



Digicel's Comments
on
Spectrum Management Authority's
Consultation
On the
Development of Mobile Spectrum Screen

4th August 2021

To: The Managing Director
Spectrum Management Authority
13-19 Harbour Street, Kingston
consultation@sma.gov.jm

Preliminary Comments

We thank the Authority for providing this opportunity for Digicel to comment on the Authority's Position Paper on the Development of Mobile Spectrum Screen. Digicel is, of course, available and would be happy to discuss our submission further.

Digicel welcomes the proposal to move away from the use of a Spectrum Cap. We understand the need to ensure the efficient and fair allocation of spectrum in the absence of a cap. However we have some concerns regarding the methodology outlined by the Authority in respect of the proposed spectrum screen.

Our comments are set out more fully below.

The comments as provided herein are not exhaustive and Digicel's decision not to respond to any particular issue(s) raised in the consultation or related documents or any particular issue(s) 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 Comments

The mechanism of a trigger point and spectrum screen has implicitly embedded within it the fact that the screen will in practice only be applied to existing operators with existing networks as there is no practical reason why an operator would go from having zero spectrum holdings to needing to exceed the trigger point.

Further the previous Consultations carried out by the Authority clearly anticipate that there will be no more than three mobile networks in Jamaica for the foreseeable future. Digicel believes that given the market size three operators with similar market share would each struggle to achieve minimum economic scale and that on this basis concurs with the view that there will be no more than three operators for the foreseeable future.

Therefore the formulas used in the screen should recognise this market reality and be constructed to reflect a 3 player market.

While we note the proposed cut-off for recommending the award of spectrum and the various proposed thresholds and for apportionment of evaluation points at the levels of the points proposed to be awarded, the Authority has not set out any rationale or reason why it has chosen any of these. For example why is the threshold for allocation 70 and not 65 or on what basis did the Authority decide that if less than 5% of consumers ported in the previous 6 months then no points would be awarded?

The failure to properly set out its reasoning means that the Authority has denied respondents the opportunity to engage meaningfully with the detail of the proposed methodology. This is exacerbated by the short timeframe which was given for response. Digicel reserves its rights in respect of this.

Technical Information

The use of the phrases “*The intended geographic coverage of the network*” in Section 30. “*Improved download rate (Mbps) coverage quality, under peak traffic conditions at the **deployment areas specified by the Applicant***.” [emphasis added] ” at Section 35 and “*Based on the area identified by the applicant, that is, **the area under consideration for increase capacity**, the SMA would seek to determine the prevailing and the proposed levels of spectral efficiency **in that area***.” [emphasis added] at Section 47 of the document, all indicate that applications can be made for sub-national geographic allocations.

In practice this is not the case, allocations are made on a national basis. To do otherwise would reduce the overall efficiency of spectrum utilisation given the need for co-ordination between different areas and different operators.

Considering the spectral efficiency only in areas that have been designated by the operator runs the risk of gaming whereby operators only identify and apply for those areas which will maximise the spectral efficiency score.

A more equitable approach would be to consider the spectral efficiency in a predefined geographical area that equates to a minimum population coverage.

As market shares vary over time the effect of changes in market shares could be dealt with by issuing shorter duration licenses for spectrum above the trigger point and reapplying the spectrum screen assessment criteria using the updated market shares where an application for renewal is received.

Competitive Analysis

Digicel believes that the Authority's proposed contestability measure does not adequately reflect the effect of market shares.

For example Digicel has almost twice the customer base of its current competitor but does not have twice the spectrum holding. The proportionate asymmetry in customer base means that for a given spectrum allocation there is far higher scope for Digicel's competitor to expand its base within its existing holding without suffering capacity or other constraints.

Market shares may vary over time through competition but not over the very short term. Because of this a mechanism which took account of the scope for expansion of the customer base of either established competitors or relatively new entrants would be a more equitable approach and ensure that a balance was struck between preserving the competitive dynamic of market entry and /or expansion while at the same time not inhibiting the ability of larger established operators to maintain and increase the quality of service as end-user usage patterns move to higher data volumes.

Digicel believes that the proposal that 5% 6 monthly porting rate becomes the threshold for awarding any points is too high a bar.

The Authority has provided no background data which supports this assessment. Digicel notes that the Fair Trading Commission has already found that the current retail mobile market structure in Jamaica is competitive and therefore any porting activity in excess of current levels should be awarded points.

Public Interest

Digicel notes that including the underserved areas in the calculation for network spectral efficiency will tend to lower the spectral efficiency score as these areas tend to be lower usage. This reinforces the Digicel proposal that spectral efficiency should be calculated on a predefined area which has specified level of population coverage.

Spectral efficiency calculations

As pointed out previously Digicel believes that in practice applications for spectrum above the trigger point will be for capacity expansion from live networks.

This means that the applicant will have information about current peak network demand, current volumes of base stations and reliable projections on customer and volume growth which necessitate the additional spectrum.

Therefore the calculation could and should be based on peak busy hour demand not some measure derived from weekly throughput.

The calculation should also be based on the number of cells in the predefined population coverage area.

Legacy Technologies and Public Interest

Some account must be taken of the issue of legacy technologies.

Existing allocations support the embedded base of customers using legacy and less spectrally efficient technologies. These are often cheaper in terms of devices and are used by the more economically vulnerable. There is a strong public interest in maintaining these services until organic migration to newer technologies occurs. A spectrum screen which punishes the continued operation of these legacy services does not benefit the citizens of Jamaica in an inclusive manner. Therefore Digicel suggests that public interest points be awarded where the embedded spectrum allocation below the trigger point is used for the provision of legacy services. This could be on a sliding scale based on the proportion of spectrum so used.

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