

CONSULTATION DOCUMENT

**Recommendation of the Eastern Caribbean Telecommunications Authority
("ECTEL")**

**To the National Telecommunications Regulatory Commission to consult on
Draft Conduct of Public Hearings Regulations**

Comment on Comments

January 18, 2008

1. On May 19, 2008 the National Telecommunications Regulatory Commission received a submission from ECTEL containing ECTEL's recommendation for Draft Conduct of Public Hearings Regulations for [Member States].
2. A copy of the Consultation Document on '*Draft Conduct of Public Hearings Regulations*' is available on the ECTEL website (www.ectel.int) and copies can be made available upon request at the National Telecommunications Regulatory Commission.
3. The Initial Comments period was set for 19th May, 2008 to 16th June, 2008.
4. ECTEL received comments from:
 - a. Cable & Wireless
 - b. Karib Cable / Kelcom International
 - c. NTRC St. Lucia
5. These initial comments are hereto attached and ECTEL now invites comment to these comments.
6. The Comment on Comments period will run from 20th June, 2008 to 11th July, 2008. Following the Comment on Comments period, the Directorate will consider all comments received and then present revised "*Draft Conduct of Public Hearings Regulations*" to the ECTEL Council of Ministers with a recommendation for their adoption in the ECTEL Member States.

7. All responses to this Consultative Document should be written and sent by post, fax or email **no later than 4: 30 pm on July 11, 2008** to: -

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

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.

The following are the comments submitted during the initial consultation period:

**NATIONAL TELECOMMUNICATIONS REGULATORY
COMMISSION (NTRC) – SAINT LUCIA**
**Comments on the Recommendation of the Eastern Caribbean
Telecommunications Authority (ECTEL) on**

“DRAFT Conduct of Public Hearings” Regulations

16 June, 2008

General Comments

The Telecommunications (Dispute Resolution) Regulations are mentioned throughout the document, although not yet been promulgated here in Saint Lucia,

Section 3 – Interpretation

“hearing – means a public hearing provided for under section 11 of the Act”,

The copy of the Telecoms Act utilized by NTRC Saint Lucia, indicates that the section cited should read *“Section 13”*

Section 7, 3(a) Rights and obligations of public network operators

“The Commission shall: -

(a) consider all requests for a hearing in a timely manner.”

This bullet appears reads as incomplete. It is unclear whether the Commission is obligated to entertain **every** request for a hearing or is whether the Commission authorized to reject what it considers frivolous/vexatious applications/requests.

Section 8 3 (a)– Applications

“The application referred to in sub-regulation 1(1) shall be in the form satisfactory to the Commission and shall: -

(a) Set forth the name, address and telephone number of the applicant and his agent, where applicable.

The applicant should also be required to provide **postal address, fax number and email address**, as part of their obligations under this section.

Section 12, 2(d) – Intervenor

The application for intervention shall: -

(d) set forth the name, address and telephone number of the intervenor or his agent;

The applicant should also be required to provide **postal address, fax number and email address**, as part of their obligations under this section.

Section 18 - Witnesses

This section does not speak to who determines whether a witness qualifies as an “expert witness”. Criteria for determining the same may be helpful to ensure that the individual(s) introduced as expert witness are meet similar requirements in each member state.

Section 22

This section of the regulations does not speak to who records the proceedings for the benefit of the Commission.

KARIB CABLE / KELCOM INTERNATIONAL

**Comments on the Recommendation of the Eastern Caribbean
Telecommunications Authority (ECTEL) on**

“DRAFT Conduct of Public Hearings” Regulations

16 June, 2008

The Comments on Telecommunications (Conduct of Public Hearings) Regulations Consultation Document from Karib Cable are:

5. (2) change “.....where it determines it is necessary.....” to “.....where it solely or after consideration of matters raised by any of the party’s involved determines it is necessary.....” .

7. (5) add and will comply with the matters of confidentiality as described and laid out in the act and/or any other regulation relevant to the application for the hearing

12 (3) (f) any limitations of access to confidential information by the person

12 (5) add except where this information contravenes the matters of confidentiality as described in 7. (5)

CABLE & WIRELESS

**Comments on the Recommendation of the Eastern Caribbean
Telecommunications Authority (ECTEL) on**

“DRAFT Conduct of Public Hearings” Regulations

16 June, 2008



CABLE & WIRELESS

Cable & Wireless

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The Managing Director
ECTEL
P.O. Box 1886
Vide Boutielle
CASTRIES
St. Lucia

June 17th, 2008

Dear Sir,

Re: Comments on draft *Telecommunications (Conduct of Public Hearings) Regulations* Consultation Document

Further to ECTEL's Consultation Document, C&W is pleased to provide its comments on the recommendation to the NTRCs on revised draft *Telecommunications (Conduct of Public Hearings) Regulations* (the "Regulations"). The following comments are filed on behalf of each of the Cable & Wireless operating companies in the ECTEL Member States (Cable & Wireless St. Kitts and Nevis Limited, Cable & Wireless Dominica Limited, Cable & Wireless (St. Lucia) Limited, Cable & Wireless St. Vincent and the Grenadines Limited, and Cable & Wireless Grenada Limited).

In order to make our comments as easy to read as possible, C&W has made its comments directly on the regulations themselves. As always, failure to address a particular issue or matter should not be construed as agreement on that issue or matter.

Yours truly,

Geoff Batstone
Vice President Legal and Regulatory, Eastern Caribbean

c.c. Chief Executives, C&W
NTRCs

**[MEMBER STATE]
[SR&O]**

200[-] No.[-]

(Gazetted [date])

IN EXERCISE of the powers conferred by section [-] of the Telecommunications Act, 200[-], the Minister makes the following Regulations:

TELECOMMUNICATIONS (CONDUCT OF PUBLIC HEARINGS) REGULATIONS 200[-]

Citation

1. These Regulations may be cited as the Telecommunications (Conduct of Public Hearings) Regulations.

Commencement

2. These Regulations shall come into force on the date of publication in the Gazette.

Interpretation

3. (1) In these Regulations unless the context otherwise require—

“Act” means the Telecommunications Act No. [-] of 200[-];

“applicant” means a person that applied for the holding of a hearing:

- (a) by or on behalf of a complainant;
- (b) by or on behalf of a telecommunications provider;
- (c) on behalf of the Minister;
- (d) on any matter pertaining to the functions of the Commission.

“applicant” is used in a corporate context in the regulation to mean the entity applying to have a matter heard. However, by defining applicant to mean the person who applies *on behalf of* that entity, the rights and obligations in the regulation are put on that person as opposed to the entity. For example, while a particular person will have to sign an application from a telecommunications provider, the actual applicant is the telecommunications provider and not the person signing the application. This could be changed to say “‘applicant’ means a person that applies for the holding of a hearing. For the purposes of this

definition a person includes a complainant, a telecommunications provider, . . .”

“complainant” means an aggrieved party who files a statement of complaint under Regulation 4 of the Telecommunications (Dispute Resolution) Regulations 200[-];

“documents” means records made or stored in physical or electronic form and include written, electronic, audiotape, videotape, digital reproductions, photography, maps, graphs, microfiche or any other data and information recorded or shared by means of any similar device;

“hearing” means a public hearing provided for under section 11 of the Act.

“interested person” means a person who has an interest in the outcome of an inquiry for a purpose that is neither frivolous nor vexatious;

“intervenor” means a person who files an intervention pursuant to regulation [-];C&W believes this should refer to a person who has been granted intervenor status pursuant to regulation 12. The current wording assumes that a person gains intervenor status merely by filing an intervention, whereas regulation 12 provides that the Commission determines this.

“Minister” means the Minister responsible for telecommunications;

“party” means an applicant , a respondent or an intervenor;

“record” means a written transcript of the hearing including all exhibits and written testimony submitted at the hearing, the findings of fact and conclusions of the Presiding Officer, any facts officially noticed together with the decision or order of the Commission.

(2) Terms used in these Regulations shall have the meanings assigned to them under the Act.

Scope and applicability

4. (1) These Regulations:

- (a) govern all public hearings before the National Telecommunications Regulatory Commission; and
- (b) apply to a hearing of the Commission when constituted as a Tribunal to hear disputes under the Act and the

Telecommunications (Dispute Resolution) Regulations
200[-].

- (2) To the extent that these Regulations are inconsistent with a particular regulation of the Telecommunications (Dispute Resolution) Regulations 200[-], the provisions of the Telecommunications (Dispute Resolution) Regulations shall prevail.

Power of Commission to Dispense with the Procedure under these Regulations

5. (1) In accordance with paragraph 15 of Part 3 of the Telecommunications (Dispute Resolution) Regulations 200[-], the Commission when sitting as a Tribunal to hear disputes, may regulate its own procedure.[The Telecommunications (Dispute Resolution) Regulations already cover this off. As such, it would appear unnecessary to include this statement in this Regulation. It may add ambiguity as to what applies to proceedings under this Regulation].
- (2) At any time during a hearing, the Commission may vary or dispense with the procedure set out in these Regulations where it determines ~~it that such variance or dispensation~~ is necessary to ensure that the hearing is fair, timely and cost effective.
- (3) If the Commission varies or dispenses with the procedure set out in these Regulations, it shall inform the parties without delay and issue direction concerning the procedure to be followed at the hearing.[In many cases, the Commission will have to seek the input of the parties before varying or dispensing with procedures. Whether this is necessary will depend on factors like the nature of the issues under consideration, the potential impact on the parties, etc., but in every case, the Commission will be bound by the rules of natural justice and procedural fairness. C&W suggests that this provision be amended to address this.]

Quorum

6. (1) Three members of the Commission shall constitute a quorum for any hearing under this Regulation.

- (2) Where the Commission sits as a tribunal for the purposes of determining matters under section *[Dispute Resolution]* of the Act, the quorum shall consist of the Chairperson and two other Commissioners nominated by the Chairperson for the purpose of participating in a hearing.[As above, is this necessary given that it is already covered off in the Dispute Resolution Regulations?]

When to hold a public hearing

7. (1) A person may prepare and submit argument and evidence in the form of an application to the Commission requesting a hearing on the application.[Presumably, it is open to any person to request that the Commission take actions within its jurisdiction. The exact form of how this is to be done is not specified and could be if deemed necessary. Accordingly, it should not be necessary to state that a person can submit an application to the Commission. In C&W's view, the more relevant issue to be decided is whether a hearing is necessary on an application, and if so, what form that hearing will take. As such, we believe that this regulation could be condensed to state that where an application is received by the Commission, the Commission will consider whether a hearing is necessary, and the form that that hearing will take. There is a broad spectrum of types of hearings ranging from hearings of a quasi-judicial nature involving many of the procedures adopted by courts, to simple paper-based hearings in which the parties make submissions but an oral component is not necessary. The exact procedures needed will depend on such matters as the complexity and importance of the issues under consideration. The Regulations should incorporate enough flexibility to permit the Commission to specify a hearing procedure which is appropriate in the circumstances of each case.]
- (2) A complainant may apply to the Commission for assistance with the resolution of a dispute in accordance with the procedure set out in the Telecommunications (Dispute Resolution) Regulations 200[-].[Again, this would appear unnecessary, particularly as it is addressed in the Dispute Resolution regulations.]
- (3) The Commission shall:—
- (a) consider all requests for a hearing in a timely manner;
 - (b) in the case of a dispute, within 10 days of receipt of all materials submitted by the parties review the materials and notify the parties as to whether it will ~~of its decision~~

~~to sit as a tribunal to hear the dispute.~~[The Commission retains the discretion not to do this]

- (4) Where the Commission proposes to conduct a hearing the Commission shall:—
- (a) where the Commission has determined that an oral hearing is necessary, set the application down for hearing at a date and place determined by the Commission; and[before deciding to do this, the Commission will have had to decide that an oral hearing is necessary. In many cases it will not be. C&W suggests that a new paragraph (a) be inserted stating: “(a) indicate the procedure to be followed for the hearing;”. The existing paragraph (a) would become paragraph (b) and would then be modified as indicated.
 - (b) publish a notice of hearing in a newspaper of wide circulation in [Member State] and where applicable on the Commission’s website in accordance with the procedure set out in Regulation 9.[This could remain. However, assuming that “hearings” refers to more than just oral hearings, there should be a discretion not to publish notice of all hearings. Otherwise, the Commission may find that it incurs costs and effort which is not appropriate for small matters. These could be published on a website.]
- (5) The Commission may, on its own motion, hold public hearings pertaining to any of its functions under the Act.

Applications

8. (1) An application ~~to the Commission referred to in Regulation 7(1)~~ shall be made in writing ~~or in hardcopy or an~~ electronic format [would an “electronic format” not still be in writing?] and shall be addressed to the Chairman of the Commission.[The proposed modifications would make this consistent with C&W’s comments above]
- (2) An application referred to in Regulation 7(2) shall be in the form prescribed in the Telecommunications (Dispute Resolution) Regulations 200[-].[If 7(2) is removed, this would also come out]
- (3) The application referred to in sub-regulation (1) shall be in a form satisfactory to the Commission and shall:—

- (a) set forth the name, address and telephone number of the applicant and his agent, where applicable;
 - (b) contain a clear and concise statement of the relevant facts, the grounds of the application and the nature of the order applied for or decision requested;
 - (c) be divided into paragraphs and numbered consecutively;
 - (d) contain a list of any documents that may be useful in explaining or supporting the application;
 - (e) be signed by the applicant;
 - (f) where the application is filed in paper format, be filed with the Commission in duplicate together with a copy of the documents described in paragraph (d).[this suggests that the documents are only required to be filed with a paper application, which should not be the case.]
- (4) Where the Commission is of the opinion that the application referred to in sub-regulation (1) does not comply with sub-regulation (3), the Commission shall notify the applicant of the deficiencies in the application and the application shall not be considered until it is in a form satisfactory to the Commission.

Notice of hearing

9. (1) A notice of an oral hearing shall state:—

- (a) the day on which the hearing will commence;
 - (b) the place where the hearing will be held;
 - (c) the nature of the matters to be heard at the hearing;
and
 - (d) the rights of persons in respect of the hearing, including the time for filing an intervention.
- (2) The notice shall be published in a newspaper of wide circulation and where applicable, on the Commission's website no less than 14 days before the date set for the commencement of the hearing.
- (3) Where a notice has been published any person may examine any application listed in the notice at the office of the Commission.

Pre-hearing conferences

10. The Commission may, on its own motion, or upon the request of a party direct the parties to attend a conference for:—

- (a) clarifying and simplifying issues;
- (b) admitting facts or verifying facts by affidavit;

- (c) discussing the use of documents of a public nature;
- (d) discussing the procedure to be followed at the hearing;
- (e) exchanging written submissions, exhibits and other material;
- (f) identifying submissions, documents or testimony that contains confidential information;
- (g) identifying who may be given access to confidential information;
- (h) determining the number of witnesses, or time for presenting evidence, rebutting evidence or cross examining;
- (i) discussing the use of electronic communication for the hearing including telecommunications and video conferences; or
- (j) dealing with any other relevant matter.

Presiding Officer

11. (1) The Presiding Officer at an oral hearing shall be:—

- (a) The Chairperson if willing to preside;
- (b) A Commissioner selected by the members present and sitting at the hearing.

(2) The Presiding Officer shall have authority to:—

- (a) require and administer oaths and affirmations;
- (b) rule upon issues of procedure and admissibility of evidence, where appropriate; [As noted in the introductory notes, administrative tribunals are not typically bound by traditional rules of evidence. The regulation should recognize somewhere that this is the case].
- (c) regulate the course of the hearings, set the time and place of continued hearings, and fix the time for the filing of evidence, briefs and other written submissions;
- (d) permit deviation from the procedural rules of the Commission insofar as compliance therewith is found to be impractical or unnecessary ~~or~~ and the change does not unduly prejudice any of the parties; and [As noted above, any decision as to the procedural aspects required in a hearing will have to respect the principles of natural justice and procedural fairness. A key consideration in this is the potential prejudice to the parties, and accordingly that should be a

Comment [g1]: One possible exception would be cases where the issues being considered are of a judicial nature.

consideration (although not necessarily the determinative consideration) in any such decision.]

- (e) take other actions, on behalf of the Commission consistent with these Regulations and any other applicable law that may be necessary for the orderly conduct of the hearing.

Intervenors

12. (1) An interested person who intends-wishes to intervene in a hearing shall file with the Commission and serve on every party a written application for leave to intervene stating:—

- (a) whether the person intends to appear at the hearing; and
- (b) where-how the person's interest justifies intervenor status;

(2) The application for intervention shall:—

- (a) describe the interest of the intervenor;
- (b) contain a clear and concise statement of the relevant facts and the grounds upon which the intervenor wishes to make an intervention;
- (c) be divided into paragraphs and numbered consecutively;
- (d) set forth the name, address and telephone number of the intervenor or his agent;
- (e) be signed by the intervenor;
- (f) contain a list of documents that may be useful in explaining or supporting the intervention;
- (g) be filed with the Commission together with a copy of the documents described in paragraph (f).

(3) The Commission in determining whether to grant intervenor status and the opportunity to appear before it, shall provide the parties the opportunity to make representations on whether the person should be granted intervenor status and take into account any other relevant matter including:—

- (a) the nature of the hearing;
- (b) the issues;
- (c) whether the person has a genuine interest in the issue;
- (d) the likelihood of the person being able to make a useful and different contribution to the Commission's understanding of the issues; and

(e) any delay to the proceedings.

(4) The Commission shall notify all parties and the interested person of its decision with respect to an application for leave to intervene.

(5) The Commission may direct a party to provide an intervenor with information or evidence that it provided to the Commission prior to the filing of the application for leave to intervene.

Interested Parties

13. The Commission may allow any other interested person to participate in a more limited manner as the Commission may determine.

Service of Documents

14. (1) A document that is required by these Regulations to be served or filed may be served or filed by hand, mail or any other means in which the recipient is capable of receiving it, including electronic format.

(2) A person who serves a document electronically shall, within 7 days after the date of service, provide a paper copy of the document to the recipient, unless the recipient waives that right in writing.

(3) A document under these Regulations is deemed to be served, in the case of:—

(a) facsimile transmission:

- (i) if it is transmitted on a business day before 4.00 pm, on the day of transmission;
- (ii) in any other case, the first business day after the day of transmission;

(b) personal service, on the day of delivery;

(c) service by mail, when it is deposited in the post office; [This may not work in practice. If the post office takes a long time to deliver the document, the person receiving it may find themselves in a position where they have been deemed to have received the document long before they have actually received it, and the period for reply has since elapsed. C&W suggests that a period of several days after the document is deposited with the post office be used, as is the case in (d) below.]

(d) any other electronic means, on the second business day after the day on which it was transmitted. [In this case, unless there is some kind of transmission failure, it is likely that the document will be received

instantaneously or close to instantaneously. C&W suggests that a rule like that in (a) would be appropriate for electronic transmission.]

- (4) A document is filed on the day when it is received at the office of the Commission.

Representation

15. A party may be represented at a hearing by legal counsel.

The Hearing

16. (1) The Presiding Officer shall open an oral ~~the~~ hearing by describing in general terms the purposes of the hearing and the general procedure governing its conduct.

- (2) The order of appearance shall be:—
- (a) the applicant;
 - (b) the respondent, where applicable;
 - (c) the intervenors;
 - (d) interested persons; where the Commission determines that an interested person may make representation; and
 - (e) the applicant in reply.

[In some hearings there may not be a clear applicant per se. For example, if a hearing is called by the Commission to get parties' views on a matter of policy, there will be no applicant. In these cases, it may be appropriate to allow each party to reply to the submissions of the other parties to ensure that each party is able to meet the case against it.]

- (3) The Commission may accept evidence in person, in writing or in electronic form including by teleconference or video-conference.
- (4) Subject to paragraph 12 of Part 3 of the Telecommunications (Dispute Resolution) Regulations 200[-], no evidence may be introduced at an oral public hearing except in support of documents contained in an application, statement of complaint, reply, intervention, as the case may be, or in support of documents or material filed in support thereof.[Once again, this provision blurs the lines between hearings under the Dispute Resolution regulations and hearings under this regulation by importing procedures from that regulation (which deals specifically with disputes) into this one (which deals with other matters requiring a hearing). C&W submits that it would be clearer to state the exception here as well to avoid questions as to which regulation applies in which cases.]

- (5) Notwithstanding sub-regulation (4), where the Commission hears a dispute the provision of paragraph 12 of the Telecommunications (Dispute Resolution) Regulation 200[-] shall apply to the admissibility of evidence. [This should be clear as the Dispute Resolution regulations should already apply to disputes.]

Witnesses

17. (1) The Commission may upon its own motion or at the request of a party, issue a witness summons to compel the attendance of any person at the hearing as a witness.
 - (2) A witness summons shall bear the name of the Commission, the name of the issuing officer, and shall command the person to whom it is directed to attend and give testimony or produce specified documents or things at a designated time and place.
 - (3) Service of the witness summons shall be made by delivering a copy of the witness summons to the person named in it.
 - (4) The person serving the witness summons shall make proof of service by having the person named in the witness summons endorse his name, date and time of service on a copy of the document and shall file the witness summons with the Presiding Officer.
 - (5) If any person refuses to obey a witness summons issued by the Commission under these Regulations, the Commission may apply to a Judge in chambers for an order compelling such person to comply with the requirement of the witness summons and such other relief as the law may allow.
 - (6) A witness shall testify at a hearing under oath or upon affirmation unless otherwise ordered by the Presiding Officer in his discretion.
 - (7) Any costs incidental to complying with a witness summons shall be borne by the party requesting the witness summons.

Expert Witnesses

18. (1) A party who intends to introduce the evidence of an expert witness shall, at least 14 days before the hearing begins serve a notice on all parties to the hearing and shall file the notice with the Commission.

- (2) A party on whom a notice is served and who wishes to use the evidence of an expert to rebut a matter set out in the notice shall at least 7 days before the hearing begins, serve a notice of the expert on all the parties and file the notice with the Commission.
- (3) A notice referred to in sub-regulations (1) and (2) shall include the qualifications of the expert and a full statement of the evidence to be presented. Wherever possible, expert evidence should be tendered prior to the oral hearing to allow other parties to understand it and to prepare their responses. The only obligation here is to notify the other parties that expert evidence will be provided. C&W believes that where a party wishes to introduce such evidence it should provide notice as early on as possible in the process in order that the procedure for the hearing (not just the oral portion) can be modified where required. This provision should therefore speak to this obligation]

Cross Examination

19. (1) Where the Commission concludes that it is necessary, aAt the conclusion of the testimony of each party, witness or interested person, the Commissioners, and the parties shall have the right of oral cross-examination. While cross-examination is a useful tool in many cases, it will not be necessary in all cases to adequately develop the record. For example, if the Commission is consulting on a policy matter, it is entirely possible that little will be gained by permitting each party the opportunity to cross-examine others. At the same time, however, cross-examination will be expensive and time-consuming. Cross-examination should be reserved for those situations where it is necessary, and the regulation should make this clear.
- (2) Where utilized, cCross examination shall be conducted in the following order:—
- (a) Commissioners may be permitted by the Presiding Officer to ask questions at any time;
 - (b) the applicant;
 - (c) the respondent;
 - (d) intervenors.
- (3) A person who has concluded his testimony cannot thereafter introduce further evidence except in rebuttal.

- (4) Rebuttal evidence shall be directed only to matters brought out by another person at the hearing.
- (5) All parties shall have the right to redirect and re-cross examine any party or witness on matters brought out in the last examination by any other person.

Public Nature of Hearings

20. All hearings are public and shall be held in a place accessible to the public.

Confidential Information

21. (1) The Commission may, at the request of a party, treat as confidential the following material or information:—
- (a) financial statements of a party;
 - (b) evidence of financial capacity of any person participating in an application;
 - (c) the names of prospective employees of a party;
 - (d) any other material or information the Commission determines is confidential information.
- (2) Notwithstanding regulation 20, upon application, the Presiding Officer may make an order to conduct hearings, or a portion of a hearing, in camera.
- (3) A claim for confidentiality made in connection with any material or information shall be accompanied by reasons for the claim of confidentiality, and where it is alleged that specific direct harm may occur from a breach of confidentiality, sufficient details concerning the nature and extent of harm shall be provided.

Regulation of Certain Devices

22. (1) The placement and use of television cameras, tape recorders, microphones or similar devices at hearings may be regulated by the Presiding Officer in accordance with these Regulations.
- (2) The Commission may authorize the tape recording or live broadcasting of hearings by a designated media representative.
 - (3) Cameras and microphones shall be placed at pre-determined places in the hearing rooms.

- (4) Only fixed cameras along with lighting equipment, tape recording devices, micro-phones and other approved electronic equipment will be allowed in the hearing room.
- (5) No media interviews or reporting will be allowed in the hearing room.
- (6) All media representatives shall comply with the Presiding Officer's directives.

Adjournments

23. The Commission may at any time adjourn any proceeding before it.

Orders and Decisions

24. (1) Subject to section [Awards] of the Telecommunications Act, the Commission may approve the whole or any part of an application or grant such further or other relief, in addition to or in substitution for that applied for, as the Commission considers just and proper.
- (2) Subject to paragraph 13 of Part 3 of the Telecommunications (Dispute Resolution) Regulations 200[-], the Commission may give orally or in writing the reasons for its orders or decisions.[as above, C&W questions whether it is appropriate to cross-reference between these two regulations]
- (3) A decision of the Commission shall be effective on the day on which it is made or on such later date as may be stated in the decision.

Closure of Hearing

25. (1) After final closure of the hearing a record shall be compiled by the Commission.
- (2) The record shall be signed by the members of the Commission who participated in the hearings.
- (3) Copies of the record shall be made available for purchase at a price to be determined by the Commission.
- (4) The record shall also be made available for inspection by the public at a nominal cost to be determined by the Commission.

Questions of Law

26. Where any question of law arises, the Commission may, where appropriate, forward the issue and documentation to ECTEL for its consideration and advice.

Obligations based on form

27. No proceedings shall be defeated by any objection based only upon defects in form.

Staff of the Commission

28. (1) Where appropriate, references in these Regulations to the Commission include the staff of the Commission.[C&W is concerned about the breadth of this provision. Unless there is specific statutory authority for doing so, it is not possible for a statutory authority to delegate its substantive functions. While it will be appropriate to require that staff carry out administrative functions, all decisions must be taken by the Commission except where the governing Act permits the Commission to delegate such a decision to its staff. C&W is not aware of any language in the Act with this effect. While it is prefaced with the words “where appropriate”, this regulation could be read to mean that any obligation placed on the Commission could be exercised by the staff, which is clearly not the intent of the Act and regulations.]
- (2) The Commission may require its staff to provide assistance during the conduct of a hearing.[This goes without saying, unless assistance beyond the normal functions of staff is being considered.]
- (3) Where appropriate, the Commission may co-opt any person it considers necessary to assist in carrying out its functions at a hearing.[What does this mean? Can strangers be picked off the streets and required by law to work at the hearing? Can a party be asked to assist the Commission? The intent of this paragraph is not clear and requires further elaboration.]

Made this [-] day of [-] 2008.

Minister of Telecommunications