



**Digicel's Comments**

**to**

**The Spectrum Management Authority**

**on the**

**Spectrum Pricing Review Consultative Document**

**and**

**Final Report on Development of Spectrum Pricing Fee Structures**

**July 29, 2020**

## **OFFICIAL STATEMENT**

Digicel (Jamaica) Limited wishes to commend the Spectrum Management Authority (SMA) for providing this opportunity for Digicel to comment on the consultation on the Spectrum Review Consultative Document and Final Report on the Development of Spectrum Pricing Structures. Digicel is, of course, available and would be happy to discuss our comments on these documents further.

The comments as provided herein are not exhaustive and Digicel's decision not to respond to any particular issue(s) raised in the Consultation Document and the Report or any particular issue raised by any party relating to the subject matter generally does not necessarily represent agreement, in whole or in part nor does any position taken by Digicel in this document represent a waiver or concession of any sort of Digicel's rights in any way. Digicel expressly reserves all its rights in this matter generally.

Please do not hesitate to refer any questions or remarks that may arise as a result of these comments by Digicel to:

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### **General Response on Proposed Pricing Change**

Digicel wishes to compliment the SMA and its subcontractor for a consultation document that was well researched and which appears to have taken into consideration some of the long expressed concerns of stakeholders with respect to the pricing of spectrum in Jamaica. It is our view that the implementation of the proposals set out in the consultation document would go a long way in simplifying the way in which spectrum fees are applied in the telecommunications industry.

### **Proposed Changes to Prices for Mobile Access Spectrum**

Digicel notes that the proposed pricing would not apply to existing allocations. This approach is distortive of competition and it represents an unwarranted and unjustified regulatory support for operators whose initial spectrum acquisition will be after the new pricing regime comes into effect. This gifts a wide ranging regulatory support to a potential new entrant. Digicel also notes that the memorandum relating to the award of the 700MHz band contained specific but limited regulatory supports for new entrants.

The Authority has not offered any reasoning or justification for the proposed structure for the applicability of any new pricing regime. The Authority's reasoning in adopting this approach is entirely absent from the consultation. The Authority has carried out no analysis as to any distortions in competition or disincentives to investment which would be caused by its proposed approach.

Digicel notes that the objects of the Telecommunications Act which established the Authority include under sections 3. (a) (i) and 3. (d) respectively:

*"promoting fair and open competition in the provision of specified services and telecommunications equipment;"* and

*"to promote the telecommunications industry in Jamaica by encouraging economically efficient investment in, and use of, infrastructure to provide specified services in Jamaica."*

In omitting to carry out the analysis outlined above the Authority cannot know if its proposals conform to the objects of the Act and has failed in its duties under Section 21(3) (a) of the Act. This requires that *"In performing its functions under this Act, the Authority shall ... have regard to the objects, provisions and purposes of this Act and the provisions of the Radio and Telegraph Control Act; "*

While the pricing proposed is calculated on an annual basis Digicel believes that it is appropriate that the Authority sets out that the payment of related fees are also on an annual basis.

Digicel notes that a graduated rate is proposed for the pricing of Mobile Access Spectrum, it is Digicel's view that there is no justifiable rationale for pricing Mobile Access Spectrum in this way for the bands within scope of this consultation and proposes instead that a uniform lower rate be used.

Uniform pricing for the in scope bands is more fair and transparent as these bands have not dissimilar characteristics in terms of the services which they can support. This would encourage competition among mobile telecoms stakeholders by ensuring a more uniform cost base in the acquisition of spectrum. Single rate pricing would also encourage more uniform exploitation of spectrum by stakeholders which is an important consideration given that spectrum is a finite resource, and encourage the acquisition of non-adjacent bands thereby minimising interference and increasing the utilisation of spectrum.

While outside of the scope of the current consultation, Digicel believes that at an early date the Authority should set out the pricing structure for bands that are likely to be used for future 5G services.

The characteristics of these bands in terms of channel sizes and supported services are likely to be sufficiently distinct from the bands under consideration in this consultation to justify consideration of alternative pricing structures. Early knowledge of the approach to be adopted would give regulatory certainty and encourage early deployment of 5G technology. Digicel would welcome a preliminary industry engagement by the Authority on this issue.

### Efficiency Factor

Digicel proposes that the Efficiency Factor be calculated by reference to any two of the three factors set out in the consultation document (i.e. Polarization Factor, Antenna Performance Factor and Frequency Re-Use Factor) and that a licensee that satisfies any two of the three factors be classified as category 2.

Additionally, if an operator uses one polarization in an existing fixed wireless link and now opts to use dual polarization, it is not clear from the Consultation Document how the operator will benefit from efficiency factor. The Authority needs to clarify whether the operator will be permitted to renegotiate spectrum fee due to adoption of dual polarization or whether the operator must request dual polarization at the time of application. Digicel notes that the considerations of pricing fairness outlined above also apply to this consideration as well.

Similarly, for the other criteria (i.e. antenna performance and frequency re-use factor), the Consultation Document is silent on whether the efficiency factor only apply at the time of application or can be applied after the operator upgrade fixed wireless system to use higher performance antenna or frequency re-use.

Digicel recommends that for the frequency re-use factor, consideration be given to operator adoption of multiple-input and multiple-output (MIMO) technology. Using the same channels, with multiple radios, an operator can double capacity and thereby increase spectrum efficiency. Consideration should also be given to operator re-use of the same channel at least twice from the same point of presence. Option 1 of Figure 1 below illustrates a scenario in which an operator utilises three frequencies or three channels, in this scenario there is no re-use of spectrum and the Authority would be unable to issue these frequencies (F1, F2 and F3) to another operator within the same geographical area. In option 2 however, the operator uses two frequencies or three channels where there is reuse of frequency (F1) from the same point of presence and the Authority would be free to issue spectrum which would otherwise have been used under option 1 (F3), to another operator within the same geographical area.

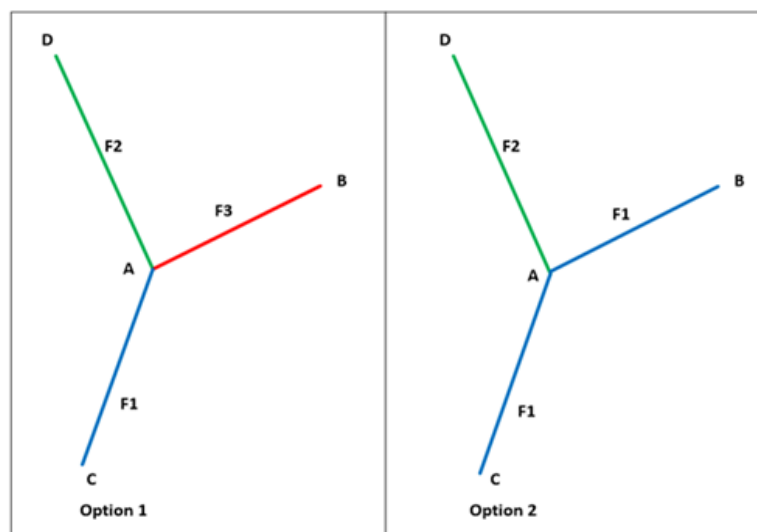


Figure 1

**Regulatory Fees**

Digicel notes that the Executive Summary of the Final Report on Development of Spectrum Pricing Fee Structures drew attention to the SMA's increased reliance on capital grant transfers and outlined options to address the shortfall which included absorption of a minimum of 15% of Spectrum License Fees. While this issue was outside the scope of the report, Digicel recommends this approach to the SMA.

**Spectrum above 23GHz and Spectrum Used for Backhaul**

Digicel notes that the Consultation Document contains no proposals for spectrum above 23GHz and for spectrum used to support backhaul (e.g. 4GHz, 5GHz and 10GHz), it is Digicel's view that these should be covered by the proposed revision to spectrum fees.

**Calculation of Base Fee**

Digicel notes that the Consultation Document does not address the calculation of base fee when using multiple channels, it is our view that this should be clearly addressed.

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