



COMMISSION ORDER 2021/001

**THIS ORDER IS MADE AND ISSUED BY THE NATIONAL
TELECOMMUNICATIONS REGULATORY COMMISSION IN THE COMMONWEALTH OF
DOMINICA UNDER REGULATION 41 OF THE TELECOMMUNICATIONS (RETAIL TARIFF)
REGULATION S.R.O NO. 40 OF 2012**

WHEREAS on 17th December 2001, the Minister with responsibility for Electronic Communications in the Commonwealth of Dominica ISSUED to Cable & Wireless Dominica Ltd ("the Licensee") an Internet and Networks Services Licence ("the Licence") to provide Fixed Broadband Internet Service in the Commonwealth of Dominica, subject to conditions of the Licence and the provisions of the **Telecommunication Act No. 8 of 2000** ("the Act") and Regulations made under the Act.

WHEREAS Regulation 8(1)(a) of the Telecommunications (Retail Tariff) Regulations S.R.O. No. 40 of 2012 ("Retail Tariff Regulations") which states that:

"8(1) For the purposes of these Regulations, the Commission shall consider any of the following acts by a dominant provider to constitute anti-competitive conduct or acts of unfair competition –

(a) tying services together in such a manner that a customer is required when purchasing one service to purchase another service that the customer does not require".

WHEREAS the Commission received a number of complaints from retail customers indicating that the Licensee requires that they purchase a fixed voice service if they wish to purchase and access Fixed Broadband Internet Service.

WHEREAS the Commission reviewed the complaints received and submitted those complaints to ECTEL for consideration in accordance with **Regulation 11(3) of Telecommunications (Dispute Resolution) S.R.O. No. 34 of 2007**

WHEREAS the Commission having considered the evidence gathered during the course of its review and investigation of complaints made to the Commission, the representations made by the Licensee in its correspondence to the Commission dated 9th March 2021 and the recommendations of ECTEL, hereby determines that:

- (a) The Licensee has levied charges associated with a fixed voice service to a retail customer who purchases fixed broadband internet service which is contrary to **Regulation 8(1)(a) of the Retail Tariff Regulations;**
- (b) A physical line is needed to access fixed based services, but a physical line is a part of the fixed network infrastructure and is not a billable retail service on its own; and
- (c) The Licensee published the tariff for its fixed broadband service on its website, therefore, it would be reasonable for a retail customer, having access to that information, to conclude that the only charge to be levied for a broadband service is the charge stated on its website.

NOW THEREFORE the Commission having considered the representations made, the provisions of the Retail Tariff Regulations, the terms and conditions of the Licence issued to Licensee and ECTEL's recommendation, **HEREBY ORDERS AS FOLLOWS:**

1. The Licensee shall refrain from levying any charges associated with a fixed voice service to a customer seeking fixed broadband service;
2. The Licensee shall charge a retail customer seeking fixed broadband service for that service only;
3. The Licensee shall continue to publish the charges for fixed broadband service on its website; and
4. The Licensee shall comply with this Order by **April 26, 2021**.

Failure by the Licensee to comply with this Order may result in an application being filed by the Commission with the High Court in the Commonwealth of Dominica for an Order to compel Compliance by the Licensee and for costs and other relief as the High Court may allow in accordance with Regulation 42 of the Retail Tarriff Regulations.

Dated this 20th day of April 2021


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Careen Prevost
Acting Chairperson