

CONSULTATION DOCUMENT
EASTERN CARIBBEAN TELECOMMUNICATIONS AUTHORITY

**Recommendation of the
Eastern Caribbean Telecommunications Authority (ECTEL)
to the
National Telecommunications Regulatory Commission
to consult on a
Proposal for Assignment of Spectrum in the 700 MHz Band**

Consultation Document

NO.02/2012

July 20th 2012

1. The National Telecommunications Regulatory Commission (NTRC) is in receipt of a submission from ECTEL containing ECTEL's recommendation of a procedure for the assignment of spectrum in the 700 MHz band.
2. A copy of the Proposal for Assignment of Spectrum in the 700 MHz Band is attached to this Consultative Document.
3. The initial comments period will run from **Friday 20th July 2012 to Friday 3rd August 2012.**
4. The Comment on Comments period will run from **Wednesday 8th August 2012 to Wednesday 22nd August 2012.**
5. Following the Comment on Comments period, ECTEL will develop a final proposal for submission to the NTRC for adoption.
6. All responses to this Consultative Document should be written and sent by post, fax or email to:-

**The Managing Director
ECTEL
P.O. Box 1886
Vide Boutielle
Castries
St. Lucia
Facsimile: 1 758 458 1698
E-mail: consultation@ectel.int**

All comments should be clearly marked “Comments on Proposal for Assignment of Spectrum in the 700 MHz Band.”

Consultation Procedure and Timetable

This ECTEL submission includes a request to the Commission to conduct a national consultation in [Member State] on the Proposal for Assignment of Spectrum in the 700 MHz Band in accordance with the timetable outlined on the cover page.

It is the intention of ECTEL to finalize a procedure for assignment of spectrum in the 700 MHz band after taking into account all comments received in this consultation process. The procedure will then be recommended to the NTRC for adoption.

Disclaimer

This consultative document does not constitute legal, commercial or technical advice. The consultation is without prejudice to the legal position of ECTEL's duties to provide advice and recommendations to the Ministers with responsibility for telecommunications and the National Telecommunications Regulatory Commissions.

SUGGESTED GUIDELINES FOR RESPONSES TO CONSULTATION

In order to reduce administrative lags in ECTEL's public consultation processes and to enable a reasonable degree of transparency by sharing of views submitted, ECTEL hereby recommends that parties desirous of making contributions to the attached consultation follow the procedures outlined below.

- 1) Responses to consultations should be clearly labeled as a response to the particular ECTEL consultation and correctly referenced by title.
- 2) Documents should contain; the Name of Party/Licensee/NTRC commenting, address and telephone, fax number and email contacts of commentary author or corporate officer(s) responsible for the document. This information will enable ECTEL to clarify any comments where necessary, or to facilitate follow-up dialog by ECTEL where required.
- 3) Responses/comments to specific recommendations should be double spaced and numbered in sequence with the recommendation. Where comments are extensive, paragraphs should be numbered. Pages should be numbered.
- 4) Where possible, parties should make explicit reference to academic articles, legislative provisions in other jurisdictions, or other sources relied on, and should provide copies of these together with comments. Accurate citations of resources relied on will suffice if copies cannot be provided.
- 5) If relevant, parties commenting on specific provisions of legal language should propose alternative language where possible. Such language should be appropriately highlighted and double spaced. Parties should avoid proposing alternative language in tracked changes to the consultation document.
- 6) Comments may be submitted via letter, fax or electronically in PDF format, but should be submitted via one method only. Only comments submitted via e-mail may be acknowledged.
- 7) Commenting parties should expressly indicate or highlight which parts of comment documents contain commercially sensitive or confidential information that should not be published.

ECTEL reserves the right to publish all the responses received to the consultation and provides no undertakings to refuse to publish such comments where requested, on its website or otherwise.

ECTEL is grateful to those parties adopting the recommended guidelines for submitting comments to this consultation.



**Eastern Caribbean
Telecommunications Authority (ECTEL)**

**Consultation on
Proposal for Assignment of Spectrum in the
700 MHz Band**

July 20, 2012

INTRODUCTION

The Eastern Caribbean Telecommunications Authority (“ECTEL”) is an international organization based in St. Lucia, established by treaty signed between five states in the Eastern Caribbean for the purposes of, inter alia; promoting open entry, liberalization and competition as well as harmonized policies for the telecommunications sectors of Contracting States. In pursuance of that objective, ECTEL routinely undertakes public consultations on various aspects of telecommunications regulation and policy.

The purpose of this consultation is to seek the views of interested parties on a proposed strategy/procedure for determining how applicants will be selected for the assignment of electromagnetic spectrum in the 700 MHz band. This document presents the justification for the proposal and explains the procedure being proposed. Respondents are invited to submit their comments on any aspect of the proposal.

Upon conclusion of the consultation, ECTEL may amend the Proposal based on the comments received, and a final procedure will be recommended to the NTRC for adoption.

Interested parties responding to the consultation should ensure that all responses are submitted by 4:30 pm on the deadline date to:

Managing Director
ECTEL
P.O. Box 1886
Vide Boutielle
CASTRIES
St. Lucia
Fax: 1-758-458-1698
Email: consultation@ectel.int

BACKGROUND

In 2008, ECTEL advised the National Telecommunication Regulatory Commissions (NTRC) that spectrum in the 700MHz band (i.e. from 698 MHz to 806 MHz) should not be assigned until a band plan and pricing for that spectrum had been established. Subsequently, ECTEL developed a 700 MHz band plan as part of its “POLICY ON THE ALLOCATION AND ASSIGNMENT OF FREQUENCIES IN THE 700 MHz BAND”. That policy document was the subject of a public consultation prior to its approval at ECTEL’s 47th Board of Directors Meeting in April 2009. The document is available on the ECTEL website at <http://www.ectel.int/pdf/consultations/2010/700%20Mhz%20Band%20Plan%20and%20Policy.pdf>

Based on the approved 700 MHz policy, ECTEL adopted an administrative pricing approach for determining the price for spectrum in the 700 MHz band. That exercise determined that the price for spectrum in the 700 MHz band should be set at XCD 20,000.00 per MHz frequency pair, which was approved at a subsequent meeting of the ECTEL Board.

Notwithstanding ECTEL’s advice that the spectrum was unavailable, several applications for 700 MHz spectrum were received by NTRCs. However, because the sector had been advised that the spectrum was unavailable, and since some potential applicants were advised to withhold their applications until the finalization of the band planning and pricing exercise, it is very likely that many would-be applicants did not submit applications for 700 MHz spectrum.

ECTEL recently completed a public consultation on an amendment to the current Telecommunication Fees Regulations. For each ECTEL member state, the availability of 700 MHz spectrum for assignment will begin at the time of promulgation of the resulting amended Fees Regulations in that member state. The amended Regulations will, among other things, legally prescribe the fees for spectrum in the 700 MHz band.

Because the total bandwidth of 700 MHz spectrum being made available for assignment (72 MHz) is limited, this document proposes a process to be employed for the assignment of 700 MHz spectrum in ECTEL States that aims to strike a reasonable balance between the need to

ensure a fair opportunity to all applicants for access to 700 MHz spectrum and the need to assign the spectrum in a manner that attempts to optimize its benefits to the telecommunications sector.

FAIR ACCESS, PRACTICABILITY AND EFFICIENT ASSIGNMENTS

Although applications for frequency authorization are normally considered on a first-come first-serve basis, ECTEL considers it undesirable to assign 700 MHz spectrum strictly on a first-come-first-served basis for reasons related to fair access, practicability and efficient assignments.

FAIR ACCESS AND PRACTICABILITY

A strict first-come-first-served approach would require NTRCs to consider all the applications that were received for 700MHz in the past, and to treat them on a first-come-first-served basis. This would however unfairly and unreasonably disadvantage those would-be applicants that withheld their applications pursuant to the Regulator's advice. It would effectively deny them fair access.

Furthermore, given that some of the past applications were submitted from as far back as 2008, the following practical difficulties may arise:-

- a) Some of the applicants may no longer be desirous of receiving assignments of 700 MHz.
- b) Some of the applicants may need to modify the assignments that they requested either because of change in network plans or technology.
- c) Some of the information entered in the applications may have become invalid.
- d) There may be difficulties in reliably tracking all the applications that were received.

Given these concerns regarding fair access and practicability, ECTEL proposes that past applications for 700 MHz should not be considered; and that only applications received from a date (following the start of spectrum availability) to be set in a notice to be published by the NTRC should be considered.

EFFICIENT ASSIGNMENT OF THE SPECTRUM

The propagation characteristics of 700 MHz spectrum and the allowable power limits make it conducive to business models that are built on serving consumers over a large area. Due to its broadcast-like features (such as its ability to penetrate walls), it is very well suited for wireless broadband (e.g. 3G, 4G services) with voice and data being provided over Internet Protocols. This makes 700 MHz spectrum very valuable and in high demand. Based on past applications received and expressions of interest, the total demand is likely to exceed the amount of spectrum available (only 72 MHz).

One of the most important goals of a telecommunications regulator is to ensure that scarce spectrum resources are assigned in a manner that maximizes its benefits to the sector. Such a goal would include at least the following two objectives:

- Ensuring the most rapid rollout /deployment of spectrum possible.
- Ensuring that a reasonable measure of priority is given to the provision of access to the spectrum for the purpose of upgrading existing networks and customer services – especially those networks with large subscriber bases.

Both those objectives are likely to be best realized by giving a certain level of priority access to existing major providers of Public Mobile Telecommunications (PMT) services and Broadband Wireless Access (BWA) who wish to upgrade their networks or services. Those existing operators would generally be in the best position to achieve the most rapid rollout of 700 MHz spectrum since it is anticipated that the spectrum will be primarily employed for 3G and 4G broadband networks which are generally deployed as overlays/ extensions on existing 2G and 2.5 G network infrastructure.

To target the goal of optimizing the impact of the assignment of 700 MHz spectrum on the sector, ECTEL proposes that NTRCs should ensure that PMT and BWA service providers (with operational networks) will be assigned a minimum of 12 MHz of 700 MHz spectrum, provided that they submit their applications within a specified time window.

Thus in an attempt to achieve a reasonable balance of concerns for fair access, practicability and efficient assignments, ECTEL proposes that the assignment process should employ a first-come-first-served approach that begins from a future date to be specified, and which is modified to ensure that a minimum of 12 MHz of 700 MHz spectrum will be available for assignment to each existing (operational) PMT and BWA service provider who submits an application within a specified time window. The assignment process would consider only applications received from the future date to be specified by the NTRC.

THE ASSIGNMENT PROCESS

ECTEL will work closely with each NTRC as required to ensure a smooth implementation of the process. The availability of 700MHz spectrum in each Member State will begin at the time of promulgation of the amended Fees Regulations that will prescribe the fees for assignment of spectrum in the 700 MHz band.

The proposed assignment process is described in this section as it would be implemented by each Member State. The process commences with the publication of a Notice.

The Notice

The notice will be published immediately following promulgation of the amended Fees Regulations. The notice shall at least do the following:

- i) *Advise the public of the availability of 700 MHz spectrum.*
- ii) *Describe the process to be employed for award of 700 MHz spectrum.*
- iii) *Set a 90 calendar days deadline by which an existing PMT or BWA service provider should apply in order to be assured of an assignment of at least 12 MHz of spectrum provided that the application passes the normal evaluation process.*
- iv) *Outline any conditions under the 700MHz policy that are unique to the assignment of 700 MHz spectrum.*

The following rules shall govern the proposed assignment process. Those rules only address aspects of the proposed assignment process that are different from the normal assignment process. All other existing rules that are not in conflict with the rules below will continue to apply:-

1. FA applications received before the date of publication of the Notice will not be considered in respect of their request for 700MHz spectrum, and the applicants must submit fresh applications in response to the Notice in order to be considered for assignment of 700 MHz spectrum. This rule will automatically apply, and the NTRC will not initiate direct contact with affected past applicants in this regard.
2. All Frequency Authorization (FA) applications received by the NTRC following publication of the Notice shall be considered on a first-come-first-served basis for the assignment of the spectrum subject to the provision for existing providers in “4” below.
3. All applications will be evaluated for assignment of spectrum using the existing evaluation criteria normally employed for that purpose.
4. An existing operational PMT or BWA service provider who submits an application within 90 calendar days from the publication of the Notice shall be assigned a minimum of 12 MHz of 700 MHz spectrum subject to all other conditions normally required for approval and assignment of spectrum being met.
5. Where existing PMT or BWA service providers apply for spectrum in excess of 12 MHz, their applications shall contend for spectrum assignment (in respect of the amounts in excess of 12 MHz) on a first-come-first-served basis with the applications of all other providers.
6. Applications from existing PMT and/or BWA providers received after the 90 calendar days deadline shall be treated purely on a first-come-first-served basis similar to those of other providers.

7. Based on the 700 MHz policy, an applicant will be assigned a maximum of 24 MHz of spectrum in the 700 MHz band.

ASSIGNMENT AND ROLLOUT OF 700 MHz SPECTRUM

Assignment of 700MHz spectrum shall be on condition that the spectrum is deployed for Broadband Wireless Access on the applicant's network within 6 months of assignment. Spectrum not utilized for the purpose assigned within that period shall be subject to forfeiture.

***** END *****