

**Logic Communications Limited Response to
Pre-Consultation Documents PC12/03-A and PC12/03-B:
Comments on Market Review Process**

INTRODUCTION

1. Logic Communications Limited (Logic, the company) is pleased to provide its comments to the Bermuda Regulatory Authority (RA) on its Pre-Consultation Documents associated with its market review process on Market Definition (Part A)¹ and Significant Market Power (Part B).²
2. At the outset, Logic confirms that its response to the Market Definition and SMP Reports reflects the company's understanding of the telecommunications market in Bermuda today and is restricted to the matters raised by the RA in these two reports. The company looks forward to providing its views on other important regulatory matters as the RA's program of further regulatory consultations unfolds.
3. This submission initially provides the company's responses to the RA's seventeen (17) consultation questions posed in the Market Definition Report and follows with the company's comments on some of the RA's conclusions and findings contained in the SMP Report.

RESPONSES TO CONSULTATION QUESTIONS IN THE MARKET DEFINITION REPORT

QUESTION 1: DO YOU AGREE THAT FIXED NARROWBAND ACCESS AND LOCAL CALLING FORM A SINGLE MARKET?

4. Logic agrees with the RA's conclusion that fixed narrowband access and local calling form a single market.³

QUESTION 2: DO YOU AGREE THAT MOBILE ACCESS AND LOCAL CALLING FORM A SINGLE MARKET?

¹ Implementation of Electronics Communications Act 2011, Advisors Preliminary Recommendations, Pre-Consultation: Market Review Process (Part A)—Market Definition, dated 10 October 2012, (the Market Definition Report).

² Implementation of Electronics Communications Act 2011, Advisors Preliminary Recommendations, Pre-Consultation: Market Review Process (Part B)—Significant Market Power, dated 10 October 2012, (the SMP Report).

³ The Market Definition Report, ¶ 62.

5. Logic agrees with the RA's conclusion that mobile access and local calling should form a single market.⁴

QUESTION 3: DO YOU AGREE THAT INTERNATIONAL CALLS ARE NOT PART OF THE MARKET THAT CONTAINS RETAIL FIXED NARROWBAND ACCESS AND LOCAL CALLING?

6. Logic agrees with the RA's conclusion that international calls are not part of the market that contains retail fixed narrowband access and local calling.⁵

QUESTION 4: DO YOU AGREE WITH THE FINDING THAT VOICE OVER BROADBAND SERVICES (NAMELY DOCSIS VoIP, VoWIMAX, FTTx VoIP AND VoIP TYPE 6) ARE ALL IN THE SAME MARKET AS NARROWBAND ACCESS AND LOCAL CALLS BUT THAT OTHER TYPES OF VoIP AND FIXED SERVICES DELIVERED VIA MOBILE NETWORKS ARE NOT?

7. Logic agrees with the RA's conclusions that voice over broadband services (namely DOCSIS VoIP, VoWIMAX, FTTx VoIP and VoIP type 6) are all in the same market as narrowband access and local calls but that other types of VoIP and fixed services delivered via mobile networks are not.⁶
8. Logic further notes that as a potential provider of local VoIP services, the company will require that it be assigned Numbers by the RA, consistent with the contents of the Integrated Communications Operating Licence (ICOL).⁷ Logic request that this be done 60 days before the issuance of ICOLs so that Logic has the ability to develop its product suite and prepare its marketing strategy for the period after the ICOL has been issued. Otherwise, Logic will be at a distinct disadvantage to Northrock Communications who already has Numbers and is in the local VoIP business.

QUESTION 5: DO YOU AGREE WITH THE FINDING THAT FIXED AND MOBILE SERVICES ARE IN SEPARATE MARKETS? EXPLAIN.

9. Logic does not disagree with the RA's finding that fixed and mobile services are in separate markets.⁸

⁴ The Market Definition Report, § 6.1. ¶ 63.

⁵ Ibid. § 6.1 b. ¶ 68.

⁶ Ibid. §6.2. ¶ 113.

⁷ Implementation of Electronics Communications Act 2011, Consultant's Preliminary Recommendations, Integrated Communications Operating Licence (the ICOL), § 9.

⁸ The Market Definition Report, §6.3. ¶ 150.

QUESTION 6: DO YOU AGREE WITH THE FINDING THAT THERE ARE SEPARATE RESIDENTIAL AND BUSINESS CUSTOMER MARKETS FOR (1) RETAIL FIXED ACCESS AND LOCAL CALLS; AND (2) RETAIL BROADBAND?

10. Logic agrees with the RA's finding that there are separate residential and business customer markets for (1) retail fixed access and local calls; and (2) retail broadband.⁹

QUESTION 7: DO YOU AGREE WITH THE CONCLUSION THAT FOR THE PURPOSES OF THE SMP AND REMEDIES IT IS NOT NECESSARY TO DEFINE SEPARATE CUSTOMER MARKETS FOR EITHER OF: (1) LEASED LINES; (2) MOBILE SERVICES; OR (3) SUBSCRIPTION TV SERVICES?

11. Logic generally agrees with the RA's conclusion that for the purposes of the SMP and remedies it is not necessary to define separate customer markets for either of: (1) leased lines; (2) mobile services; or (3) subscription TV services.¹⁰

QUESTION 8: DO YOU AGREE WITH THE FINDING THAT THERE IS A SEPARATE GEOGRAPHIC MARKET FOR CENTRAL HAMILTON FOR THE SUPPLY OF: RETAIL ACCESS LINES AND LOCAL CALLS TO BUSINESS CUSTOMERS; WHOLESAL FIXED NARROWBAND ACCESS LINES AND LOCAL CALLS; WHOLESAL CALL ORIGATION ON FIXED NETWORKS; RETAIL BROADBAND TO BUSINESS CUSTOMERS; WHOLESAL BROADBAND SERVICES; RETAIL DOMESTIC LEASED LINES; AND WHOLESAL TERMINATING SEGMENTS OF LEASED LINES?

12. Logic generally agrees with the RA's finding that there is a separate geographic market for Central Hamilton for the supply of the services listed in the question.¹¹

QUESTION 9: HOW SHOULD CENTRAL HAMILTON BE DEFINED?

13. Logic does not have the necessary information at its disposal to provide any comment on this matter.

⁹ Ibid. § 6.4. ¶ 176.

¹⁰ Ibid.

¹¹ Ibid. ¶ 200.

QUESTION 10: DO YOU AGREE WITH THE CONCLUSION THAT MOBILE BROADBAND IS NOT IN THE SAME MARKET AS FIXED BROADBAND?

14. Logic does not disagree, at this time, with the RA's conclusion that mobile broadband is not in the same market as fixed broadband.¹²

QUESTION 11: DO YOU AGREE WITH THE CONCLUSION THAT THE RELEVANT FORWARD-LOOKING DEFINITION OF THE RETAIL BROADBAND MARKET IS ONE THAT INCLUDES THE BUNDLE OF BROADBAND ACCESS AND INTERNET SERVICES?

15. Logic fully supports the RA's conclusion that the relevant forward-looking definition of the retail broadband market is one that includes the bundle of broadband access and Internet services.¹³

QUESTION 12: DO YOU AGREE WITH THE CONCLUSION THAT THERE ARE SEPARATE RETAIL MARKETS FOR LOW-SPEED LEASED LINES (THAT IS, LEASED LINES THAT PROVIDE A CAPACITY OF LESS THAN 1 MBPS) AND HIGH-SPEED LEASED LINES (THAT IS, LEASED LINES WITH A CAPACITY OF 1 MBPS OR MORE)?

16. Logic does not have the necessary information at its disposal to provide any comment on this matter.

QUESTION 13: DO YOU AGREE WITH THE CONCLUSION THAT THERE ARE SEPARATE WHOLESALE MARKETS FOR LOW-SPEED LEASED LINES (THAT IS, LEASED LINES THAT PROVIDE A CAPACITY OF LESS THAN 1 MBPS) AND HIGH-SPEED LEASED LINES (THAT IS, LEASED LINES WITH A CAPACITY OF 1 MBPS OR MORE)?

17. Logic does not have the necessary information at its disposal to provide any comment on this matter

QUESTION 14: DO YOU AGREE WITH THE CONCLUSION THAT THERE IS A MARKET FOR THE SUPPLY OF FIXED ACCESS NETWORK FACILITIES THAT INCLUDES DUCT, TOWERS, AND POLES? ARE THERE OTHER FACILITIES THAT SHOULD BE INCLUDED IN THIS MARKET?

¹² Ibid. § 8.3(b). ¶¶ 280-281.

¹³ Ibid. § 8.3(c). ¶ 282.

18. Logic fully supports the RA's conclusion that there is a market for the supply of fixed access network facilities that includes duct, towers, and poles.¹⁴

QUESTION 15: DO YOU AGREE WITH THE CONCLUSION THAT THERE IS A MARKET FOR THE SUPPLY OF WIRELESS NETWORK FACILITIES THAT INCLUDES TOWER AND MAST ACCESS: ARE THERE OTHER SERVICES THAT YOU CONSIDER LIE IN THIS MARKET?

19. Logic does not have the necessary information at its disposal to provide any comment on this matter.

QUESTION 16: DO YOU AGREE THAT THE RELEVANT RETAIL MARKET FOR THE SUPPLY OF SUBSCRIPTION TV SERVICES TO DELIVER BROADCAST CONTENT TO END USERS INCLUDES SUBSCRIPTION SERVICES PROVIDED VIA DIFFERENT MEANS AND IS NOT DISAGGREGATED ACCORDING TO CONTENT?

20. Logic agrees that the relevant retail market for the supply of subscription TV services to deliver broadcast content to end users includes subscription services provided via different means and is not disaggregated according to content.¹⁵

QUESTION 17: DO YOU AGREE THAT THE RELEVANT WHOLESALE MARKET FOR THE SUPPLY OF SUBSCRIPTION TV SERVICES TO DELIVER BROADCAST CONTENT TO END USERS INCLUDES SUBSCRIPTION SERVICES PROVIDED VIA DIFFERENT MEANS AND IS NOT DISAGGREGATED ACCORDING TO CONTENT?

21. Logic agrees that the relevant retail market for the supply of subscription TV services to deliver broadcast content to end users includes subscription services provided via different means and is not disaggregated according to content.¹⁶

¹⁴ Ibid. § 11. ¶ 328.

¹⁵ Ibid. § 12.1. ¶ 394.

¹⁶ Ibid. § 12.2. ¶ 395.

B. COMMENTS ON CONCLUSIONS CONTAINED IN THE SMP REPORT

22. In this section Logic provides its comments with respect to some of the conclusions contained in the SMP Report.

1. SMP - WHOLESALE TERMINATION ON INDIVIDUAL FIXED NETWORKS

23. The RA has concluded that each supplier has SMP in the market for the termination of calls on its fixed network.¹⁷ The RA has further identified that the application of the current regulatory policy remains appropriate.¹⁸

24. Logic agrees with the RA’s findings on this matter.

2. SMP – RETAIL BROADBAND ACCESS

25. The RA has concluded that BTC and BCV hold collective SMP in the retail broadband market.¹⁹

26. The RA has further identified a preliminary list of remedies for this market.²⁰

Service	Definition of candidate markets	Possible Remedies
2. Retail broadband access	<ul style="list-style-type: none"> · A national market for the supply of retail fixed broadband access and Internet services to residential customers. · A market for the supply of retail fixed broadband access and Internet services to business customers in the City of Hamilton. · A market for the supply of retail fixed broadband access and Internet to business customers outside of the City of Hamilton. 	<ul style="list-style-type: none"> · Price per Mb/s cannot increase (unless an affirmative showing that prices are below cost). · No price restrictions on new products (including the bundling of access with ISP service) other than price squeeze/predation restriction. · Must offer retail access at the existing speeds, as well as whatever new speeds are introduced for bundled access and ISP service.

27. Logic agrees with the RA’s SMP conclusions and remedies. Logic notes the importance of the RA’s price predation restrictions.

¹⁷ The SMP Report, § 2.5. ¶ 459.

¹⁸ Ibid. Appendix A.

¹⁹ Ibid. § 3.1. ¶ 516.

²⁰ Ibid. Appendix A.

3. SMP – WHOLESALE BROADBAND MARKETS

28. The RA has concluded that BTC and BCV hold collective SMP in the wholesale broadband markets.²¹

29. The RA has further identified a preliminary list of remedies for this market.²²

Service	Definition of candidate markets	Possible Remedies
9. Wholesale broadband access	<ul style="list-style-type: none"> · A wholesale market for the supply of fixed broadband access in the City of Hamilton · A wholesale market for the supply of fixed broadband access in areas other than the City of Hamilton. 	<ul style="list-style-type: none"> · retail minus for both access, and access + ISP

30. Logic agrees with the RA’s SMP conclusions and remedies at this time.

31. It is also Logic’s understanding that the mark-down from retail associated with the retail minus remedy would be established on the basis of an appropriate consultation on the matter.

4. SMP – WHOLESALE LEASED LINES

32. The RA has concluded that BTC has SMP in the wholesale market for low-speed data tails in all areas of Bermuda and that BTC has SMP in the wholesale of high-speed data tails outside of Hamilton.²³

33. The RA has further identified a preliminary list of remedies for this market.²⁴

Service	Definition of candidate markets	Possible Remedies
13. Wholesale provision of terminating segments of leased lines	<ul style="list-style-type: none"> · A market for the wholesale supply of low speed data tails in the City of Hamilton · A market for the wholesale supply of low speed data tails outside of the City of Hamilton · A market for the wholesale supply of high speed data tails in the City of Hamilton · A market for the wholesale supply of low speed data tails outside of the City of Hamilton 	<ul style="list-style-type: none"> · Retail minus for low speed data tails. · Retail minus for high-speed data tails outside Central Hamilton

²¹ Ibid. § 3.2 ¶¶ 517.

²² Ibid. Appendix A.

²³ Ibid. ¶¶ 627-628.

²⁴ Ibid. Appendix A.

34. Logic agrees with the RA’s SMP conclusions and remedies at this time.
35. Logic’s understanding is that the mark down from retail associated with the retail minus remedy would be established on the basis of an appropriate consultation on the matter.

5. SMP – INFRASTRUCTURE ACCESS

36. The RA has concluded that owners of ducts and poles have SMP due to the difficulty in replacing these facilities and that Northrock, BDC and Digicel have SMP with respect to wireless towers and masts.²⁵
37. The RA has further identified a preliminary list of remedies for this market.²⁶

Service	Definition of candidate markets	Possible Remedies
14. Supply of access to infrastructure facilities	<ul style="list-style-type: none"> · A market for the wholesale supply of access to facilities used to construct fixed local access networks. · A market for the supply of access to facilities used to construct wireless radio access networks. 	<ul style="list-style-type: none"> · Non-discriminatory access (including a price squeeze test).

38. Logic fully supports non-discriminatory access to infrastructure facilities.

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²⁵ Ibid. ¶¶ 636-637.

²⁶ Ibid. Appendix A.