regarding the flow-through of MTR reductions to FTM rates, the Commission notes that the Second Price Cap Regime established under Decision 2009-4 made specific provision for exogenous cost factors as is standard practice with price cap regimes. Indeed, LIME supported the inclusion of this aspect of the price cap regime.³⁹ The criteria adopted to determine if a specific factor is eligible for treatment as an exogenous cost event (positive or negative) are that it must be:⁴⁰
- i) Material in magnitude, so that any individual proposed cost adjustment must exceed an equivalent of 1.5% of C&W gross annual revenues from the provision of regulated telecommunications services affected by the exogenous cost for the most recent fiscal year.
 - ii) Unique to the telecommunications sector;
 - iii) Outside of C&W's control, and
 - iv) Must not result from a transaction or transactions with a C&W affiliate.
113. A regulatory mandated change in the maximum allowed MTR meets these criteria. Indeed, specific provision was made in Decision 2009-4 in the event changes to the MTR were implemented by the Commission to ensure any such reductions would flow-through to retail FTM rates.⁴¹
114. In Decision 2013-3 the Commission decided to forbear from regulating many of LIME's retail fixed services. However, it also found that several retail fixed services were not yet subject to sufficient competition to warrant forbearance. Consequently, the Commission maintained price cap regulation in these cases, including LIME's FTM. These price

³⁷ LIME Initial Response, paragraph 27.

³⁸ LIME Response, paragraph 28.

³⁹ Decision 2009-4, paragraphs 50 -54.

⁴⁰ Ibid, paragraph 51.

⁴¹ Ibid, footnote 15, page 17.

capped services remain subject to standard price cap provisions such as application of eligible exogenous cost adjustments. Nowhere in Decision 2013-3 did the Commission eliminate such provisions.

115. The MTR Determination in this Decision mandates a reduction in the maximum allowed MTR which is to be phased-in over three years. The Commission considers this mandated change in the maximum allowed MTR meets the exogenous cost event criteria and, therefore, must be flowed-through to retail FTM rates.
116. The Commission notes that LIME suggestion that there was no flow-through requirement for mobile rates following Decision 2011-2 and, therefore, there should no flow-through requirement for FTM rates ignores the fact that mobile rates are not regulated, whereas LIME's FTM rate is regulated. Consequently, at this time, the Commission is not convinced market forces are sufficient to ensure that the cost savings from the mandated reduction in MTRs would necessarily flow-through to FTM call customers absent a reduction in the price cap applicable the FTM rate.
117. Accordingly, the revised price cap applicable to LIME's FTM rate as a result of the MTR Determination in this Decision is set out in Section 3.5 below.
118. Lastly, in view of parties' comments, the Commission maintains its proposal to review interconnection rates in late 2016 unless market developments suggest that either an earlier or later review would be more appropriate.

2.15 Updated Benchmark Sample

119. Consultation Question #15 asked Respondents to comment on:

The proposed Updated Benchmarking Sample and benchmark interconnection rate average calculation methodology. If alternative proposals are made, provide supporting rationale, and data and references where necessary.

120. In response to this question, Islandcom indicated that it generally agrees with the benchmarking methodology adopted by the Commission.
121. LIME also indicated that while it generally agreed with the approach, it had concerns with the inclusion of jurisdictions with pure LRIC based interconnection rates in the Updated Benchmark Sample and the use of cost-based benchmark MTRs to set the maximum allowed level of the MTRs.
122. While Digicel did not provide a response to this Consultation Question, as noted above, it also had concerns with the inclusion of jurisdictions with pure LRIC based interconnection rates in the Updated Benchmark Sample.
123. The Commission notes that LIME's and Digicel's concerns with the composition of the Updated Benchmark Sample are addressed above in Sections 2.8, 2.9 and 2.10. As well, LIME's additional concern regarding the Commission's Cost-Based MTR Proposal are addressed above in Section 2.8.

3 Interconnection Rate Maxima Determinations

124. This Chapter sets out the Commission's Determinations regarding the maximum allowed MTR, FTR and transit rate levels which will take effect as of July 1, 2014 (or as soon as possible thereafter) along with further reductions in those maxima which will take effect on April 1, 2015 and April 1 2016.⁴²
125. As noted in the Consultation Document, the Determinations in this Decision establish maximum allowable levels of interconnection rates and, as such, do not in any way prevent operators from negotiating rates that are below such maxima. However, any such negotiated rate(s) must be offered to all operators on an equal and non-discriminatory basis as required under section 23(1)(c) of the Ordinance and sections 6(1) and 6 (2) of the Interconnection Regulations. Further, as set out in Sections 12 and 13 of the Interconnection Regulations, operators shall submit to the Commission any new interconnection agreements or material modifications to existing agreements, including those that involve rates that are below the mandated corresponding maxima, for its review and approval.

3.1 Rate Maxima Determination Methodology

126. The interconnection rate maxima methodology used by the Commission to derive the MTR, FTR and Transit Rate Determinations is described in the Consultation Document.⁴³ As a result of the parties' Responses to the Consultation Document, the Commission has adopted several modifications to the methodology which is recapped in what follows:
127. In brief, the methodology includes the following main elements:
- i) The development of a benchmark sample of Caribbean jurisdictions to provide a reasonable and representative sample of comparable interconnection rates for benchmarking purposes for TCI. The Updated Benchmark Sample used for this purpose is described in Annex 1 of the Consultation Document.
 - ii) The calculation of average benchmark interconnection rates for the historical period under consideration (i.e., starting in April 2008 or 2009 depending on the interconnection rate in question to January 2014) and also projected to

⁴² The initial implementation date of the first scheduled reduction in interconnection rate maxima is targeted for July, 2014; however, the actual effective date will depend on the timing of the Government's approval of the Commission's Recommendation set out in Section 4.1 of this Decision. In the event the Recommendation is adopted by the Government after July 1, 2014, the first mandated reduction in the interconnection rate maxima would become effective as of that date. Otherwise, the subsequent April 1, 2015 and April 1, 2016 mandated interconnection rate maxima reductions would remain unchanged. Bearing this qualification in mind, note that the targeted initial effective date of July 1, 2014 is used through this Chapter.

⁴³ See Chapter 5.1 and Annex 1 of the Consultation Document.

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March 2015 based on NRA-established glide paths or other transitional arrangements.⁴⁴

- iii) The determination of statistically projected average benchmark interconnection rates for FY2015-16 and FY2016-17 based on average historical/projected interconnection rate levels and trends.
- iv) Historical and projected average benchmark interconnection rates were developed using (a) all benchmark jurisdictions (i.e., All-Sample) and (b) all benchmark jurisdictions in which the interconnection rates have been set on the basis of a costing study (i.e., Cost-Based). In the case of the MTR, alternative All-Sample and Cost-Based MTR Proposals were developed, although the Commission indicated that it considered the Cost-Based MTR Proposal to be superior. The FTR and Transit Rate Proposals, on the other hand, were based solely on the All-Sample approach.⁴⁵
- v) In the course of the First MTR Proceeding, the Commission conducted a comprehensive sensitivity and normalization analysis of the benchmark sample data to account for demographic, socio-economic and other environmental differences between the benchmark jurisdictions and TCI. Based on the results of the Commission's analysis, normalization adjustment factors were determined and used as part of the process to set the MTR maxima in Decision 2011-2. Given the very high degree of similarity in the benchmark samples used in the First MTR Proceeding and the present proceeding, the Commission has determined that it would be appropriate to apply the same Decision 2011-2 normalization adjustment factors in the present proceeding, although expressed in relative rather than absolute terms given the scale differences between MTRs, FTRs and transit rates. Therefore, the normalization adjustment factors used in the Determinations in this Decision include:
 - o An upward normalization adjustment of at least 1.2% above the average Cost-Based interconnection rate average (which is applied in the case of the MTR, FTR and Transit Rate Determinations).
 - o An upward normalization adjustment of 2.8% to 8.5% above the All-Sample interconnection rate average (which is applied in the case of the FTR and Transit Rate Determinations).

⁴⁴ Benchmark rates were converted from local currencies into US dollars using US / national currency exchange rates.

⁴⁵ As noted in the Consultation Document, the Commission followed the All-Sample approach to develop the FTR and Transit Rate Proposals because it considered this approach to be more conservative and cautious in view of the fact that this is the first review of these rates. The Commission notes, however, that most, if not all, of the benchmark sample FTRs and transit rates are cost-based in any event, which implies that there would be no effective difference between the All-Sample and Cost-Based approaches in the case of the FTR and Transit Rate Proposals. This fact was recognized by LIME in its Response (at paragraphs 15 and 16) where it indicated that FTRs and transit rates are already set at cost-based levels in most jurisdictions.

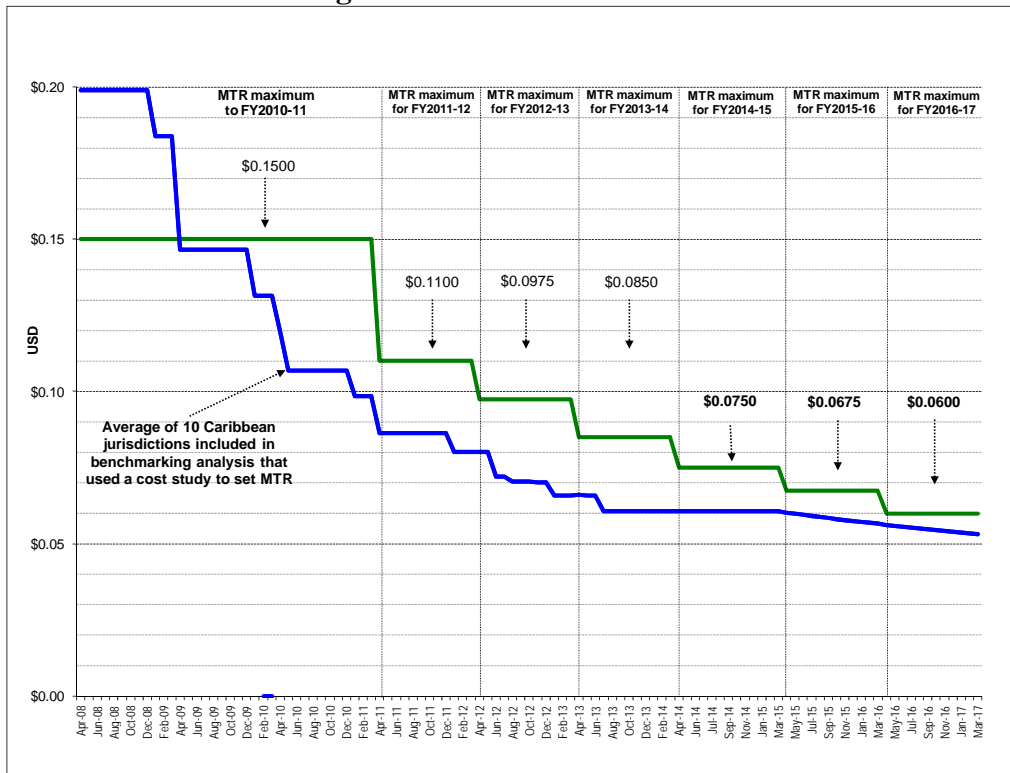
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128. As noted in Section 2.8 above, while the Commission maintained the overall benchmarking approach outlined in the Consultation Document, for MTR Determination purposes, the Commission has decided to rely on a revised version of the Cost-Based MTR Proposal, which increases the allowable MTR maxima slightly so as to further increase the up-side margin above pure LRIC. With these revisions, the Commission considers the MTR Determination provides a conservative and cautious approach to the setting of allowable MTR maxima going forward and is fully compliant with the Ordinance and Interconnection Regulations.
129. As noted in Sections 2.9 and 2.10 above, the Commission did not consider it necessary or appropriate to make a similar revision in the cases of the FTR or Transit Rate Determinations.
130. The following sections set out the Commission's MTR, FTR and Transit Rate Determinations.

3.2 MTR Determination

131. Figure 1 provides a summary of the average Cost-Based benchmark MTRs for the historical/projected period April 2008 to March 2015 along with the statistical trendline projection to March 2017. The figure also shows the historical maximum allowed MTRs in TCI up to FY2013-14.

Figure 1: MTR Determination



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132. Under the MTR Determination, the maximum allowable MTR will be reduced from the current \$0.0850 to \$0.0750 as of July 1, 2014, \$0.0675 as of April 1, 2015 and \$0.0600 as of April 1, 2016. The Commission notes that the MTR Determination falls midway between the All-Sample and Cost-Based Proposals included in the Consultation Document.
133. As Figure 1 shows, the MTR Determination leaves the resulting MTR maxima above the projected Cost-Based benchmark MTR trendline over the three year period FY2014-15 to FY2016-17 by more than a sufficient amount to meet the cost-based sample normalization adjustment factor of 1.2%. In fact, as shown in Table 1, the difference between the projected Cost-Based benchmark average MTR and the MTR Determination is well above the adjustment factor at roughly 26% in FY2014-15, 18% in FY2015-16 and 12% in FY2016-17.

Table 1: "Cost-Based" Benchmark Results and MTR Determination						
(Fiscal Year Periods)						
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
a) Benchmark Average (actual and projected)	\$0.0849	\$0.0707	\$0.0610	\$0.0596	\$0.0573	\$0.0536
b) TCI MTR Maxima	\$0.1100	\$0.0975	\$0.0850			
c) TCI MTR Maxima Determination				\$0.0750	\$0.0675	\$0.0600
d) % difference (c – a)				25.7%	17.8%	12.0%

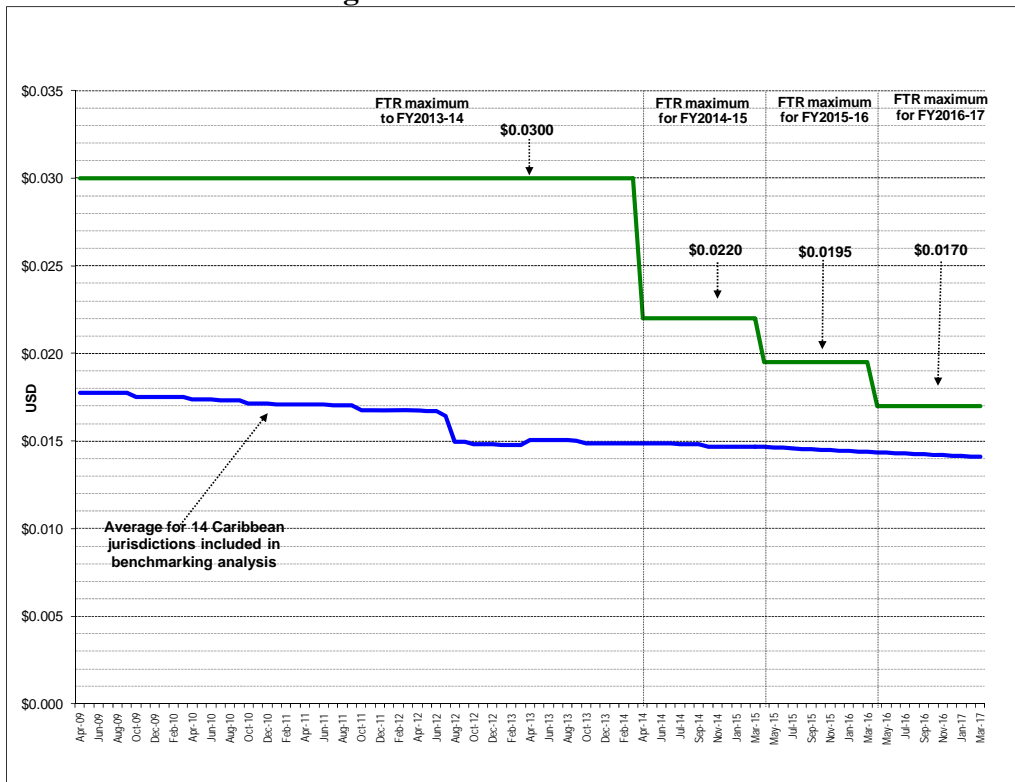
134. Therefore, the Commission determines that the maximum allowable MTR shall be reduced from the current level of \$0.0850 to:
- i) **\$0.0750** as of July 1, 2014;
 - ii) **\$0.0675** as of April 1, 2015; and
 - iii) **\$0.0600** as of April 1, 2016.

3.3 FTR Determination

135. Figure 2 provides a summary of the average All-Sample benchmark FTRs for the historical/projected period April 2009 to March 2015 along with the statistical trendline projection to March 2017. The figure also shows the current maximum allowed FTR in TCI up to FY2013-14.
136. Under the FTR Determination, the maximum allowable FTR will be reduced from the current \$0.0300 to \$0.0220 as of July 1, 2014, \$0.0195 as of April 1, 2015 and \$0.0170 as of April 1, 2016. The Commission notes that the FTR Determination is the same as the FTR Proposal included in the Consultation Document.

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Figure 2: FTR Determination



137. As Figure 2 shows, the FTR Determination leaves the resulting FTR maxima above the projected All-Sample benchmark FTR trendline over the three year period FY2014-15 to FY2016-17 by more than a sufficient amount to meet the All-Sample normalization adjustment factor of 2.8% to 8.5%. As shown in Table 2, the difference between the projected All-Sample benchmark average FTRs and the FTR Determination is well above this range at roughly 50% in FY2014-15, 36% in FY2015-16 and 21% in FY2016-17.

Table 2: "All-Sample" Benchmark Results and FTR Determination						
(Fiscal Year Periods)						
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
a) Benchmark Average (actual and projected)	\$0.0169	\$0.0154	\$0.0148	\$0.0146	\$0.0144	\$0.0141
b) TCI FTR Maxima	\$0.0300	\$0.0300	\$0.0300			
c) TCI FTR Maxima Determination				\$0.0220	\$0.0195	\$0.0170
d) % difference #1 (c – a)				50.2%	35.7%	20.9%

138. Therefore, the Commission determines that the maximum allowed FTR shall be reduced from the current level of \$0.03 to:

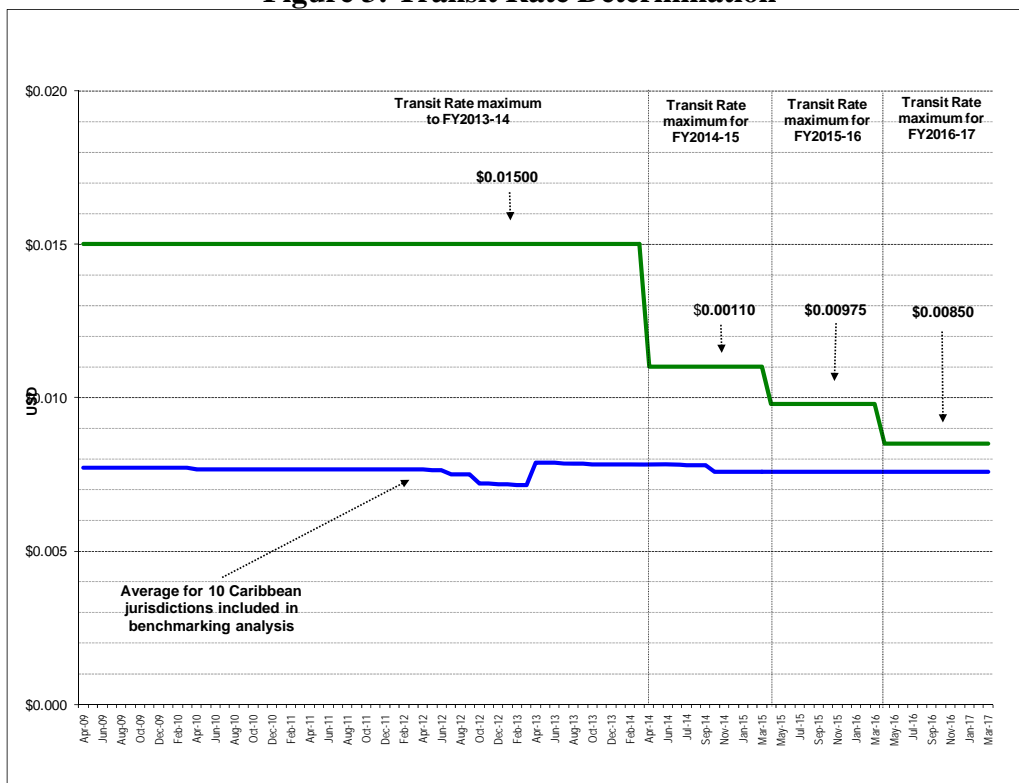
- i) **\$0.0220** as of July 1, 2014;

- ii) **\$0.0195** as of April 1, 2015; and
- iii) **\$0.0170** as of April 1, 2016.

3.4 Transit Rate Determination

139. Figure 3 provides a summary of the average All-Sample benchmark transit rates for the historical/projected period April 2009 to March 2015 along with the statistical trendline projection to March 2017. The figure also shows the historical maximum allowed transit rate in TCI up to FY2013/14.
140. Under the Transit Rate Determination (which covers both the LTR and TSR), the maximum allowable transit rate will be reduced from the current \$0.01500 to \$0.01100 as of July 1, 2014, \$0.00975 as of April 1, 2015 and \$0.00850 as of April 1, 2016. The Commission notes that the Transit Rate Determination is the same as the Transit Rate Proposal included in the Consultation Document.

Figure 3: Transit Rate Determination



141. As Figure 3 shows, the Transit Rate Determination leaves the resulting transit rate maxima above the projected All-Sample benchmark transit rate trendline over the three year period in question by more than a sufficient amount to meet the All-Sample normalization adjustment factor of 2.8% to 8.5%. As shown in Table 3, the difference between the projected All-Sample benchmark average transit rates and the Transit Rate

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Determination is well above this range at roughly 43% in FY2014-15, 28% in FY2015-16 and 12% in FY2016-17.

Table 3: "All-Sample" Benchmark Results and Transit Rate Determination						
(Fiscal Year Periods)						
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
a) Benchmark Average (actual and projected)	\$0.0077	\$0.0074	\$0.0078	\$0.0077	\$0.0076	\$0.0076
b) TCI Transit Rate Maxima	\$0.0150	\$0.0150	\$0.0150			
c) TCI Transit Rate Determination				\$0.01100	\$0.00975	\$0.00850
d) % difference #1 (c – a)				42.6%	28.4%	11.9%

142. Therefore, the Commission determines that the maximum allowed transit rates (applicable to both the LTR and TSR) shall be reduced from the current level of \$0.015 to:
- i) **\$0.01100** as of July 1, 2014;
 - ii) **\$0.00975** as of April 1, 2015; and
 - iii) **\$0.00850** as of April 1, 2016.

3.5 Flow-through to LIME's FTM Price Cap

143. As discussed in Section 2.14, LIME's FTM rate is subject to price cap regulation and, as such, regulatory mandated reductions in the MTR are eligible exogenous cost factors that must flow-through on a one-for-one basis to the price cap applicable to LIME's FTM rate. Therefore, in view of the MTR Determination set out in Section 3.2 above, the FTM price cap shall be reduced from the current level of 30.75¢ to the following:
- i) As of July 1, 2014, the FTM price cap is reduced by \$0.0100 to **29.75¢**;
 - ii) As of April 1, 2015, the FTM price cap is further reduced by \$0.0075 to **29.00¢**; and
 - iii) As of April 1, 2016, the FTM price cap is further reduced by \$0.075 to **28.25¢**.

4 Implementation Measures

4.1 Recommendation to the Government

144. As indicated in the Consultation Document, the Commission intends to issue a Recommendation to the Government requesting that modifications be made to Section 19 of the Interconnection Regulations in order to implement the Commission's MTR maxima determination reached in this Decision. The Commission intends to issue the Recommendation immediately following the release of this Decision.
145. The wording of the Recommendation in view of the Determinations reached in this Decision is as follows:

Based on the Commission's benchmarking analysis, and taking into account the submissions of interested parties, the Commission recommends that the maximum allowable interconnection rates should be reduced in the following manner:

- *MTR to be reduced from its current level of U.S. \$0.0850 per minute to U.S. \$0.0750 per minute as of July 1, 2014, U.S. \$0.0675 per minute as of April 1, 2015 and U.S. \$0.0600 per minute as of April 1, 2016.*
- *FTR be reduced from its current level of U.S. \$0.0300 per minute to U.S. \$0.0220 per minute as of July 1, 2014, U.S. \$0.0195 per minute as of April 1, 2015 and U.S. \$0.0170 per minute as of April 1, 2016.*
- *The Transit Rate to be reduced from its current level of U.S. \$0.01500 per minute to U.S. \$0.01100 per minute as of July 1, 2014, U.S. \$0.00975 per minute as of April 1, 2015 and U.S. \$0.00850 per minute as of April 1, 2016.*

Proposed amendment to the Regulations

To implement its recommendation the Commission proposes that Section 19 of the Regulations be amended as follows:

Fixed and Mobile Carrier Termination and Transit Rates

19. (1) *A carrier that is licensed to own and operate a fixed or mobile telecommunications network is presumed to be dominant in the market for wholesale voice termination and transit services over such network, except insofar as the Commission, upon demonstration by such carrier, determines otherwise.*
- (2) *Except as modified by the Commission, a carrier described in subsection (1) may not charge an interconnecting carrier or service provider:*

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(a) a rate for terminating domestic voice telephone calls on such carrier's mobile telecommunications network that exceeds:

- (i) U.S. \$0.0750 per minute (adjusted pro rata for units of less than a minute) after June 30, 2014;*
- (ii) U.S. \$0.0675 per minute (adjusted pro rata for units of less than a minute) after March 31, 2015; and*
- (iii) U.S. \$0.0600 per minute (adjusted pro rata for units of less than a minute) after March 31, 2016.*

(b) a rate for terminating domestic voice telephone calls on such carrier's fixed telecommunications network that exceeds:

- (i) U.S. \$0.0220 per minute (adjusted pro rata for units of less than a minute) after June 30, 2014;*
- (ii) U.S. \$0.0195 per minute (adjusted pro rata for units of less than a minute) after March 31, 2015; and*
- (iii) U.S. \$0.0170 per minute (adjusted pro rata for units of less than a minute) after March 31, 2016.*

(c) an associated transit rate for conveying voice telephone calls on such carrier's fixed telecommunications network that exceeds:

- (i) U.S. \$0.01100 per minute (adjusted pro rata for units of less than a minute) after June 30, 2014;*
- (ii) U.S. \$0.00975 per minute (adjusted pro rata for units of less than a minute) after March 31, 2015; and*
- (iii) U.S. \$0.00850 per minute (adjusted pro rata for units of less than a minute) after March 31, 2016.*

4.2 Directive to the Licensed Operators

146. Once this Recommendation is given legal force by Government and the amended Interconnection Regulations come into force, the Commission will immediately issue the following Directive to LIME, Digicel and Islandcom:

The Commission directs Cable & Wireless (TCI) Limited ("LIME"), Digicel (TCI) Limited ("Digicel") and Islandcom Telecommunications, Limited ("Islandcom") to amend the Tariff Schedule in their respective interconnection agreements to reflect the interconnection rate maxima approved in the amended

Interconnection Regulations. The respective changes should be effective on the date stipulated in the amended Interconnection Regulations.

Therefore, LIME, Digicel and Islandcom are hereby directed to file for approval by the Commission copies of their respective Interconnection Agreements, including amended Tariff Schedules reflecting the amendments made to the Interconnection Regulations, within 14 days of the date of this Directive. For avoidance of doubt, this should include the Interconnection Agreements each licensed operator has in place with the two other licensed operators.

4.3 Amendment to Digicel's Network Licence

147. As indicated in Section 2.2 above, the Commission determined that all fixed network operators should be considered dominant with respect to wholesale voice call termination on their respective fixed networks. As well, as indicated in Section 2.13, the Commission decided that Digicel's Network Licence should be amended to reflect this Determination.
148. Section 11 of Digicel's Telecommunications Network Licence, dated March 31, 2006 and as last amended on June 15, 2011, covers matters related to dominance. In this respect, section 11.1 of Digicel's Licence states that:

In accordance with the provisions of section 19 of the Interconnection and Access to Telecommunications Facilities Regulations 2005, the Licencee being hereby licensed to own and operate a mobile telecommunications network is presumed to be dominant in the market for mobile wholesale voice telephony services on its Licensed Network.

149. To reflect the Commission's Determination reached Section 2.2 of this Decision, the Commission amends section 11.1 Digicel's Telecommunications Network Licence so it now reads as follows:

In accordance with the provisions of section 19 of the Interconnection and Access to Telecommunications Facilities Regulations 2005, including subsequent amendments thereof, the Licensee being hereby licensed to own and operate mobile and fixed telecommunications networks is presumed to be dominant in the markets for mobile and fixed wholesale voice telephony services on its Licensed Networks.