

## ATTACHMENT 1

Pursuant to Section 63.11 of the FCC's rules, Digicel USA, Inc. ("Digicel USA") (FRN 0013963624), the holder of Section 214 operating authority to provide global facilities-based and resold international telecommunications service between the United States and other foreign points (File No. ITC-214-20031031-00520), hereby notifies the Commission of a new foreign carrier affiliation effected through the acquisition by Telecommunications Bermuda and West Indies) Limited ("Digicel Mobile"), an affiliate of ACSC and Digicel USA, of Bermuda Telephone Company ("BTC"), a provider of fixed telephony and cable broadband services in Bermuda. Simultaneously with this submission, Antilles Crossing – St. Croix, Inc., another affiliate of Digicel Mobile, is filing a new foreign carrier affiliation relating to the same transaction, pursuant to Section 1.768 of the Commission's rules.

Digicel USA certifies the following information in response to Section 63.11(e) of the FCC's rules:

1. Names of New Affiliates and Countries of Affiliation  (Rule Section 1.768(e)(1); Form Item 17)

**Bermuda Telephone Company – Bermuda**

2. WTO Status (Rule Section 63.11(e)(2))

**An opinion provided to the Commission by the Department of State concludes that the 1994 Marrakesh Agreement Establishing the World Trade Organization applies to Bermuda, and the Commission has deferred to this opinion, treating Bermuda as a WTO Member for purpose of applying proper market entry standards. See *Cable & Wireless USA, Inc.*, File No. ITC-19990709-00412, released February 18, 2000, ¶7.**

3. Name and File Number of Cable System Subject to Notification/Services Authorized Carrier is Authorized to Provide in Named Country (Rule Sections 1.768(e)(3), 63.11(e)(3) and 63.11(e)(4); Form Items 18 and 19)

**This foreign carrier notification is made with respect to the Section 214 global operating authorization of Digicel USA, ITC-214-20031031-00520, *supra*.**

**In Bermuda, Digicel USA provides service solely through the resale of the international switched services of unaffiliated U.S. facilities-based carriers.**

4. Names, Addresses, Citizenships, and Principal Businesses of Ten-Percent-or Greater Owners of Digicel USA (Rule Section 63.11(e)(5); Form Item 20)

**Digicel USA is wholly and directly owned by Mossel (Jamaica) Limited, a foreign carrier providing telecommunications service under the trade name Digicel Jamaica. See Digicel USA Section 214 application. Digicel Jamaica is a corporation organized under the laws of Jamaica. Its address is 10-16 Grenada Way, Kingston 5, Jamaica.**

**Digicel Jamaica is, in turn, directly and wholly owned by Digicel Caribbean Limited (St. Lucia) IBC, a corporation organized under the laws of St. Lucia. Its address is Pointe Seraphine, Castries, St. Lucia, and its principal business is telecommunications.**

**The majority owner of Digicel Caribbean Limited, holding a 92% equity interest, is Digicel (Bermuda) Limited IBC. Its address is 7 Church Street, Hamilton, Bermuda, and its principal business is telecommunications.**

**The principal owners of Digicel (Bermuda) Limited is Mr. Denis O'Brien, who holds a 92% equity interest.**

5. Interlocking Directorates (Rule Section 63.11(e)(7); Form Item 21)

**Digicel USA does not have any interlocking directorates with BTC.**

7. Date of Closing (Rule Section 63.11(e)(6))

**The acquisition of BTC by Digicel Mobile, approved by a Final Decision of the Bermuda Regulatory Authority, occurred on June 1, 2015. <http://www.rab.bm/index.php/determinations/1330-final-decision-btc-digicel-non-confidential-version-5-11-15/file>**

8. Market Power (Rule Section 63.11(e)(7); Form Item 12)

**Digicel USA acknowledges that BTC is the incumbent local exchange carrier in Bermuda, and that the Bermuda Regulatory Authority has determined that BTC possesses significant market power in retail and wholesale markets for fixed telephony and broadband access services. See BRA Final Decision, *supra*.**

**Digicel USA nevertheless respectfully requests the Commission not to categorize it as a dominant carrier for the following reasons:**

- A. **Nature of Digicel USA Service. First and foremost, Digicel USA falls within the presumption of non-dominant carrier status set forth in Section 63.10(a)(4) since, to the extent it provides international switched service between the U.S. and other foreign points, including**

Bermuda, it does so solely through the resale of an unaffiliated U.S. facilities-based carrier's international switched services. Digicel USA does not provide facilities-based service between the U.S. and Bermuda.

- B. WTO Member. As noted above, the Commission treats Bermuda as a member of the World Trade Organization for purposes of market entry.
- C. List of Foreign Carriers Presumed to Possess Market Power. BTC is not on the Commission's list of foreign telecommunications carriers presumed to possess market power in foreign telecommunications markets. See Public Notice, DA 07-233, released January 23, 2007.
- D. Nature of BTC's Services. As noted above, BTC's services are limited to the provisioning of local telephone service in Bermuda. BTC does not provide international telecommunications service, and holds no ownership interests in any submarine cable facilities linking Bermuda and the United States.

9. Late Filing Waiver Request (Form Item 10)

Due to an administrative oversight, the Digicel team negotiating the acquisition of BTC neglected to notify FCC regulatory counsel of the consummation of the transaction until mid-September, more than 30 days after closing. Upon discovery of this inadvertent oversight, Digicel promptly directed counsel to prepare and file the instant notification. Digicel USA respectfully requests a waiver of Section 63.11(c) of the Commission's Rules.