

2014



"...to promote and maintain fair competition within the CARICOM Community for the enhancement of economic efficiency and consumer welfare."

CARICOM COMPETITION COMMISSION

QUARTERLY REPORT

OCTOBER – DECEMBER 2014



TABLE OF CONTENTS

FOREWORD	3
SECTION A: COMPETITION LAW AND POLICY.....	4
1. <i>Article 173(1) (a) – “apply the rules of competition in respect of anti-competitive cross-border business conduct”</i>	4
(A) ALL MEMBER STATES	4
2. <i>Article 173(1) (b) – “promote and protect competition in the Community and co-ordinate the implementation of the Community Competition Policy;”</i>	5
(A) GUYANA	5
(B) TRINIDAD.....	6
(C) SURINAME.....	6
ANTON DE KOM UNIVERSITY	6
3. <i>ARTICLE3 173 (2) (b) “keep the Community Competition Policy under review and make recommendations to COTED to enhance its effectiveness”</i>	7
(A) PROPOSED AMENDMENTS TO ARTICLES 168-183 OF CHAPTER VIII OF THE REVISED TREATY OF CHAGUARAMAS (RTC).....	7
(B) FINING GUIDELINES FOR THE CCC IN COMPETITION MATTERS ..	7
(C) INTERNAL GUIDANCE ON ADMINISTRATIVE PROCEDURES FOR ASSESSMENT AND INVESTIGATION OF COMPETITION COMPLAINTS ...	7
(4) <i>ARTICLE3 173 (2) (C) “promote the establishment of institutions and the development and implementation of harmonised competition laws and practices by the Member States to achieve uniformity in the administration of applicable rules”</i>	8
(A) MODEL RULES OF PROCEDURE	8
SECTION B: CONSUMER WELFARE AND PROTECTION OF CONSUMER INTERESTS	8
5. <i>Article 186 – “provide support in the promotion of consumer welfare and protection of consumer interests”</i>	8
(A) ALL MEMBER STATES	8
(B) MEMBER STATES, CARICOM SECRETARIAT AND OAS	9
SECTION C: SHORT ARTICLES	10
The Benefits of an Independent Electricity Regulator for Consumers.....	10
The Effect of Lowering Mobile Termination Rates on access to Voice Services	14

FOREWORD

This report highlights the work of the CARICOM Competition Commission (CCC) for the final quarter of 2014, in the areas of competition law and policy and consumer welfare and protection in the CARICOM region. The work of the CCC is guided by the institution's mandate under Chapter VIII of the Revised Treaty of Chaguaramas (RTC). Consequently, the document is structured to highlight, in some cases, the relevant provisions within the RTC that each activity falls under.

As part of its monitoring exercise, the CCC became aware of the agreement by Cable and Wireless Communications Plc (CWC) to acquire Columbus International Inc. (Columbus). As a result of this, the CCC began its own internal assessment on the acquisition. At the time of writing, the internal assessments have been completed, and the CCC has engaged national competition authorities (NCA's) and competent bodies pursuant to Articles 176 and 173 (e) of the Revised Treaty of Chaguaramas (RTC), to request preliminary examinations into the matter.

During this period, the CCC also continued to engage Member States in both the areas of competition law and policy, and consumer welfare and consumer protection. The emphasis was mainly in the form of training which was

provided to the Competition and Consumer Affairs Commission of Guyana (CCAC), and the newly appointed Commissioners of the Trinidad and Tobago Fair Trading Commission.

In keeping with the Commission's mandate under Article 173 (2) (b), the CCC made a number of recommendations to the Council for Trade and Economic Development (COTED) regarding amendments to Chapter VIII of the RTC; fining guidelines; model rules of procedure; and an optimal model for cross-border consumer protection and enforcement in CARICOM.

Finally, the CCC is pleased to acknowledge the contribution of the Jamaica Fair Trading Commission to its final report for 2014 by way of an article entitled "The Effect of Lowering Mobile Termination Rates on access to Voice Services."

We look forward to receiving contributions from other national competition and consumer authorities in the future. For information on how your work can be featured in one of our future quarterly reports kindly contact admin@ccc.sr.

SECTION A: COMPETITION LAW AND POLICY

- 1. Article 173(1) (a) – “apply the rules of competition in respect of anti-competitive cross-border business conduct”*

(A) ALL MEMBER STATES

CWC AGREEMENT TO ACQUIRE COLUMBUS

The indicative conclusions of an internal assessment into the announced agreement between CWC and Columbus, has given the Commission ‘reason to believe’ pursuant to Article 176.1 of the Revised Treaty of Chaguaramas, that this agreement has the potential to prejudice trade and prevent, restrict or distort competition within the CSME with the possibility of cross-border effects.

Accordingly, the Commission has written to the National Competition Authorities (NCAs) of Member States pursuant to Article 176.1, to “request the national competition authority to undertake a preliminary examination of the business conduct of the enterprise.”

Article 176.2 of the RTC, states that: “Where a request is made under paragraph 1, the national competition authority shall examine the matter and report its findings to the Commission within such time as may be determined by the Commission”. The Commission has requested that the NCAs complete the preliminary examination within 30 days from the date of receipt of the written request from the Commission.

Additionally, the Commission has written pursuant to Article 173.2(e) of the RTC to other competent authorities in the Member States, namely the national telecommunications regulators or ministries with responsibility for telecommunications, to request a preliminary examination of the potential impact of the agreement between CWC and Columbus on their national telecommunication markets. The Commission has requested that these preliminary examinations also be completed within 30 days from the date of receipt of the written request from the Commission.

2. *Article 173(1) (b) – “promote and protect competition in the Community and co-ordinate the implementation of the Community Competition Policy;”*

(A) *GUYANA*

TRAINING - GUYANA COMPETITION AND CONSUMER AFFAIRS COMMISSION (CCAC)

In November 2014, the CCC delivered training to the Guyana CCAC on the theoretical and practical aspects of Competition Law and Policy, and Consumer Law and Protection. With regard to Competition Law and Policy, some of the areas covered included:

- Prevailing economic concepts and theories of harm underpinning various types of abuse of dominance infringements, and mergers and acquisitions;
- The effects-based approach to handling unilateral cases;
- The Equally Efficient Competitor test including its application to cases on bundled rebates and margin squeezing;
- Defining the relevant market using the Herfindahl–Hirschman Index (HHI), concentration ratios and the use of price elasticity and the Small but Significant Non-transitory Increase in Price (SSNIP) test to triangulate the results;
- The structure of an investigative report as well as the more detailed economic report;
- The presentation of economic evidence to the judiciary; and
- Addressing data quality issues.

With regard to consumer protection matters, discussions centred largely around the Five Year Regional Strategy for Consumer Protection in CARICOM. It is anticipated that a needs assessment for the CCAC’s consumer protection department will be conducted in the first quarter of 2015, with a view to determining the resources required to strengthen and sustain the work of the agency.

The CCAC was also reminded of Member States’ obligations under the Revised Treaty of Chaguaramas with regard to competition and consumer matters; the on-going CARICOM-Canada Bilateral Cooperation Agreement and the CARIFORUM-EU Economic Partnership Agreement (EPA).

(B) TRINIDAD

TRAINING -TRINIDAD AND TOBAGO FAIR TRADING COMMISSION (TTFTC)

In September 2014, the CCC delivered a two-day training seminar to the newly appointed Commissioners of the TTFTC. The areas covered included:

(i) Main Concepts and Ideas: Competition, Competition Law, Competition Policy

- Definition of “Competition” and its role in the economy.
- Definition and objectives of Competition Law and Policy.
- Anti-competitive business practices covered under Competition Law
 - Abuse of Dominance
 - Agreements and Concerted Practices
 - Mergers and Acquisitions
- The Role of Economics in Competition Law
 - Market structure
 - Market definition
 - Barriers to entry/Competitive constraints
 - Use of economics - legal proceedings /evidence /case reports

(ii) Administration and Enforcement of Competition Law

- Competition provisions in trade agreements (e.g. RTC, EPA, CARICOM-Canada, other bilateral agreements)
- Competition assessments – Competition vs. Competitiveness
- Jurisdictional issues between Competition Authorities and Sector Regulators

(C) SURINAME

ANTON DE KOM UNIVERSITY

In December 2014, the CCC delivered a presentation to the students of the Anton De Kom University on the benefits and challenges of economic integration; the role of the CCC in general, and in promoting economic integration within CARICOM.

3. ARTICLE 3 173 (2) (b) “keep the Community Competition Policy under review and make recommendations to COTED to enhance its effectiveness”

In keeping with its mandate under Article 173 (2) (b), the Commission made the following presentations to the 39th Meeting of the COTED in November 2014:

(A) PROPOSED AMENDMENTS TO ARTICLES 168-183 OF CHAPTER VIII OF THE REVISED TREATY OF CHAGUARAMAS (RTC)

The CCC undertook a review of Articles 168-183 of the RTC, and made recommendations to the COTED for proposed amendments to these Articles, in order to reflect developments in the theory and best practice approaches to enforcement of competition.

The COTED recommended the proposed amendments to Articles 168-183 of Chapter VIII of the RTC to the Re-convened Task Force for review and approval, and then for onward submission to the Inter-Governmental Task Force (IGTF).

(B) FINING GUIDELINES FOR THE CCC IN COMPETITION MATTERS

Fining Guidelines were developed by the CCC in accordance with Article 174 (4) (d) of the RTC. These guidelines were designed to assist the CCC in calculating the financial penalties that may be imposed on any undertaking engaged in cross-border anti-competitive business conduct as outlined under Article 177, and reflect international best practice, and the fining regimes of developed and developing Member States of CARICOM.

The fining guidelines are expected to enable stakeholders to have a practical understanding of the basic criteria used by the CCC in determining a fine, and also promote consistency and transparency of the procedures used.

The COTED instructed Member States to submit their comments to the CCC by December 15, 2014.

(C) INTERNAL GUIDANCE ON ADMINISTRATIVE PROCEDURES FOR ASSESSMENT AND INVESTIGATION OF COMPETITION COMPLAINTS

A manual on “Internal Guidance to Staff on the Administrative Procedures for the Assessment and Investigation of Competition Complaints” was prepared. The manual sets out the administrative procedures that the CCC will use when exercising its powers under the RTC. The Internal Guidance document is consistent with similar best practice initiatives followed by a majority of national competition authorities worldwide, and takes into account the guidance given by the Caribbean Court of Justice (CCJ) with respect to the CCC’s Rules of Procedures.

The document also serves to increase the level of transparency and awareness by stakeholders regarding the administrative working of the CCC in the execution of its functions.

(4) *ARTICLE 173 (2) (C) “promote the establishment of institutions and the development and implementation of harmonised competition laws and practices by the Member States to achieve uniformity in the administration of applicable rules”*

(A) *MODEL RULES OF PROCEDURE*

Model Rules of Procedure were compiled to serve as a viable template for national competition authorities in the development of their own national rules of procedure. These rules of procedure can be adapted to the specific circumstances of each Member State, and are complementary to the Model Competition Bill developed by the CARICOM Secretariat on which most Member States national competition laws are constructed.

To date, the CCC has assisted the Guyana CCAC in the development of its Rules of Procedure.

SECTION B: CONSUMER WELFARE AND PROTECTION OF CONSUMER INTERESTS

5. *Article 186 – “provide support in the promotion of consumer welfare and protection of consumer interests”.*

(A) *ALL MEMBER STATES*

AN OPTIMAL MODEL FOR CROSS-BORDER PROTECTION AND ENFORCEMENT IN CARICOM

Consumer protection laws prohibit conduct by business enterprises that serve to exploit consumers, and also protect consumers from harmful goods. Additionally, National Consumer Organisations (NCOs) provide an avenue for consumers to seek redress.

However, the consumer protection laws and NCOs that exist in the CARICOM Single Market are national in scope and consider neither the “regional consumer” nor cross-border enforcement. Bearing this in mind, the CCC reviewed three models for cross-border consumer protection enforcement for CARICOM, with the aim of finding an optimal model that is best suited to the circumstances of CARICOM Member States.

The models were assessed on the basis of five objective criteria, and the results of the analysis were presented to the 39th Meeting of the COTED which was held in Guyana from November 5-9th 2014. Further, the CCC's recommendation on the optimal model for cross-border consumer protection enforcement was endorsed by Member States at a regional one-day meeting in Suriname on 2 December 2014, which was facilitated by the CSME Unit at the request of the CCC.

CARICOM CONSUMER WORKING GROUPS

The Meeting of CARICOM Consumer Officials in December 2014 also agreed to the establishment of three consumer groups to advance the work in consumer protection enforcement and policy development in the region. The groups are: (a) Research Working Group; (b) Education Working Group; and (c) Policy Working Group. The CCC will Chair the Research and Policy Working Groups.

To date the CCC, in collaboration with the CSME Unit, has drafted Terms of Reference (TORs) for both the Policy and Research Working Groups for the approval of its members. Additionally, a work plan has been drafted for the Research Working Group in collaboration with the CSME Unit for approval of its members. It is expected that meetings will be held at regular intervals.

The CCC will continue to convene virtual meetings with the Consumer Officials of all Member States in 2015. These meetings will serve as a platform for Member States to share their experiences in consumer protection enforcement. The proposed date for the first meeting is March 2015.

B) MEMBER STATES, CARICOM SECRETARIAT AND OAS

REGIONAL WORKSHOP ON CONSUMER PRODUCT SAFETY AND RISK ASSESSMENT CONVENED BY THE CARICOM SECRETARIAT, ORGANISATION OF AMERICAN STATES AND GOVERNMENT OF SURINAME FROM 3-5 DECEMBER 2014 IN PARAMARIBO, SURINAME

The CCC participated in 3-day workshop aimed at introducing CARICOM officials from consumer protection agencies and standards bureaus to concepts and tools relating to product safety and risk assessments.

SECTION C: SHORT ARTICLES

The Benefits of an Independent Electricity Regulator for Consumers

**Prepared by
Barry Headley¹**

As consumers we purchase basic utilities such as water, electricity, and telephone services on a monthly basis. In most instances, consumers are not aware of who monitors the providers of these services. It is therefore important to start by asking, and answering, the question of *“Why is the independent regulation of utilities important to consumers and businesses?”*

Having an independent regulator is an integral component of a comprehensive legislative and institutional framework for utility regulation. Consumers and businesses benefit from having an independent utility regulator when they are being negatively impacted by the way in which a utility company is providing a particular service². For example, independent utility regulators often address issues relating to: (i) interrupted or prolonged loss of utility services; (ii) increases in the prices of utility services; and (iii) poor quality of utility services provided. In many cases independent regulators serve as a venue where consumers, or businesses, can seek redress regarding the above concerns. They act as unbiased adjudicators on complaints between utility service providers and consumers. Without an independent regulator, a situation arises where redress or resolution of any complaint is in the hands of the service provider against whom the complaint was brought. In these situations the service provider acts as both judge and jury in the resolution of complaints against its activities.

Research has also indicated that without independent regulators the management of utilities by service providers is often inadequate. In such cases, the industries involved have frequently been characterised by: distorted pricing regimes; poor quality service provided to users; high losses (technical and non-technical) in the supply of utilities; low equipment

¹ Mr. Barry Headley is the Senior Economist at the CARICOM Competition Commission. Any views expressed in this article are those of the author and are not necessarily those of the CARICOM Competition Commission.

² Elisa Muzzini (2005), *Consumer Participation in Infrastructure Regulation: Evidence from the East Asia and Pacific Region*, Washington, DC: World Bank, World Bank Working Paper No. 66

availability and maintenance; and inefficient investment processes (planning and execution)³.

Additionally, inefficiencies regarding both the legislative and regulatory framework for the monitoring of utility industries may lead to other negative outcomes including: sector policies that are limited in scope, inefficient market structures, lack of adequate or effective incentive schemes, skills deficits and inadequate supervision and regulation⁴.

These negative outcomes can increase the cost of the services provided to consumers as the cost of doing business increases to service providers, and as a result lead to reduced consumer and economic welfare in a society. In this regard, it is therefore essential that effective utility regulation is designed⁵. We list a few of the objectives and goals of effective utility regulation.

Objectives of regulation

- Provision of good quality service at fair prices to end users
- To ensure that an efficient service provider earns a reasonable rate of return
- To support national economic development

Regulation involves economic and service quality factors

- Economic factors include the methodology for setting of prices to end users, rates of return for utility, investment planning and execution strategies
- Service quality factors include setting of quality standards, procedures for monitoring compliance, regime of penalties and their effective enforcement, redress for consumers

In this article we have identified the electricity sector as being ready for regulatory reform in a majority of Member States of CARICOM. **Table I** shows the status of the

³ Malcolm Cosgrove-Davies, Caribbean Electricity Regulation : Current State and What is needed, Platts's "13th Annual 'Caribbean Energy' Conference", January 24-25, 2013, the Atlantis Hotel, Bahamas

⁴ Luis A. Andres, Jordan Schwartz, and J. Luis Guasch (2013, *Uncovering the Drivers of Utility Performance: Lessons from Latin America and the Caribbean on the Role of the Private Sector, Regulation, and Governance in the Power, Water, and Telecommunications Sector*. Washington, DC: World Bank

⁵ John E. Besant-Jones, *Reforming Power Markets in Developing Countries: What have We Learned*, Washington, DC: World Bank, Energy and Mining Sector Board Discussion Paper, Paper No. 19, September 2006

regulatory framework for electricity in the CARICOM. From the table it is shown that a majority of Member States have no independent electricity regulator. This suggests there is an inadequate regulatory framework to tackle the inefficiencies that arise from a clear separation of policy, and the generation and distribution of electricity. As such, the interests of consumers and business may not be sufficiently protected. The high cost of electricity has been highlighted by institutions such as the Caribbean Development Bank and World Bank as having a negative impact on economic growth and development, business activity and consumer welfare.

Consumer Rights

As consumers of electricity we can expect that our rights would be protected by an independent regulatory body. According to the Regulated Industries Commission of Trinidad and Tobago the rights of consumers which it enforces include:

- The Right to services that are reliable and provided at the lowest possible cost.
- The Right to information about the product and/or service being obtained from Service Providers.
- The Right to non-discrimination in relation to access, pricing and quality of service.
- The Right to obtain redress from Service Providers in respect of rates, billing and poor service.

Lessons learnt from telecommunications liberalisation

The process of telecommunications reform in the region serves as a good guide to the benefits that can be derived from the creation of independent sector regulators. These independent regulators have presided over increased competition resulting in reduced prices, better service quality and improved customer service.

Consumers are critical to the establishment of any consumer agency that protects and enforces their rights as consumers. However, consumers can encourage and create the conditions for change when they make their political representatives aware of their concerns and issues.

For further information about the work of the CCC, please contact admin@ccc.sr with your questions or use the query facility on www.caricomcompetitioncommission.com

Table 1 - Models of Electricity Utility Ownership and Regulation in CARICOM

Country	Utility	Ownership	Legal Authority	Independent Regulator
Antigua and Barbuda	APUA	Government department	Act (perpetual)	NO
Barbados	BARBADOS LIGHT AND POWER	Private corporation	Electric Light and Power Act (to be enacted)	Fair Trading Commission
Belize	BELIZE ELECTRICITY LIMITED (BELCO)	Government corporation	Belize Electricity Act -Licensee	Public Utilities Commission
Dominica	DOMLEC	private corporation	License (2015)	Independent Regulatory Commission
Grenada	GRENLEC	Private corporation	License (2041)	NO
Guyana	GUYANA POWER AND LIGHT	Government corporation	Energy Sector Reform Act 1999/ Energy Sector Reform (Amendment) Act 2010	Public Utilities Commission
Jamaica	JAMAICA POWER SERVICE COMPANY	Private corporation	License	Office of Utilities Regulation
St. Kitts and Nevis	SKELEC	Government Department	Act (perpetual)	NO
	NEVLEC	Government corporation		NO
St. Lucia	LUCELEC	Public-private corporation	Act (2045)	NO
St. Vincent and the Grenadines	VINLEC	Government corporation	Act (perpetual)	NO
Suriname	ENERGIE BEDRIJVEN SURINAME (EBS)	Government corporation	Act (2022)	NO
Trinidad and Tobago	POWERGEN	Public-private corporation	Regulated Industries Commission Act	Regulated Industries Commission

Source: National sector legislation, National regulators, and CARICOM Competition Commission

The Effect of Lowering Mobile Termination Rates on access to Voice Services

Prepared by:
Kevin Harriott, Ph.D.
Competition Bureau Chief
Fair Trading Commission

September 2014

INTRODUCTION

The competitive landscape of the telecommunication sector has been rocked with three ‘shocks’ in recent years: one shock, at the hand of a leading mobile telecoms operator and the other two shocks delivered by the sector regulator. In particular, the first shock occurred in 2011 with a strategic private transaction between rival telecoms operating in three sovereign nations. The second shock occurred in 2012 when the sector regulator implemented fundamental changes to the terms under which mobile telecoms operators terminated calls originating from other networks. The third shock occurred one year later in 2013 when the sector regulator lowered mobile termination rates. While social commentators typically agree that the first shock was detrimental to the interests of consumers and that the other two shocks were beneficial, we are unaware of any attempt to discuss the net effect of these important developments. For example, social commentary is silent on whether and the extent to which the intervention on the part of the sector regulator mitigated the effects of the private agreement. This note will address this gap.

The first shock referred to earlier involves the acquisition of an operator by a rival operator. Specifically, in August 2011, Digicel Jamaica Limited (‘Digicel’) acquired Oceanic Digital (‘Claro’). As part of the agreement, Claro acquired Digicel’s operations in Honduras and El Salvador. The Fair Trading Commission challenged this transaction in the Courts later in the year.⁶

The second shock involved the rate operators charge each other to terminate (complete) calls on mobile networks. This charge is referred to as the mobile termination rate (MTR). In June 2012, the Office of Utilities Regulation (OUR), the sector specific regulator, established an interim MTR of \$5.00 per minute across all operators. Prior to this, the MTR was as high as \$9.19 per minute. The rate became effective in July 2012.

⁶ The Fair Trading Commission formally challenged the legitimacy of this transaction by commencing a Court action in December 2011 pursuant to Section 17 of the Fair Competition Act. The matter has not yet been decided.

The third shock occurred in May 2013, when the OUR established a rate of \$1.10 per minute for a five year period which became effective in July 2013.

The MTR is a significant contributor to cost an operator faces when its subscribers place calls to subscribers of competing mobile networks. When the MTR is lowered, a telecom operator has a greater opportunity to lower its retail mobile calling rates. All other things held constant, lower MTRs would benefit consumers by making it easier for smaller networks to compete with larger ones.⁷

An immediate concern for policymakers is whether the benefits to subscribers arising from the second and third shocks were sufficient to overcome adverse effect from the first shock. The objective of this note is to quantify the benefits to consumers resulting from the reduction in the MTR. The benefits will be measured by the subscribers' access to mobile voice services (call volume).

METHODOLOGY

This study measures the effect of lower MTR on call volume. To pin down the effect of lower MTRs on call volume, we need to compare (i) actual call volume during the period when rates were reduced with (ii) projected call volume in a hypothetical market, comparable in a material respect to actual market except that MTRs were not lowered. A crucial step in measuring the effect of MTRs, therefore, is to identify an appropriate benchmark market.

DATA

The data used in the analysis were sourced from the Office of Utilities Regulation (OUR). The data spanned first-quarter 2007 (2007:Q1) through to the first quarter 2014 (2014:Q1). Call volume data were calculated by summing “off-network” and “on-network” domestic calls originating on mobile networks.

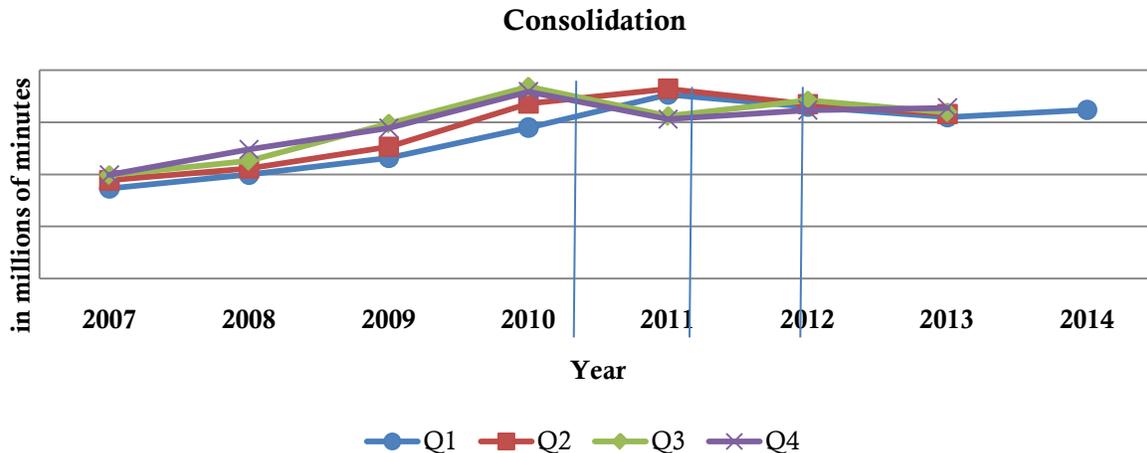
DESCRIPTION

Digicel's acquisition of Claro in 2011 interrupted an unprecedented period of intense competition in the telecommunications sector in Jamaica. There were significant

⁷ LIME and Digicel immediately reduced calling rates in response to the announcement that the MTRs would be reduced.

promotional activities of competing mobile communications providers Digicel and Claro during 2007-2010. These promotions typically reduced the price of mobile voice services to subscribers. The extent of the competition between Digicel and Claro is reflected in the data with quarterly call volumes consistently increasing during this period.

Figure 1: Call Traffic by Quarter



There was a noticeable reversal in this upward trend in call volumes, starting during the second half of 2011. The slowdown in the call volumes coincided with the approval for Digicel to Acquire Claro in August (2011:Q3), with the plans of the acquisition being announced earlier that year in March (2011:Q1). Beyond 2011, call traffic stabilized notwithstanding a reduction in MTR to \$5.00 per minute in July 2012 (2012:Q3) and a further reduction to \$1.10 per minute in July 2013 (2013:Q3). The fact that observed call volumes did not demonstrably increase when MTR was reduced, however, does not necessarily mean that subscribers did not benefit from the reduction in the rates. We now examine the impact of the reduction in MTRs on call volumes using the methodology described above.

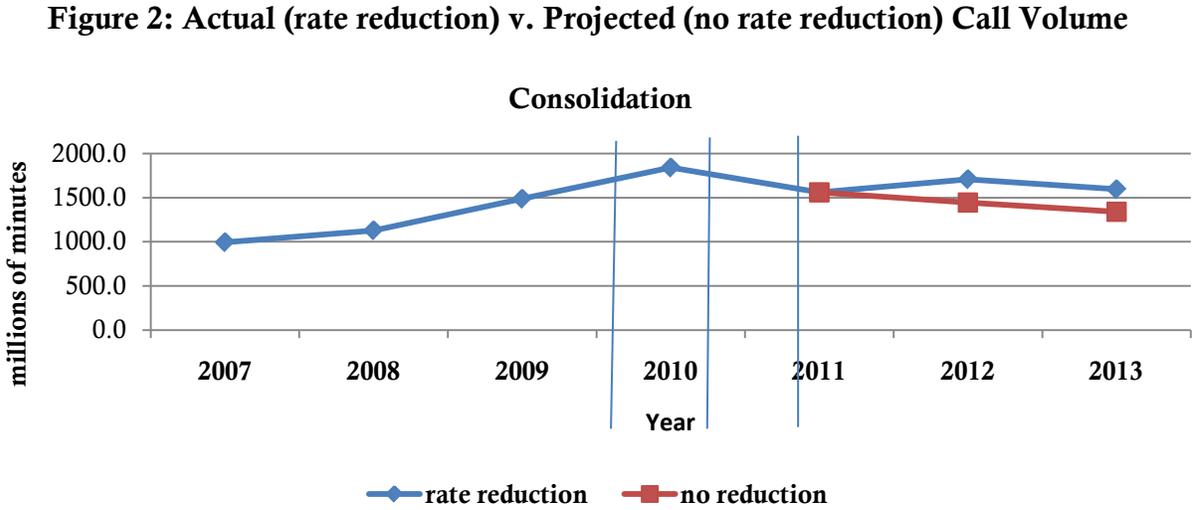
ANALYSIS

An important aspect of this analysis is to figure out how call volume would have evolved after July 2012 in the absence of any reduction in the MTR, all other things remaining constant. To conjecture such a hypothetical scenario, we seek to identify a period prior to July 2012 when market conditions were comparable to market conditions post July 2012.

A previous assessment by the Fair Trading Commission suggests that mobile telephone market was substantially more competitive in the pre-acquisition period relative to the post-acquisition period. Accordingly, the market conditions which existed prior to acquisition announcement in 2011:Q1 could not be considered comparable to the market conditions which existed when the mobile termination rate was reduced in 2012:Q3. This suggests that the best available proxy for how call volume would have evolved in the absence of any reduction in mobile termination rate is the period 2011:Q1 to 2012:Q2.

This presents a clear limitation to the study as this period allows us to estimate quarterly changes in call volume for only the first and second quarters of the year. Ideally, we would have preferred to measure quarterly changes for all four quarters, and over multiple periods. Given this caveat, the data demonstrate that call volume declined by 7% and 8% in the first and second quarters, respectively, compared to the call volume in the preceding year. Based on this, we estimate that in the absence of any reduction in MTR, call volume would have declined by approximately 7.5% for all four quarters.

Figure 2 below tracks the path of two series: (i) the actual third-quarter call volume when termination rates were reduced ('rate reduction'); and (ii) the projected third-quarter call volume if termination rates were not reduced ('no reduction').



The figure shows that call volumes steadily increased 2007:Q3 to 2010:Q3 then sharply declined in 2011:Q3 following Digicel’s acquisition of Claro. Based on our assumption that call volumes would have continued along this downward path, all other things held constant, we estimate that call volumes would have declined in 2012:Q3.

All things were not constant, however, since the reduction in MTR had a significant impact on call volumes. The reduction in MTR dampened the decline in call volume. As such, the reduction in MTR stimulated an 18% increase in call volume during 2012:Q3. A similar analysis shows that during 2013:Q3 when the rate was further reduced, call volume increased by 19% increase, relative to what the call volume would have been had the rates not been lowered.

Table 1 below reports the increase in call volumes stimulated by the reduction in MTRs. It shows that, among other things, the lower rates resulted in subscribers accessing more minutes during 2013 than they would have consumed otherwise.

During the seven quarters spanning the period 2012:Q3 through 2014:Q1, call volumes would have amounted to 10,021 million minutes if the MTR was not reduced. Because the MTR was reduced in 2012 and 2013, however, call volume increased during the period by 1,281 million (13%) minutes.

**Table 1: The Effect of reducing MTR on Call Volumes (in million minutes)
2012:Q3 -2014:Q1**

Call Volumes (Million minutes) ...	Total
...with rate reduction	11,302
...without rate reduction	10,021
Net benefits	1,281

CONCLUSION

Subscribers to mobile voice services are enjoying considerable benefits from the changes in the regulation governing mobile termination rates. The OUR's decision to introduce a cost-based reciprocal mobile termination rate which stimulates competition between larger networks and smaller networks. This resulted in subscribers accessing approximately 1,281 million more minutes than they otherwise would have during the period July 1, 2012 through March 31, 2014. This came as sweet relief to subscribers who were adversely affected by Claro's exit in 2011.