

ECTEL's Response and Position

Consultation on Electronic Communications (Quality of Service) Regulations



1. BACKGROUND

At the 67th Meeting of the Board of Directors of the Eastern Caribbean Telecommunications Authority (ECTEL), it was directed that ECTEL set out revised Quality of Service standards to be adhered to by telecommunications providers.

The proposed draft Electronic Communications Bill (EC Bill) envisaged a new regime under which the National Telecommunication Regulatory Commissions (NTRCs/Commission) will be responsible for setting the technical standard for electronic communications. This is captured in *regulation 10 (c)* of the draft EC Bill, which states:

“The functions of the Commission are to be responsible for technical regulations and the setting of technical standards of electronic communications and ensure compatibility with international standards.”

Thus, with this in mind, it was envisioned that the Commission would be responsible for the setting, adjustment and amendments to the Quality of Service (QoS) Regulations, which will move this function away from the Minister, who currently performs this function under the current Telecommunications Acts.

2. INTRODUCTION

Consequently, with this in mind, ECTEL identified QoS standards, in keeping with international standards, to be adhered to by Telecommunication Providers. QoS standards ensure that consumers have access to high quality telecommunications services by setting minimum quality levels for all public telecommunications operators.

These standards define the lower and or upper bounds of acceptability of such technical issues as transmission rates, error rates, call completion rates, etc., and commercial consumer issues such as access to customer help lines, billing integrity and other characteristics that can be measured and improved.

ECTEL, through the NTRCs submitted a consultation document on the QoS Regulations. The initial comment period ran from 26th January 2015 to 27th February 2015 and was

restricted to the NTRCs. In March 2015, round two of this limited consultation ran from 24th March 2015 to 8th May 2015 and was similarly restricted to the NTRCs.

The consultation document was made public and comments were received from Columbus Communications Limited, Digicel, LIME, NTRC St. Vincent and the Grenadines, NTRC Dominica and NTRC Grenada. This period ran from 12th June 2015 to 24th July 2015. A comment on comment period ran from 31st July 2015 to 14th August 2015, where submissions were received from GSMA Latin America and LIME.

3. OPINIONS/POSITIONS OF OPERATORS AND STAKEHOLDERS

3.1 LIME

LIME is of the opinion that the best entity to update the proposed codes of practice would be the entity that is legally empowered to update the QoS Regulations, and who has the ability to establish uniform standards across the ECTEL countries. At this moment, the NTRCs do not have the authority in and of themselves to approve amendments to service standards, nor to impose service standards.

Moreover, LIME believed that the EC Bill is still a bill and not an Act, and cannot therefore confer upon the NTRCs such powers. However, LIME opined that if this flaw is remedied, it is evident that ECTEL will need to complement responses to the consultative document with meetings with the providers to address several issues. LIME requests that both bodies provide a proposed approach to the themes identified above to guide further engagement.

In relation to the specific questions asked in the consultation document, LIME stated that other than such information that is required by law, LIME does not provide information about QoS to customers. As it relates to public fixed voice telecommunications, LIME stated that it is highly probable that it will meet the proposed service standards for fixed voice service with the exception of fault rate per access line.

As it relates to public mobile telecommunications, it is highly probably that LIME will be able to meet the proposed standards for mobile services. However, with the ease of

contacting mobile customers directly and cost-effectively by means of SMS, LIME disagrees with the Commission's proposal that notice of rate changes should be published in the newspapers. In addition, LIME opines that it is highly probable that it will be able to achieve the proposed service standards in relation to SMS Service, Domestic and International Leased Line Service and Subscriber Television Service.

LIME stated that it is highly probable that it will meet the proposed standards for the provision of Fixed Broadband Service, with the possible exception of fault rate per access line and packet loss. LIME submitted that although it does not currently offer Wireless Broadband Service, it hopes that the NTRC would take a technology-neutral position, where the focus is on the service provided rather than the additional technology.

As it relates to Billing Parameters, customer helpline and customer complaints/satisfaction, LIME stated that the proposed standards are still under review. Upon completion of the review, LIME will supply feedback to the Commission.

LIME is of the view that though QoS is an area where it is always seeking to improve, the imposition of increased regulation is unnecessary. The Commission should rely on market forces and seek to regulate only when necessary. Neither ECTEL nor NTRCs have demonstrated the need for revised or additional service standards.

The following are some concerns by LIME that it envisions in measuring compliance by providers in relation to the proposed QoS:

- i. Achieving statistical 100% fault repair in 72 hours for any service is difficult;
- ii. Cost saving measures;
- iii. Network Neutrality, a very important issue, is nonetheless misplaced in a consultation on QoS;
- iv. Uncertainty on the achievability of proposed standards;
- v. LIME disagrees that a breach of the service standards is a breach of the licence, and the current Regulations does not support this position of the Commission. LIME presumes that all aspects of the Regulations remain the

same with the exception of service categories, parameters, and the revised standards proposed by the Commission for recommendation to the Minister.

3.2 COLUMBUS COMMUNICATIONS LIMITED (FLOW)

FLOW opined that there was no legal and regulatory basis for the consultation exercise or proposal. FLOW stated that the proposals make reference to the Electronic Communications Bill (EC Bill) which is not finalised. The company stated that it did not want to comment on subsidiary legislation i.e. the proposed revision of the QoS before the primary legislation, i.e. the EC Bill, is enforced that will enable the proposals to be effected based on the EC Bill.

Notwithstanding, as it relates to the amendment to service criteria and parameters in the consultation document, FLOW was of the view that market needs and/ or regulatory objectives of these changes should be established before any changes are made. In their estimation, to be consistent with the intentions of the framework and to ensure transparency and accountability, the need for the changes should also be objectively assessed.

FLOW opined that the proposed QoS does not address the issue of reporting and the frequency of reporting requirements for the proposed seven services and four customer related issues. The present Regulations provide for quarterly reporting. If Providers were required to report quarterly on KPIs based on the 11 proposed areas, this would be a significant increase in the reporting requirements. FLOW believes that given the regulatory principle of proportionality, an important consideration is the overall cost against verses benefits to the market of such policy interventions.

FLOW believes that it is useful to conduct a market review to assess current performance standards across the industry and determine the market needs. In addition, the reasonableness and practicality of some of the proposed standards and KPIs were questioned.

FLOW submitted that there is no standard definition for the term net neutrality. Thus, there are many sides to the issue and the approaches adopted depend on the context and policy priorities of different makers. Consequently, there is an urgent need for a holistic debate, including, not only sector specific regulators, but a wide range of government ministries and agencies responsible for fiscal policy, justice, national security, data protection and privacy, consumer affairs and child protection. This will be necessary to ensure a level playing field for all market participants, and to ensure symmetric regulation of OTT's and licensed providers.

In relation to the specific questions asked, FLOW quoted *Article 4 (1) (b) and (d)* of the *Treaty* and stated that it appeared that ECTEL would have to be involved in the process of updating the Regulations daily. Additionally, FLOW submitted that it provides service level agreements to commercial data customers and quality of service reports to NTRCs.

Finally, FLOW stated that it would assess the reasonableness of the proposed standards, and provide more information later in the process.

3.3 DIGICEL

Digicel is very concerned that ECTEL has published the consultation document apparently using draft legislation that has not yet come into effect as its legal basis. Digicel submits that it is ultra vires for ECTEL to proceed in the manner set out in the consultation document, and that consequently, the consultation document and the proposals set out therein are void and not capable of being implemented.

In relation to the specific questions asked in the consultation document, Digicel submits that it is unsure if the proposal is in conformity with the law, i.e. if the proposed legislation would empower the NTRCs. In addition, Digicel asserts that the current consultation process appears to be invalid, as in Digicel's opinion, the Treaty provides no legal basis for ECTEL and NTRCs to introduce certain proposals e.g. the regulation of television services or the introduction of so called "Net Neutrality" provisions.

Furthermore, Digicel does not believe that there is a requirement or justification for updating the QoS Regulations. Based on their understanding, QoS standards are specified as part of Digicel's licences and any modifications to the standards are in fact a variation of the applicable licence. Thus, to the extent that a change to a national licence or the setting of national standards could ever be required, Digicel believes that it is the NTRC which is best placed to assess the national conditions and set appropriate national standards.

Digicel submitted that it provides customers with information about the Quality of Service in accordance with the terms of its licence.

Digicel is of the belief that the consultation document does not seek the views of licensed operators as to whether the proposals are appropriate and necessary. This is a departure from established procedures and international best practice. Moreover, Digicel submits that it is not aware of any analysis that has been conducted by ECTEL that suggests that the current QoS are inadequate.

Digicel did not provide a definite answer to the question related to any suggestion toward improving the QoS being offered to customers and how they may be approved.

Digicel submitted that ECTEL's approach to assessing the issues around setting QoS standards does not include any cost-benefit analysis related to the imposition of such standard. Moreover, Digicel opined that in relation to Public Mobile Telecommunications, ECTEL has not provided any evidence, which would justify the additional regulatory burden of the proposed standards.

In relation to net neutrality, Digicel believes that ECTEL's approach in attempting to introduce such fundamental and far reaching regulation on the market, included in a table with other parameters such as jitter and latency is not what one would expect from a best-in-class regulatory framework. Moreover, Digicel submitted that the inadequacies of this approach are thrown into the sharpest relief where in the same tables that ECTEL specifies, that all traffic should be treated equally. It also specified three different levels

of performance for latency depending on the traffic type. The internal inconsistencies in ECTEL's proposals are manifestly evident and highlight the need for a substantive consultation on the issue.

3.4 GSMA Latin America

GSMA recommended that before proceeding, an indepth cost-benefit analysis should be done to determine whether the imposition of specific KPIs will bring the expected benefits to users, or on the contrary, whether it could impair competition to a point that customers will be negatively affected by the Quality of Service standards received.

GSMA stated that imposing new regulations on QoS for mobile services involves potential notable hazards, mainly in terms of diverting resources, including financial, to meet the new requirements instead of allowing competition to increase the deployment of infrastructure to expand coverage, which in turn decreases the Digital Divide. Additionally, QoS regulations may drive up costs and leave some consumers unable to access service. There is a need to encourage the deployment of infrastructure to directly impact the quality needed to expedite the process to assign permissions for installation of network infrastructure.

4. OPINIONS OF NTRCs BASED ON PUBLIC CONSULTATION

The following is a summary of the comments received by four (4) of the NTRCs during the public consultation.

4.1 NTRC SVG

The Commission stated that they had conducted some research on QoS criteria and parameters.

The NTRC St. Vincent and the Grenadines proposed that new service categories for QoS need to be included in the revised QoS. These categories include subscriber Television, billing parameters, customer helpline, customer complaints and general complaints.

In addition, the NTRC stated that there is no information on the overall level of service being offered to consumers and that the standards are currently being met based on information available from the providers. Based on the information proffered, the NTRC stated that it is easy to gain information from the service providers based on the Dispute Resolution Regulations enforced, as the regulations allow for providers to submit monthly reports on telecommunications complaints being made by consumers.

The NTRC reported that there have been service complaints in relation to QoS. In St. Vincent and the Grenadines, customer complaints have a set process, which is guided by the Dispute Resolution regulations. It is noteworthy that the applicant filing the complaint can outline what is their preferred method for the NTRC to deal with their complaint. However, the NTRC will make the final decision as to which dispute resolution process is used.

Finally, NTRC St. Vincent and the Grenadines agrees that the Commission is the best place to amend and update these Codes of Practice, as the NTRC has been managing the process regarding customer complaints via dispute resolution. Therefore, the Commission would be able to determine if the Regulations need to be amended or updated to ensure a proper framework is in place.

4.2 NTRC GRENADA

The NTRC Grenada in its submissions revealed that it does not receive information from providers as to the level of service being offered to consumers. In addition, no information is collected or submitted by the service providers as it relates to QoS. On the other hand, the Commission stated that they have received few complaints from customers, who are advised to contact the relevant service provider through written correspondence. Where necessary, based on statute, the NTRC will act as mediator to resolve the complaint.

This Commission opines that the NTRC is best placed to amend and update these Codes of Practice. However, they believe that the QoS, though vital, would require day-to-day

monitoring, enforcement and public relations to keep customers aware of their rights and what quality of service standards are acceptable from the service providers. To this end, they see training and technical requirements as essential elements in an effort to manage and monitor the QoS.

The NTRC Grenada would like to see international simple voice resale customers included as a KPI.

4.3 NTRC DOMINICA

The NTRC Dominica has instructed that they do not receive information from providers as to the level of service being offered to consumers. Moreover, they stated that they have no way of knowing whether the current standards are being met, as the service providers do not submit the data. Additionally, they opined that even if the data was submitted, the NTRC had no way of verifying its veracity. The Commission informed that although attempts have been made to obtain data from the service providers, the obtaining data requested from them has been extremely difficult.

The Commission claims it had have received complaints from customers in relation to speed. Generally, customers file the complaints with the NTRC, and when necessary, the NTRC engages in the dispute resolution process.

Similarly, this Commission was of the opinion that the NTRC is best placed to amend and update these Codes of Practice. However, without penalties and the ability to obtain the raw data or network monitoring access, the Commission believes that this proposed change in standards would be a useless exercise. In addition, they opined that there should be collaboration with the Bureau of Standards in relation to more administrative and technical support for instances of overlapping functions.

The Commission also noted the following issues:

- i. The NTRC should be allowed to impose enforcement mechanisms, as it determines fit. Therefore, there should be a compliance and enforcement mechanism.

- ii. The proposal should include a clause, which authorises the NTRC to put independent monitoring equipment on the networks in order to validate the information received from the providers.
- iii. The reporting structure should force the provider to include an element of percentage compliance to the Regulations. Further, the providers must submit all raw data to support compliance.
- iv. The average throughput and latency are too wide open. The throughput would change based on distance from the subscriber even if the bandwidth is the same. This needs to be measured to the closest point or maybe the IXP as the provider does not have control over external networks.
- v. Regulated subscription packages needs to be defined.
- vi. Net neutrality does not allow the providers to engage in traffic management, which is to the benefit of the customer.
- vii. QoS KPIs for radio and Television should be included in this QoS Regulation.

Finally, the Commission is of the opinion that QoS KPIs for DVB-H should be included in the Subscriber Television Service list. It is noteworthy that the NTRC Dominica has issued a DVB-H licence.

5. OPINIONS/POSITIONS OF THE NTRCs BASED ON LIMITED CONSULTATION:

Following the review of the comments received from the Public Consultation in 2015, ECTEL resubmitted a revised document for a limited consultation to the **NTRCs ONLY**. This draft document was revised and renamed the Electronic Communications (Quality of Service) Regulations, which took into consideration the comments received from the various stakeholders during the consultation period.

Thus, instead of revising the current Telecommunications (Quality of Service) Regulations, ECTEL is proposing to replace the current Regulations with the draft Electronic Communications (Quality of Service) Regulations, which were produced as a

result of the consultation. These new Regulations are to be enacted with or after the passage of the draft EC Bill.

5.1 NTRC SAINT LUCIA

NTRC Saint Lucia is of the view that the new Regulations should make provisions for customer service level agreements, which will indicate the quality levels that must be attained by the service providers. Additionally, they also stated that a mechanism should also be included in the new Regulations for the contents of the QoS reports submitted by service providers to be verified.

5.2 NTRC DOMINICA

NTRC Dominica is of the view that the QoS metrics should be published more frequently than the proposed annual basis in regulation 7 (2) of the Regulations. Further, they opined that the Regulation makes no provision for the Commission to publish QoS data obtained independently from the provider's submissions such as through surveys or consumer focus groups. NTRC Dominica queried whether they would be permitted to publish that sort of data or whether publication would be limited by Regulation 7.

The Commission was also of the opinion that there was an error in regulation 8 (1). They opined that the regulation ought to read "... a Service Level Agreement with a **reseller...**," as opposed to with a "**wholesale licensee**". Furthermore, the Commission believe that while regulation 15 (2) lists offences of the licensee, the customer is neglected.

NTRC Dominica viewed the definition of "peak period" as erroneous. In addition, the Commission provided a definition of "maintainability" in relation to the service parameter for "Satisfied with Maintainability <5%". They questioned whether Regulators were suggesting that Customer/Service Provider should be satisfied with the probability of performing a successful repair action within a given time frame should be less than 5%.

They believe that based on the definition of maintainability provided, the service parameter should be reviewed.

In relation to SMS Promotion, NTRC Dominica opined that a provision should be made for a customer to opt out of receiving promotional material either by text or email. They believed that the focus should be on opting out and not on giving consent. Furthermore, the Commission highlighted that in the Schedule for Subscriber Television Service, the line "Complaints with network performance, reliability and availability" should read "Complaints with Television service reception, reliability and availability".

NTRC Dominica summed up its review by stating that the Regulations should make provision for the regulator to do its own monitoring for the stipulated standards, including Handover, Congestion and Traffic Analysis Parameters. Finally, the Commission was of the opinion that the progressive standards required for the QoS parameters in the current Regulations under the Telecommunication Act with Year 1, Year 2 and Year 3 should be maintained to facilitate the growth of new entrants.

5.3 NTRC GRENADA

The Commission is of the view that it should be required to publicise the new QoS additions and allow for comments, prior to making recommendations to the Minister. In addition, they posited that any amendments to the schedule shall be gazetted.

NTRC Grenada states that they were not clear as to the contents of regulation 5 (2). Moreover, they were of the view that the Regulations, pursuant to regulation 7 should establish the minimum form of publication.

The Commission believes that there needs to be provision in the Regulations to address the ability of the Commission to conduct audits to verify the QoS service criteria and parameters. They stated that enforcement and monitoring of any Regulations are important. NTRC Grenada recommended the inclusion of a section in the regulation in the Regulations entitled "Monitoring by the Authority".

The Commission noted their concerns in relation to the definition and practicability of “customer care accessibility.” Additionally, the Commission suggested an alternative definition for “special days’ in the Regulations. Finally, NTRC Grenada opined that the Schedules do not take into account the operators’ years of operation regarding the different parameters as are reflected in the current Regulations under the Telecommunications Act.

5.4 NTRC ST. VINCENT AND THE GRENADINES

The Commission highlighted grammatical and typographic errors within the document.

The customer’s permission to opt in and opt out of promotional texts was raised by the Commission. In addition, NTRC St. Vincent, similarly raised the point that publication by the Commission should be done more frequently, e.g. on a quarterly basis, so as to keep consumers better informed and to hold providers more accountable.

The issue in relation to the Commission’s ability to fine licensees for violations was highlighted by the Commission. NTRC St. Vincent stated that the listing of the option of a suspension of licence is not a practical option and needs to be removed. They further opined that if a licence is suspended, it means that the provider cannot offer any service to the said customers.

NTRC St. Vincent had a concern with the definition of “*customer care accessibility*” and provided practical examples of their concern with the definition and the practicality of its application. Additionally, the Commission raised concerns in relation to the following KPIs:

- i. Definition of “peak period” The regulation speaks to a 12-hour period but gives a 14-hour time frame. The Commission queried if it was the intent of ECTEL to give the licensee the ability to choose their own peak period.
- ii. The duration of the KPI for “call set up times” is too long.
- iii. “Reconnection of service after payment of overdue amounts within period” What happens to the remaining 15% of persons? In what time frame are they to be

reconnected? In addition, there is no period listed for the reconnection of under Part B- Public Mobile Electronic Communication.

- iv. "Line Shifting or relocation and "Service disconnection", Both KPIs have asterisks but no notes.
- v. "The repetition of "Response time to customers"
- vi. "Service Coverage" This KPI needs to be clarified. What does >90% of populated coverage mean and how will it be measured?
- vii. How will "Drop Rate" for broadband be measured?
- viii. "SMS Promotions" The NTRC is concerned about the practicability of this KPI.
- ix. There is a need for a KPI for measuring broadband speed.
- x. The absence of a "fault repair time" KPI for Subscriber Television Service.

In addition, NTRC St. Vincent highlighted the need to insert the full names of the following acronyms:

- i. NTSC
- ii. PAL
- iii. SECAM
- iv. ATSC
- v. DVB
- vi. ISDB
- vii. DTMB

so that persons would not have to research them to know what they are referring to.

Finally, the Commission enquired whether this Regulation would be applicable to voice services being offered (or will be offered) by licensees using VoIP and VoLTE technologies and voiced their concerns in relation to the NTRC's ability to verify the percentage of calls that are being classified as blocked calls or incomplete etc, due to network congestion.

6. ECTEL's RESPONSES/ ANALYSIS OF RELEVANT ISSUES

It is not proposed that every point raised will be addressed but rather a review of the various categories of issues raised and provide appropriate responses.

The Public Consultation:

1. ECTEL has reviewed and revised the QoS Regulations with the intent that it is enacted with or after the passage of the Electronic Communications Bill (EC Bill). As a result,

and pursuant to *section 12 (2) (f)* of the draft EC Bill, the Commission is empowered on the recommendation of ECTEL and by publication in the [Gazette] to issue codes of practice relating to electronic communication services and electronic communications networks.

2. The new proposed Electronic Communications (Quality of Service) Regulations (the Regulations) provide detailed information on the types of services that licensees will have to provide information on, in relation to their achievement of the electronic communication service criteria and parameters.
3. The new proposed Regulations do not contain the requirement that notice of change should be published in the newspapers. However, all regulations, including amendments, are published in the Official Gazette (Regulation 5 (5)).
4. ECTEL notes the concern by LIME in relation to achieving statistical 100% fault repair in 72 hours. However, ECTEL advises that this service criterion had to be retained in the new Regulations based on market analysis and international best practices.
5. All references to Net Neutrality have been removed from the QoS Regulations. The principle of net neutrality however, is maintained in the draft EC Bill.
6. It is a general principle of law that a breach of provisions in a Regulation can amount to a breach of the principle Act, where the principle Act contains a penalty for breach of the Regulations. It is accepted that Regulations are considered as secondary pieces of legislation as they are enacted based on the powers given in the principle piece of legislation. The breach of Building Regulations, for example, can result in the imposition of fines or penalties or enforcement action under the principle Act. In the Licence the definition of "Act" refers to the Act and the Regulations made thereunder. A breach of the Regulations therefore amounts to a breach of the Act.

7. The new proposed Regulations addresses the issue of reporting and the frequency of reporting requirements for the service criteria and parameters as per regulation 11.
8. The introduction of service criteria and parameters are important to ensure that customers receive the basic minimum standards available to them from their service provider. In setting these, ECTEL has followed the best international standards and practices. These are set out in relation to each service offering in regulation 5.
9. The new proposed Regulations are intended to address service criteria and parameters for Individual licences. Therefore, the KPIs were not intended to address international simple voice resale.
10. DBV-H is a technology platform. The new proposed Regulations are intended to set KPIs for general networks and services and should promote technology neutrality.

The Limited Consultation:

Regulation 5 - Quality of Service Criteria and Parameters

Regulation 5 (2) conveys that a licensee who is required to provide universal service is not exempted from complying with the established quality of service criteria and parameters. Any services provided under universal service should at minimum, meet the proposed service criteria and parameters.

There have been amendments to regulation 5 to include the suggestion highlighted by NTRC Grenada that prior to the making of recommendations by the Commission in relation to the amendment of service criteria and parameters, such recommendations will be made available to the public. In addition, the requirement that any amendments made be gazetted has been included under this regulation.

Regulation 7 - Publication of quality of service information

ECTEL wishes to advise that before any information is published by the Commission, pursuant to regulation 7 (1), the Commission shall consult with ECTEL. Thereafter, ECTEL will review the suggestion of the Commission and make a recommendation.

In relation to regulation 7 (1), ECTEL advises that the Commission may publish the information as often as it desires on its website.

New Regulation to be included following Regulation 7

The suggestion to include a regulation that addresses the ability of the Commission to conduct quality of service auditing, either on its own accord or via a third party contracted by the Commission is desirable to ECTEL. However, section 12 (1) of the draft EC Bill states "the Commission has power to do all things necessary or convenient to be done for or in connection with the performance of its functions". Section 12 (2) (a) of the draft EC Bill empowers the Commission to "acquire information relevant to the performance of its functions including whether or not a person is in breach of this Act, the Regulations, a licence, frequency authorisation or a direction given by the Commission". Further, at section 12 (2) (j), "Without limiting the generality of subsection (1), the Commission has the power to do anything incidental to its powers. Although therefore a Regulation to empower the Commission may be desirable, the powers of the Commission under the Act may already address this concern.

Regulation 8 - Service Level Agreements

Regulation 8 (1) has been revised to read "A licensee who intends to make his retail services available as wholesale services to a reseller of service shall enter into a Service Level Agreement with the reseller to ensure that the electronic communications service being delivered to the customer meets the desired expectation of the customer with regard to the quality of service being provided."

As it relates to the comment that the new Regulations should make provision for customer service level agreements, ECTEL advises that the proposed Quality of Service Standards are for public electronic communication services, and that service level agreements generally have higher KPI indicators because of their commercial nature.

Regulation 10 - Recording Keeping

ECTEL agrees with the submission by NTRC Saint Vincent and the Grenadines and will change the heading of this regulation to "Record Keeping".

Regulation 15 - Compliance and Enforcement

In relation to the issue regarding the ability of the Commission to fine, ECTEL wishes to advise that the draft Electronic Communications Bill (EC Bill) has created offences. Therefore, where a licensee is in contravention of the law, the Commission can opt to suspend or revoke the licence of the licensee. Where the Commission does not recommend the suspension or revocation of the license, the Commission or ECTEL has to operate within the confines of the legal framework and should commence the process for taking the licensee to court for contravention of the provisions within the EC Bill and the accompanying Regulations. The court may impose a fine under the provisions of the draft Bill.

ECTEL notes the concerns raised in regulation 15 (2) that states that while offences are listed against the licensees, the consumer is neglected. In this regard, ECTEL wishes to advise that the consumer still has the right to civil redress. Additionally, the regulation contains adequate service criteria and parameters such as "*period of all refund/payments due to customers from date of resolution of complaint...*" that addresses recourse for the consumer. The Electronic Communications Consumer Protection Regulations have also been consulted on and are designed to provide redress to customers.

Definitions in Schedule

ECTEL has made changes to the following definitions in the Schedules:

- i. "peak period"- ECTEL's intent is for a continuous 12-hour period where traffic is at its highest. The definition has been updated and removed the reference to 6:00 am and 8:00 pm; and Monday to Friday. Therefore, the definition will be revised to read "peak period" "means a continuous twelve-hour period of the day, that the licensee designates as the period of high level of electronic communications traffic on its electronic communications network."
- ii. ECTEL notes the concerns in relation to the definition of "customer care accessibility." The definition will be revised to state "customer care accessibility" means 100% of all calls to the center must be answered by a customer care personnel or a machine within thirty (30) seconds. The line must never be busy."
- iii. The reference to "special days" in the definition of "peak period" and the definition of "special days" in the Schedule have been removed from the Regulation.

Schedules

The comment in relation to the progressive standards for QoS criteria/parameter is noted. ECTEL wishes to advise that the Regulation will be updated as deemed necessary based on the realisation that the electronic communications sector is dynamic and will require constant changes to the Regulation to address all regulatory concerns.

Service criteria and parameters

- i. ECTEL revised the KPI for "Satisfied with Maintainability <5%" to "Satisfied with Maintainability >95%" based on the comment raised by NTRC Dominica. The following definition for maintainability will be included "maintainability" means the probability of performing a successful repair action within a given time.

- ii. SMS promotion: ECTEL maintains that customers should give their express authorisation by means of a SMS, or otherwise to receive SMS promotions. This means that unless consent is expressly given, a customer has not opted in to a promotion. Therefore, ECTEL has revised the KPI and deleted the words “from a specific entity.” The KPI now reads: “ALL persons receiving SMS promotional text must have expressly given authorization that they are interested in receiving promotions.”

A clause under this KPI will be included to state that customers can decide at a later date to opt in to promotions.

- iii. ECTEL notes the suggestion for the inclusion of billing error parameters. However, ECTEL wishes to advise that the concerns raised by the NTRC are addressed under the following KPIs: “Billing Accuracy, Percentage of Billing related errors cleared, Complaints with billing performance.”
- iv. In relation to the KPI for “Call Set Up Time (Post dialing delay to ring tone),” ECTEL notes the concern raised by NTRC SVG but opines that this service criterion is in line with international best practices. Therefore, the service criteria and parameter will be maintained.
- v. For the KPI for “Reconnection of service after payment of overdue amounts within period,” ECTEL wishes to advise that the KPIs are enacted simply to reflect the minimum acceptable standards. However, ECTEL agrees with the comment that there is no time period for the same KPI in relation to Public Mobile Electronic Communications and has revised the KPI to read “95% within 3 hours”.
- vi. The asterisks will be removed from the KPIs for “Line Shifting or relocation” and “Service Disconnection” under the following headings: Public Fixed Electronic

Communications, Fixed and Wireless Broadband Wireless Service and Subscriber Television Service. This was a typographical error.

- vii. In relation to the KPI for “Service coverage”, ECTEL wishes to advise that the KPIs are enacted simply to reflect the minimum acceptable standards. Therefore, ECTEL recommends that at least 90% of the populated areas receives service for the KPIs specified.
- viii. In relation to the issues as to how the drop rate will be measured for broadband, ECTEL wishes to advise that “drop rate” denotes the probability that a successful established data connection is ended unintentionally. As a result, a licensee’s network will register the KPI for drop rates based on the unintentional breaking of an internet session. ECTEL has included the definition of “drop rate” in the Regulations.
- ix. There is a KPI for “Average Throughput got Packet data”, which addresses the concern raised that there is no service criteria or parameter for measuring broadband speeds.
- x. The name for the following acronyms will be included in the Regulations:
 - a) NTSC- National Television System Committee
 - b) PAL- Phase Alternating Line
 - c) SECAM- *Séquentiel couleur avec mémoire*
 - d) ATSC- Advanced Television Systems Committee
 - e) DVB- Digital Video Broadcasting
 - f) ISDB- Integrated Services Digital Broadcasting
 - g) DTMB Digital Terrestrial Multimedia Broadcast
- xi. In relation to the comment that there is no KPI for “fault repair time” for subscriber television service, ECTEL wishes to advise that this service criteria and parameter

is addressed under the KPI “all installations and service related complaints (except those related to billing) under Part D”.

General Comments in relation to the Regulation

In relation to the question as to whether the Regulations would be applicable to voice services being offered (or will be offered) by licensees using VoIP and VoLTE technologies, ECTEL wishes to advise that these Regulations would be applicable to licensees who hold Individual licences.

ECTEL notes the concern raised in relation to the NTRC’s ability to verify the percentage of calls that are being classified as blocked calls or incomplete etc, due to network congestion. In this regard, please note that ECTEL has proposed the inclusion of a provision that gives the ability to the Commission to conduct independent inspections, surveys, tests or performance audits based on the quality of service information submitted by licensees.

7. CONCLUSION

Based on the comments raised during the public and limited consultations and based on the responses provided, ECTEL has revised the draft Electronic Communications (Quality of Service) Regulations. Consequently, ECTEL will be submitting the attached draft Electronic Communications (Quality of Service) Regulations to the Ministers in the ECTEL Member States to be enacted, barring any further legislative drafting queries that may be raised on a country level.