

NTRC's Comments regarding the Draft Consultation on ECTEL's New Regulatory Instruments

A. Regulations Addressing Guidelines for Market Analysis and the Assessment of significant market power in the ECTEL states for electronic communications networks and services

1. There is a need for some timelines on when the Commission can impose the obligations following the market analysis for dominance.
2. Part 4, section 17(3) *"The foregoing obligations shall be imposed, maintained, amended or removed, to reflect revisions of the analysis of the relevant market concerned."*
 - i. There needs to be a timeline set on when a revision can take place.
 - ii. Additionally, noting that some markets are dynamic, if obligations are imposed but the market changed contrary to what was projected, how will this affect the obligations imposed? This also leads back to the point of when a revision can take place.
3. Part 5, section 20 (3) *"When the Commission or ECTEL requests information from a Licensee, they shall state the reasons justifying the request and the time limit within which the information must be provided"*
 - i. If the regulators need information from the licencees, why is there a need for them to justify the request? The licensees are obligated to provide the Minister and regulators with any information requested.
 - ii. From the above point, if the licensee feels as though the reason put forward is not appropriate, they may withhold information which is an offence.
4. Page 7 point 1(c) should be the *"ECTEL member states"*
5. Part 6, section 22(2) *"therefore"* needs to be corrected

B. Regulations on Access to Network Infrastructure and Wholesale Services

1. Under section 12 "*Negotiating Access Agreement*", subsection 2e) the text is not clear.

C. Infrastructure Sharing Regulations

1. With regards to the deployment of a forward deployment scheme, page 4, It is not clear on the purpose of the deployment scheme

D. International Electronic Communications Access to Essential facilities at Cable Landing Station Regulations

No comments

E. Retail Pricing Regulations

1. *Section 8 subsection 3* is not clear. The sentence seems to have some grammatical errors.
2. *Section 18 section 6* is not clear. The sentence starts with Referring to “...licencee will comply with any regulations...” however further down refers to “guidelines”. Do regulations and guidelines refer to the same thing?
3. *Section 4, 1(a) Without limiting the generality of sub-regulation (1), the Commission shall have the authority to–*
 - a) *set, review and approve tariffs for any licensed electronic communications services;*and
 - section 6, 1- Rationale for regulated services: the Commission may establish retail tariff regulation regimes including the setting, review and approval of tariffs where –*
 - a) *electronic communications services are not subject to competition;*
 - c) *Electronic communications services are provided within a basic affordable service package;*
 - d) *one or a group of licensees has Significant Market Power in a relevant retail market;*

The above points suggest that the Commission now has the power to regulate mobile prices, internet and cable tv prices of all providers. Is this correct to assume? If so, the Commission has been given more powers in this regard. With mobile services, this is evident in Part 14 (3).

4. *Section 9, 1 (a)*, the Commission needs to be given the authority to regulate broadcasting content as well. Basic Cable tv packages needs to be included under this section. If you are bringing in a new regulation and with the pending merger where there was and still would be a dominant provider in this service, our powers need to be extended in this regard.
5. *Section 18, 2(c)*, indicate that the Commission has five working days to confirm receipt of all information to:
 - c) Approve new offers or modifications
 - d) Ask for a modification or new offers
 - e) Ask for an extension (which should not exceed one month)
 - f) Prohibit the introduction of these tariffs

6. In relation to tariff applications from providers for regulated services, this is not sufficient time noting that these kind of issues are sent for ECTEL's advice as well as for our Commissioners' approval. Section 3 states that if the Commission does not produce an opinion in 5 working days then the application is approved and the provider can introduce the tariffs to the market. This is very short time span.
7. Section 19 (2) *Licensees subject to price regulation obligations must make available the information listed in any Order made under subsection (1) upon request by the Commission.*
 - i. Licensees are obligated to provide the Commission with any information requested according to the Act and this is also a condition in their licenses.
8. Section 20 (1) states that providers can do market trials or short term promotions without receiving the Commission's approval. The Commission does not agree with this.
9. Section 24, suggest that where ECTEL is required to make a recommendation, the Commission cannot make a decision on a matter unless it receives ECTEL's recommendation in writing.

F. Consumer Protection Regulation (Specific Rules for Consumer Protection in the Electronic Communications Sector)

1. Section 11.2 point 4, a key provision which should be included is the issue of Government agencies such as NEMO having access to the all telecommunication networks in times of emergency (an emergency should be defined). This is will be in an effort for example, to disseminate information via text message to all mobile subscribers.
2. Section 13 subsection 10 indicates that the licensee must establish reasonable limits...what is reasonable in this case and who determines what is reasonable?
3. Section 13 subsection 13, indicates that the licensee should notify the customer on whether a fixed-term contract will automatically roll over. This contradicts section 12 A, which states “include terms with the effect that at the end of a customer’s commitment period, the contract can be automatically renewed for a further commitment period without the Licensee first obtaining the customer’s express consent”
4. Section 14 subsection 3a, why is billing at least once every three months and not once a month
5. Section 19, the term “*headline representations*” is not clear, maybe it should be defined
6. Section 22 subsection 2 can be formatted such that it is easier to read
7. Section 27 subsection 3a, why include “*telephone*” since electronic communications is more than just telephone
8. Section 34 subsection 3g, the sentence is not clear.
9. Section 14 (1) “ A licensee shall provide a **bill** to a customer with regards to the provision of electronic communications service or products,.....”Should read licensee shall provide **paper bill and or e-bill** to a customer with regards to the provision of electronic communications service or products...
10. Section 14 (3) (a). “A licensee shall provide customers with bills – at least once every three months at no charge.” Why 3 months? Is this logical?

11. Section 18, "A licensee that provides a prepaid electronic communications service shall not to do any of the following."-This is not clear and there seem to be a typo in this sentence.
12. Definition: Text advertising- there is no mention about SMS that providers use as a means of advertising by providers.
13. Section 18 (1), charges for SMS should also be listed
14. Section 33(4) need to include a timeline on why customer will be informed of the fees or other dispute options. This should be at the time the complaint is made.
15. Section 34 (2) - they indicated that providers have two workings days to acknowledge a complaint. Under the dispute regulations, the provider has 3 days to acknowledge receipt of complaint. Under this section they need to clearly state what type of complaint; a formal complaint using the form (which process is listed under the dispute regulations) or a simple complaint in which the customer informs the provider of a problem they're having.

Additionally, this section should refer to the dispute regulations in the event that the problem is not solved, it can be referred to the commission which follows the dispute process (completed form etc).

16. Under Section 38 (a) it states that the following should be deleted from the Dispute regulations "*3) For the purpose of sub-regulation (1), a telecommunications provider shall make available to its retail customers the form prescribed as Form 1 in the Third Schedule*". This is not clear as in my opinion they are proposing that providers do not give persons this form or Form 1 is being faded out. However, elsewhere in the dispute regulations speak of Complaint form 1. This needs to be clarified.
17. The regulator's name "ECTEL" and "NTRC" are proposed to be changed in the EC Bill. These should be reflected in these guidelines even though we do not agree with the new name proposals.
18. In relation to the complaints handling section (VI), what powers does the NTRC has over this aspect as the process dealing with the complaints does not really involve the NTRC?

Comments received from Consumers at the NTRC's Town Hall meetings and Field Work Activities

The NTRC hosted two hall meetings and conducted field work visits to various communities to gather views from consumers on the various telecommunication issues that are affecting them. Additionally, feedback was provided from consumers regarding the Consumer Protection Regulations.

The NTRC believes any new sets of regulations need to address these common issues among consumers and is hereby including these comments as part of our formal submission to ECTEL. Please see comments below which were received from the consumers at the town hall meetings and field work visits:

1. In relations to objective (a) of the Regulations on page 5 of the document, what is meant by reasonable quality and should it not be "to ensure consistently high quality" as how it is currently stated allows a lot of wiggle room for the providers?
2. In relation to the disclosure and publication of information, advertisement and promotions, on pages 6 and 14 respectively, does the current regulations take into consideration the different language spoken by users? Although the primary language is English, in nations such as St. Lucia, there is a portion of the population whose main language in Creole. Additionally, were considerations made for disabled persons, that is providing the information via sign language or braille?
3. In relation to late fees outlined on page 8-9 of the regulations, should this be left to the discretion of the providers or should it be regulated?
4. With the submarine cables, it was stated that with the infrastructure already in place, others can use the infrastructure to create competition. However, if they are all in one place, in the case of an emergency would SVG be cut off?
5. Digicel to Digicel calls (on-net) seems more expensive than Digicel to LIME calls (off-net). Noting this, these calls should be regulated.

6. Persons are not satisfied with the quality of service for the telecommunication services, particularly with the mobile service provided by Digicel as they often lose their credit faster than usual when using their mobile phones even though the data feature is not on, and the data provided by Digicel is slow.
7. There are persons that have issues with the cable service being offered by Karib Cable as it is inadequate and needs to be improved with regards to the channel options, and also that the layout of the bill is unclear as persons are not certain of what it is they are paying for at the end of each month.
8. The changing of prices for the telecommunication services and the providers not informing customers of the new prices ahead of time is a problem
9. Getting in contact with the service providers via their landline number is virtually impossible as no one will answer or the automated system will cut them off.
10. Why is it costing you to receive texts from the providers while roaming for prepaid devices?
11. In the EU, there are specific road maps that are set out with respect to the cost of roaming within the EU. Are these things being considered within the ECTEL area?
12. Device locking by providers, is anything being done in this area?
13. Currently, there are different tariffs services being provided by the same provider within the ECETL states and this should be addressed.
14. In 2015, the FCC new definition for broadband is 25Mbps down and 3Mbps up. Prior to that it was 4MBps download and 1MBps upload. Therefore, a definition of what broadband is needs to be developed. A localized definition of what broadband is should be developed.
15. In relation to privacy and confidentiality section within the regulations, has any research been done on the laws in SVG that will allow for the disclosure of private information?

16. The telecommunications companies advertise/promote 4G, but in reality the customer gets a 3G or 2G service.
17. If one can use allotted data on a cell phone before date of conclusion, why is it that the customer cannot receive a rollover if they has used less than half of the allotted data?
18. With regards to the merger between LIME and Flow, does the government in the Caribbean really have no jurisdiction to investigate this matter?
19. In relation to the objectives of the regulations, who will be the one drafting the customer's terms and conditions contract? What will be done to protect the customers?
20. Are there any provision in the regulations to handle the inconsistency of services by the telecommunications providers?
21. There will be a monopoly soon on fixed line services within St. Vincent and the Grenadines, what is the motivation for the providers to follow the regulations and what is the enforcement capabilities of the NTRC to ensure that the regulations are followed as they are not following the laws currently?
22. The complaint section does not allow for appeals so the company can therefore deny the claim being made by the consumer. Why is this so?
23. For LIME internet service, you must have a fixed line in the home while for Flow this is not the case. What will be done in the future to regulate this noting that they are now basically one company?
24. The telecommunications providers have been running lotteries where they ask that a consumer contribute to a fund raiser but they do not indicate how much of the funds raised will be contributed. Therefore how will this be stopped going forward?
25. There are consumers who do not agree with the practice of disabling a sim card if the credit is not used by a certain time period.

26. The issue of contra closed captioning with the cable service as the feature was disabled when Karib Cable was taken over by Flow.
27. With the extra services that the providers run on their networks, the public should be aware of the total revenue being received by the providers.
28. Does the new legislations violate the constitutions of the countries?
29. What policies will be in place to ensure that consumers are getting value for their money in terms of cable service?
30. There are currently restrictions on the network you can call with bonus credit that is received. Why is this so and is this legal?
31. It should be mandatory that the providers inform the consumers of the log-in credentials when they are installing the services for modems.
32. Has any consideration been given to the relationship between the ECTEL member states and CARICOM and CSME in terms of roaming?
33. ECTEL should look into the implementation of data gaps for broadband
34. The Net Neutrality section should be strong enough to prevent the issue of providers using the data services in favour of their own services.
35. With regards to net neutrality, you cannot just access any type of content as not all content is legal and can be offered in any part of the word. The clause does not state whether you can access legal content. ECTEL should enforce that net neutrality should respect the legalities of the owners of the content.
36. If you have a number of complaints that are being made about the same thing each month, who is it that makes sure that the telecom providers improves the service that is being offered?

37. The coverage in the Friendship Bay area in Bequia is terrible despite the fact that the customers are paying their bills which the providers are aware of.
38. Residents of Bequia have indicated that the limitations with the microwave links deposes them going to LIME on numerous occasions on the matter. Is there anything in the regulations dealing with this noting that LIME is advertising that certain speeds are available on the island of Bequia but residents are rarely getting the advertised speed?