



**Second Call for Applications
for 700 MHz Spectrum Licences**

issued by the

**Turks and Caicos Islands
Telecommunications Commission**

on

November 19, 2012

1 Introduction

1.1 Objective

On 17 September 2012, the Turks and Caicos Islands ("TCI") Telecommunications Commission (the "Commission") issued Telecommunications Decision 2012-7, the 700 MHz Spectrum¹ Policy Decision (the "Decision"). Among other things, the Decision established a two-stage licence assignment process. The first stage was established to solicit expressions of interest for designated 700 MHz spectrum blocks from eligible applicants. If excess or overlapping demand was found to exist, the Commission would then undertake the second "comparative selection" stage of the licensing process.

The first stage of this process was initiated on 17 October 2012 when the Commission issued its First Call for Applications ("First CFA"). Interested parties were required to file responses to the First CFA on or before 31 October 2012. The Commission received several responses to the First CFA and has found, as described below, that there is excess and overlapping demand for certain specific 700 MHz spectrum blocks. Consequently, the Commission is initiating the second stage of the licensing process with this Second Call for Applications ("Second CFA").

Eligible parties intending to provide a response to this Second CFA should ensure that they are fully familiar with the Commission's 700 MHz spectrum policy as set out in the Decision. This Second CFA should be read in conjunction with the Decision and the First CFA.

1.2 Licensing Framework

As set out in the Decision, the Commission adopted the Federal Communications Commission's (FCC) channel plan for the 700 MHz spectrum band in TCI.² Under the adopted channel plan, certain 700 MHz spectrum blocks are being made available for immediate commercial use and are divided into two categories: "prime" and "non-prime" spectrum blocks. The remainder of the spectrum blocks have been reserved for future public safety, joint commercial/public safety and/or commercial uses.

In the Decision, the Commission adopted a spectrum assignment approach under which two currently licensed public mobile telecommunications ("PMT") operators would be granted a license for "prime" 700 MHz spectrum (i.e., at least 10 + 10 or 20 MHz of "prime" 700 MHz spectrum in each case). The Commission's objective in this respect is to ensure that each of the two licensed PMT operators granted "prime" 700 MHz spectrum has a sufficient quantity of spectrum to immediately launch high quality/high speed 4G LTE mobile broadband services in TCI.

¹ Note that "700 MHz spectrum" refers to spectrum in the frequency band 698 – 806 MHz.

² Details of the FCC channel plan are provided in Annex I of the Decision.

Under the adopted spectrum assignment approach, the Commission indicated that it would also grant licences for "non-prime" 700 MHz spectrum available for commercial use to eligible licensed operators should demand for such spectrum exist. In such cases, priority would be given to assigning any requested "non-prime" 700 MHz spectrum to eligible licensed operators other than licensed PMT operators granted "prime" 700 MHz spectrum. For any operator to be granted "non-prime" 700 MHz spectrum, an immediate or near term commercial use for the spectrum must be identified to avoid the risk of spectrum warehousing.

As well, the Commission indicated that it would also accept requests from eligible licensed operators for "reserved" 700 MHz spectrum as long as the intended use of the spectrum is consistent with the uses set out in the Decision for the spectrum blocks in question. Again, any such proposed uses should be immediate or near term in nature to be eligible for licensing at this time.

2 Responses to First CFA

2.1 Summary of Responses

On 31 October 2012, the Commission received responses to the First CFA from the following four parties (the "Applicants"):

- Cable and Wireless (TCI) Limited (referred to herein under its trading name: "LIME")
- Digicel (Turks and Caicos) Limited ("Digicel")
- Islandcom Telecommunications Limited ("Islandcom")
- TCT Limited ("TCT")

The Commission also received a filing from Andrew's Communications Ltd ("ACL") dated 30 October 2012 which included an application for a 700 MHz spectrum licence (the "ACL 700 MHz Application") and other submissions that are unrelated to the matters that are at issue in the 700 MHz spectrum licensing process presently underway. The additional submissions included an application for certain operating licences, a request for modifications to its existing operating licence, etc. (together, referred to as the "Other ACL Submissions"). The Commission addresses these matters in Sections 2.2.3 and 2.2.4 below.

As indicated in Section 3 of the First CFA, Applicants were required to provide the following information in their submissions:

- i) applicant identification and contact information;
- ii) for those eligible, expressions of interest in a "prime" 700 MHz spectrum block (with the option of also indicating a second choice);

- iii) expressions of interest in one or more "non-prime" and/or "reserved" 700 MHz spectrum blocks (if any, including first choice and, optionally, a second choice);
- iv) a description of the services to be provided using the requested spectrum; and
- v) a completed copy of Table 1 included in Annex 1 of the First CFA to provide a summary of the party's first and second choice expressions of interest in 700 MHz spectrum.

Of the noted Applicants, Digicel, Islandcom and LIME currently hold PMT licences and are therefore eligible to be awarded "prime" 700 MHz spectrum licences. Each expressed interest in being awarded as a first choice the Lower B & C blocks. As a second choice, Digicel and Islandcom expressed interest in the Upper C block. LIME provided no second choice expression of interest in "prime" 700 MHz spectrum.

In terms of "non-prime" 700 MHz spectrum, Digicel expressed interest in the Lower A block conditional upon it also being awarded a licence for the Lower B & C blocks. In addition, TCT expressed interest in the Lower A block, as a first choice, and the Lower D block as a second choice.

A summary of all of the Applicants' expressions of interest in 700 MHz spectrum licences including first and, where applicable, second choices is provided in Annex 1.

The Commission notes that Digicel, Islandcom and LIME indicated in their responses that, if awarded a "prime" 700 MHz spectrum licence, they would use the spectrum to deploy 4G/LTE mobile broadband services. As well, TCT indicated that if awarded a "non-prime" 700 MHz spectrum licence, it would use the spectrum to deploy 4G/LTE data and entertainment services to supplement its current fixed location services. Consequently, in the Commission's view, Applicants' intended uses of the requested spectrum are consistent with the policy objectives for the frequency band set out in the Decision.

On balance, the Commission considers that all of the Applicants' submissions comply with the specified filing requirements set out in the First CFA.

2.2 Assessment of Responses

2.2.1 Prime Blocks

Given the excess and overlapping expressions of interest in "prime" 700 MHz spectrum blocks made by Digicel, Islandcom and LIME, a second-stage comparative selection process will be adopted by Commission to determine which two of these three PMT operators will ultimately be awarded a "prime" 700 MHz spectrum licence. The comparative selection criteria adopted by the Commission for this purpose are set out in the next section.

2.2.2 Non-Prime Blocks

The Commission notes that it indicated in the Decision and the First CFA that priority would be given to assigning requested "non-prime" 700 MHz spectrum to eligible licensed operators other than the licensed PMT operators granted "prime" 700 MHz spectrum. Based on the responses to the First CFA, both Digicel and TCT expressed first choice interest in the "non-prime" Lower A block. However, Digicel's expression of interest in the Lower A block is conditional upon it also being awarded the Lower B & C blocks. Digicel effectively indicated that it is not interested in being awarded a licence for the Lower A block in combination with the Upper C block or on its own.

Given the licensing priority policy for "non-prime" 700 MHz spectrum established in the Decision, if Digicel were awarded the Lower B & C blocks, TCT would be given priority over Digicel for the Lower A block. The Commission need not consider the other alternatives of Digicel seeking the Lower A block on its own or in combination with the Upper C block given that Digicel has explicitly declined interest in pursuing those options. Since no other Applicants expressed interest in the Lower A block, the Commission considers that the Lower A block should therefore be set aside for TCT.³ Consequently, there is no need to proceed to a second-stage comparative selection process for this specific spectrum block.

Further, given there is no expressed first choice interest for any of the remaining "non-prime" 700 MHz spectrum, there is no need to proceed to a second-stage comparative selection process for the remaining "non-prime" spectrum blocks.

2.2.3 ACL Application

The ACL 700 MHz Application requested that ACL be awarded a spectrum licence for both the Lower B & C and Upper C blocks. Although these two spectrum blocks are very much at issue in the proceeding initiated by the First CFA, at no point in the ACL 700 MHz Application is there any indication that the application is being made pursuant to the First CFA.

If the ACL 700 MHz Application is intended to apply outside of the process established by the Commission for the licensing of 700 MHz spectrum, the Commission denies the application. The Decision and the First CFA established a process for the licensing of 700 MHz spectrum and all interested parties were required to comply with the requirements set forth in those documents.

If the ACL 700 MHz Application was intended to apply pursuant to the process established by the Commission in the Decision and the First CFA, the Commission notes that the ACL 700

³ The Commission notes that, as of the date of this Second CFA, TCT has not filed a formal application for a 700 MHz spectrum licence. Therefore, before a spectrum licence for the Lower A block may be issued to TCT, it must first file a spectrum licence application consistent with the requirements of the *Telecommunications and Spectrum Licensing Regulations 2005* with the Commission. Once received, the Commission will determine if it meets the stipulated spectrum licence application requirements and, if so, issue a spectrum licence for the Lower A block to TCT.

MHz Application does not follow the form and structure stipulated in the First CFA.⁴ For instance, the ACL 700 MHz Application did not include a completed Annex 1 of the First CFA.

The Commission clearly stated that parties seeking 700 MHz spectrum licences needed to comply with the procedural requirements set out in the First CFA. See in particular Section 3 of the First CFA where the Commission stated as follows:

For the avoidance of doubt, all existing applications for 700 MHz spectrum licences previously filed with the Commission will be set aside as a result of the Decision. Failure of a party to file an expression of interest in obtaining a 700 MHz spectrum licence in response to this First CFA would make that party ineligible to be granted a 700 MHz spectrum licence as a result of this current licensing process.

Accordingly, the Commission considers the ACL 700 MHz Application to be noncompliant with the First CFA from a procedural perspective.

The Commission also notes that the ACL 700 MHz Application fails to satisfy key eligibility requirements for the licensing of the requested 700 MHz spectrum blocks. Both the Decision and the First CFA clearly state that only currently-licensed PMT operators are eligible to apply for “prime” 700 MHz spectrum blocks. ACL does not hold a PMT licence. Given that ACL applied for two “prime” 700 spectrum blocks, its expression of interest in, or application for, those spectrum blocks must fail on eligibility grounds.

The ACL 700 MHz Application does not raise any issues in regards to “non-prime” 700 MHz spectrum given that ACL did not provide any expression of interest in, or otherwise apply for, “non-prime” 700 MHz spectrum.

Accordingly, the Commission denies ACL’s request pursuant to the ACL 700 MHz Application for a spectrum licence for the 700 MHz spectrum blocks noted in that application. Further, the Commission considers that ACL is ineligible to participate in the process set out in this Second CFA for the award of 700 MHz spectrum.

The Commission notes that ACL and, for that matter, any licensed operator may apply in the future for any “non-prime” or “reserved” 700 MHz spectrum that remains unallocated as a result of the present 700 MHz spectrum licensing process should any immediate or near term use for any such spectrum arise.

2.2.4 Other ACL Submissions

As noted above, ACL’s 30 October 2012 filing included various submissions that are unrelated to the matters that are at issue in the 700 MHz spectrum licensing process presently underway.

⁴ In this respect, the Commission notes that ACL sent a letter to the Commission, dated 24 October 2012, in which it indicated its intention to apply for spectrum in the 700 MHz band. In response, by letter dated the same day, the Commission acknowledged receipt of ACL’s letter and reminded ACL to ensure that its application include the specific information requirements set out in Section 3 of the First CFA.

The Commission will deal with these Other ACL Submissions in due course and separately from the present 700 MHz spectrum licensing process.

3 Comparative Selection Criteria and Process

3.1 Comparative Selection Criteria and Weighting

The criteria which will be used by the Commission to award "prime" 700 MHz spectrum are based on the comparative selection criteria set out in the Decision, with some minor modifications and additional elaboration. In total, there are five comparative selection criteria that the Commission will use to evaluate eligible Applicant's responses to this Second CFA. Equal percentage weighting factors have been assigned to each criterion (which sum to 100% in total). The Commission considers that the assigned weights provide a fair and reasonable basis to evaluate and score the relative merits of each Applicant's responses to this Second CFA.

Each comparative selection criterion, along with its assigned weighting factor, is described below:

(i) **4G/LTE Deployment and Business Plans using 700 MHz Spectrum**

Weighting: 20%

Each Applicant must provide a detailed description of its 4G/LTE deployment and business plans using the **Lower B & C** 700 MHz spectrum blocks, including but not necessarily limited to:

- a) Service launch, rollout and coverage plans, specifically addressing how the Applicant intends to at a minimum meet or preferably exceed the deployment requirements established as a condition of licence in the Decision. In the latter case, the Applicant should indicate in its response whether it would be prepared to include any accelerated deployment timeframe that may be consistent with its described deployment plans as a condition of licence.
- b) Planned services, features and capabilities to be offered to customers, as well as expected pricing levels for the Applicant's planned 4G/LTE services relative to its existing mobile service pricing plans.
- c) Planned 4G/LTE network design.
- d) Additional 4G/LTE service business plan details, including annual forecast information covering a period of up to five years for the following:
 - expected number of pre-paid and post-paid subscribers
 - expected pre-paid and post-paid subscriber revenues and other revenues

- planned upfront and ongoing capital costs
- upfront and ongoing operating expenses
- cross impacts on the Applicant's existing mobile service revenues and costs

The more reasoned, well documented and explained the description of an Applicant's 4G/LTE deployment and business plans, the higher the score it will receive on this criterion.

(ii) Financial Capability

Weighting: 20%

Each Applicant must provide a detailed description of its financial capability to deploy and successfully undertake the planned 4G/LTE mobile broadband services plans described in response to the criterion (i) above.

The greater the demonstrated financial capability, the higher the score it will receive on this criterion. Adequate supporting factual information must be provided in response to this criterion to maximize scoring potential.

(iii) Technical Capability

Weighting: 20%

Each Applicant must provide a detailed description of its technical capability to deploy and successfully undertake the planned 4G/LTE mobile broadband services plans described in response to the criterion (i) above.

As part of its response to this criterion, each Applicant should include a description of its track record in deploying mobile services in TCI using currently assigned mobile spectrum (e.g., 850 MHz, 900 MHz, 1900 MHz frequency bands) in a timely manner. More specifically, for each assigned spectrum block (e.g., within the 850 MHz, 900 MHz, 1900 MHz frequency bands), the Applicant should indicate:

- the date each applicable spectrum block was assigned;
- the timeframe (number of months) within which the Applicant launched service (including a description of the service) using each spectrum block in question;
- the timeframe (number of months) within which it achieved its maximum population coverage in TCI (and also identifying the achieved maximum population coverage level); and

- any changes in the nature of the services (e.g., technology upgrades) provided using each spectrum block in question since the spectrum block was assigned.

The more reasoned, well documented and supported an Applicant's response, the higher the score it will receive on this criterion. Adequate supporting factual information must be provided in response to this criterion to maximize scoring potential.

(iv) Additional Public Benefits

Weighting: 20%

Each Applicant must provide a detailed description of any specific additional social and economic benefits that the Applicant would be in a position to provide to consumers, businesses and specific institutions, should it be awarded the (i) **Lower B & C blocks** or (ii) **Upper C block**. The benefits should be in addition to benefits that the Applicant currently provides or has announced that it will provide in TCI. Examples of such additional benefits may include, but not be limited to, providing services and/or equipment on a discounted or complimentary basis to designated educational or community institutions. In addition, examples of economic benefits may include job creation within TCI and/or spin-off benefits to local businesses.

Applicants should indicate in their responses whether they would be prepared to include any specific commitments provided in response to this criterion as a condition of licence were they awarded the (i) **Lower B & C blocks** or (ii) **Upper C block**.

The more specific, well documented and supported an Applicant's response, the higher the score it will receive on this criterion.

(v) Rationale for Preferring the Lower B & C Blocks

Weighting: 20%

Each Applicant must provide a detailed explanation, including supporting factual information as may be available, as to why it prefers the Lower B & C blocks rather than the Upper C block. The explanation should include, but not necessarily be limited to, a description of (i) expected benefits to the Applicant and/or (ii) expected benefits for consumers of mobile wireless services using the Lower B & C blocks.

In addition, as may be relevant, Applicants must identify and explain the rationale for any significant impacts on their responses to the above-noted criteria – i.e., 4G/LTE deployment and business plans, financial capacity, technical capacity and/or any proposed public benefits – were they awarded a licence for the Upper C rather than Lower B & C blocks.

The more reasoned and compelling the argument the Applicant makes in support of its use of the Lower B & C blocks rather than the Upper C block to deploy 4G/LTE mobile broadband services, the higher the score it will receive on this criterion. Adequate

supporting factual information must be provided in response to this criterion to maximize scoring potential.

3.2 Comparative Selection Process

A two-step process will be followed by the Commission to assign the available "prime" 700 MHz spectrum blocks to two of the three eligible Applicants. In the first step, the Lower B & C blocks will be assigned to one of the three eligible Applicants. For this purpose, the Commission will evaluate Applicants' responses to each comparative selection criterion listed above and score the responses relative to the assigned weighting factors. Note that the score for criterion (iv) in this step will be based on an evaluation of any additional public benefits described by the Applicant in the event it were granted the Lower B & C blocks. The Applicant whose responses achieve the highest overall score out of a maximum of 100% for the entire set of comparative selection will be awarded the licence for the Lower B & C blocks. In the second step, the Upper C block will then be assigned to one of the two remaining eligible Applicants. However, before describing the second-step assignment process, the question of eligibility for the Upper C block is addressed.

As noted above, both Digicel and Islandcom expressed interest in the Upper C block as a second choice option should they not be awarded the Lower B & C blocks. On the other hand, LIME did not express interest in the Upper C block as a second choice option. The Commission notes that Applicants were encouraged to provide second choice expressions of interest in their responses to the First CFA, but were not required to do so.⁵ Consequently, the Commission considers that once the Lower B & C blocks are assigned to one of the three Applicants, both remaining Applicants should be eligible for the Upper C block. This would include LIME, should it not be assigned Lower B & C in step one, unless it specifically indicates in its response to the Second CFA that it is not interested in being assigned the Upper C block.

In this latter respect, if LIME were to indicate in its response to the Second CFA that it is in fact not interested in being potentially assigned the Upper C block as a second choice option, then awarding the Upper C block would be a simple matter of default in the event that either Digicel or Islandcom were awarded the Lower B & C blocks in the first-step assignment process. Under such a scenario, the remaining eligible Applicant (either Digicel or Islandcom) would be assigned the Upper C block by default.

In the case where there are two eligible Applicants in the running for the Upper C block in the second-step assignment process, the Commission will assign the Upper C block to the remaining Applicant with the highest overall score on the responses to the set of comparative selection criteria listed above, excluding criterion (v). Since criterion (v) deals with the rationale for preferring Lower B & C blocks over the Upper C block, there is no reason to consider it for the purpose of awarding the Upper C block. In addition, the score for criterion (iv) in this step would be based on an evaluation of any additional public benefits described by the Applicant in

⁵ The Commission notes, for instance, that the "second choice" column in the table in Annex I of the First CFA is labeled as "optional".

the event it were granted the Upper C block. With the exclusion of criterion (v), in the second-step assignment process, eligible Applicants' scores would be determined relative to a maximum overall core of 80% rather than 100% in the case of the first-step assignment process.

The Commission reserves the right to accept or reject any response to this Second CFA, and to annul the process and reject all responses, without thereby incurring any liability to the affected Applicant or Applicants.

4 Filing and Administrative Matters

4.1 Filing Process

Digicel, Islandcom and LIME are invited to file responses to this Second CFA by no later than **4:00 PM, TCI time, Friday, December 21, 2012**. No responses will be accepted by the Commission after that time. Any Applicant who fails to file their response by the deadline will no longer be deemed eligible for a "prime" 700 MHz spectrum licence though the current licensing process.

Responses to this Second CFA must address each of the comparative selection criteria set out in Section 3.1 above. In addition, each Applicant must provide a completed a signed copy of the **Applicant's Declaration** form in Annex 2 with its Response.

Responses to this Second CFA may be submitted to either one or both of the following addresses:

- a) E-mail to: consultations@tcitelecommission.tc
- b) Delivery (paper and electronic copy) by hand or by courier to:

Mr. John Williams,
Director General
Turks and Caicos Islands Telecommunications Commission
Business Solutions Complex, Leeward Highway
Providenciales,
Turks and Caicos Islands

The Commission considers that the vast majority of the information provided in each Applicant's response to this Second CFA will be competitively sensitive in nature and, as such, may be filed in confidence with the Commission. Abridged versions of responses will not be required, since they would likely be of very limited or no value to interested parties.

The Commission notes that it will provide Applicants with a formal acknowledgement of all responses to this Second CFA received on or before the stipulated deadline.

Should any Applicant require clarification of any aspect of this Second CFA it may submit any question(s) it may have via email to the Commission. Any such questions must be submitted to

the Commission no later than **4:00 PM, TCI time, Wednesday, November 28, 2012**. The Commission will undertake to answer such questions as quickly as possible. Any such questions together with the Commission's answers will be provided directly to Digicel, Islandcom and LIME and will also be posted on the Commission's website.

4.2 Administrative Considerations

In responding to the Second CFA, winning Applicants should bear in mind that they will be subject to the "prime" 700 MHz spectrum conditions of licence set out in the Decision, namely:

- Licence Term: 15 years
- Deployment Requirements for "Prime" 700 MHz Spectrum Licensees:
 - The licensee must commercially deploy 4G LTE mobile broadband services within 18 months of the issuance of its licence.
 - The licensee must cover 98% of the population of TCI with 4G LTE-based mobile broadband services within 36 months of the issuance of its licence.
- Reporting Requirements for "Prime" 700 MHz Spectrum Licensees:
 - The licensee must file a 4G LTE mobile broadband service deployment status reports with the Commission (i) 18 months, (ii) 36 months and (iii) every 2 years thereafter following the issuance of its licence.
- Payment of annual spectrum licence fees as set out in the Decision (Table 7, page 21).

The Commission notes that it intends to issue a decision on the assignment of "prime" 700 MHz spectrum licenses, based on Applicants' responses to this Second CFA, on or before 31 March 2013.

Annex 1

Summary of First CFA Expressions of Interest in Designated 700 MHz Spectrum Blocks (First and Second Choice Expressions of Interest)

Designated Spectrum Blocks	Frequency	Digicel		Islandcom		LIME		TCT	
		<i>1st</i>	<i>2nd</i>	<i>1st</i>	<i>2nd</i>	<i>1st</i>	<i>2nd</i>	<i>1st</i>	<i>2nd</i>
"Prime" Blocks *									
Lower B & C	704-716 MHz/734-746 MHz	X		X		X			
Upper C	746-757 MHz/777-788 MHz		X		X				
"Non-Prime" Blocks									
Lower A	698-704 MHz/728-734 MHz	X **						X	
Lower D	716-722 MHz								X
Lower E	722-728 MHz								
"Reserved" Blocks									
Upper D	758-763 MHz/788-793 MHz								
Public Safety #1	763-768 MHz/793-798 MHz								
Public Safety #2	768-775 MHz/798-805 MHz								
Guardband #1	757-758 MHz								
Guardband #2	775-776 MHz								
Guardband #3	787-788 MHz								
Guardband #4	805-806 MHz								
Total Requested Spectrum (MHz)		24 (36)	22	24	22	24		12	6

Notes: * Only licensed PMT operators eligible for at most one designated "prime" block.

** Digicel's expression of interest in the Lower A block is conditional on it acquiring the Lower B & C blocks.

Annex 2

Applicant Declaration Second Call for Applications 700 MHz Spectrum Licences

Declaration of the applicant or its designated representative:

I, _____ SOLEMNLY DECLARE THAT:

- a) I am the designated representative of the applicant named in this Response to the Turks and Caicos Islands (“TCI”) Telecommunications Commission's (the “Commission”) Second Call for Applications for 700 MHz Spectrum Licences and as such have knowledge of all matters declared therein.
- b) The statements made in this Response, or any document filed pursuant to any request for further information by the Commission, are (will be) to the best of my knowledge and belief true in all respects.
- c) The opinions and estimates given in this Response, or any document filed pursuant to any request for further information by the Commission, are (will be) based on facts as known to me.
- d) I have examined the provisions of the Telecommunications Ordinance 2004, the Frequency Management Regulations 2005, the Telecommunications and Frequency Licensing Regulations 2005, Commission Telecommunications Decision 2012 and First Call for Applications for 700 MHz Spectrum Licences relevant to this Response.
- e) The applicant has not disclosed this Response, or any draft or partial versions thereof, to any of the other two parties that has been invited to file a response to this Second CFA (or any affiliate of any such party). The applicant has not entered into any agreement or understanding with any of the other two parties that has been invited to file a response to this Second CFA (or any affiliate of any such party) that relates to the statements made in this Response.

AND I HAVE SIGNED

Signature:

Title:

Date: