

CONSULTATION DOCUMENT

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

To the National Telecommunications Regulatory Commission to consult on Draft Revised Telecommunications (Interconnection) Regulations

Comment on Comments

June 5, 2008

1. On May 5th 2008, the National Telecommunications Regulatory Commission received a submission from ECTEL containing ECTEL's recommendation for Draft Telecommunications (Interconnection) Regulations for [Member States].
2. A copy of the Consultation Document on "*Telecommunications (Interconnection) 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 May 5th 2008 to June 2nd 2008.
4. ECTEL received comments from:
 - a. Cable & Wireless
 - b. Digicel
 - c. Karib Cable / Kelcom International
 - d. NTRC Dominica
 - e. NTRC St. Lucia
 - f. NTRC St. Vincent and the Grenadines
5. These initial comments are hereto attached and ECTEL now invites comment to these comments.
6. The Comment on Comments period will run from 5th June 2008 to 26th June 2008.
7. Following the Comment on Comments period, the Directorate will consider all comments received and then present revised Regulations to the ECTEL Council of Ministers with a recommendation for their adoption in the ECTEL Member States.

8. All responses to this Consultative Document should be written and sent by post, fax or email **no later than 4: 30 pm on June 26th, 2008** to: -

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The Managing Director
ECTEL
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St. Lucia

June 2nd, 2008

Dear Sir,

Re: Comments on draft Revised *Telecommunications (Interconnection) Regulations*

Further to ECTEL's Consultation Document, C&W is pleased to provide its comments on the recommendation to the NTRCs on revised draft *Telecommunications (Interconnection) 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]

STATUTORY RULES AND ORDERS No. [-] of 200[-]

(Gazette No....of 200[-])

REGULATIONS

Made by the Minister under section [-] of the Telecommunications Act, 200[-] (Act No. [-] of 200[-]).

Citation

1. These Regulations may be cited as the Telecommunications (Interconnection) Regulations, 200[-].

Commencement

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

Interpretation

3. In these Regulations:

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

“**access deficit**” means the difference between revenues of the incumbent fixed public network operator from domestic telecommunications services whose prices are regulated and the costs incurred by that operator to provide those services; [C&W believes that this definition is too broad in its inclusion of all prices from regulated services. There are regulated domestic telecommunications services that are not dependent on the access line, (for example, leased lines) which should not therefore contribute to the funding the access deficit. A more typical and appropriate definition would be as follows:

“**access deficit**” means the difference between revenues of the incumbent fixed public network operator from providing access lines whose prices are regulated and the costs incurred by that operator to provide those services.

C&W submits that this is a more appropriate definition and accordingly it should be substituted for that in the draft Regulations.]

“**Calling Line Identity**” means the information generated by a telecommunications network that identifies the calling number; [C&W believes that this definition is overly broad as information which identifies the calling number but which is not the Calling Line Identity will be generated by a telecom network. For example, a billing record may be information which identifies the calling number, but it is not CLI as that term is used

in the regulations. C&W and other operators have agreed on the following definition in interconnection agreements which is more technical, but which more accurately describes CLI:

The SS7 out of band signalling parameter which automatically transmits the directory number associated with the Subscriber Connection from which a Call is generated, to the called customer.

C&W believes that it would be appropriate to use this definition or one like it to avoid unintended interpretations of the requirement to pass CLI in Regulation 15.]

“call termination” means the completion by a public network operator of a call that is originated on one public telecommunications network and handed to the operator for termination on the operator’s network~~terminated on another~~; [C&W believes that it would be prudent to narrow this definition as suggested above. Regulation 16 states that interconnection agreements must contain provisions providing for “call termination”. However, while the agreements will provide for the transiting of calls to other networks, they will only provide for the “termination” of calls on the networks of the parties to the agreement. If the definition is not narrowed, it could be read to mean that the interconnection agreement has to include provisions for termination on all networks.]

“cost-oriented” means those charges equal to the long-run incremental cost of an efficient provider plus an appropriate portion of shared and common costs;

“dominant interconnection provider” means a public network operator who is designated by the Commission as dominant for the purposes of providing interconnection services under regulation 10;

“interconnecting operator” means a public network operator who requests interconnection from another public network operator under the Act;

“interconnection provider” means a public telecommunication network operator who receives a request to provide interconnection under the Act;

“joining service” means a service consisting of a transmission facility connecting the points of presence of two public network operators, one of which may or may not be the provider of the joining service; [C&W does not understand the last part of this definition. If the joining service connects the networks of two public network operators, how could neither be a provider of that joining service? C&W requests clarification of the intent of the last clause. Further, while “point of presence” is defined to mean a “point of interconnection”, we believe it would be simpler to refer to points of interconnection in this definition as the joining service will, by its nature, run between points of interconnection. If that is done, there would be no need to have a separate definition for “point of presence” as the term is not used anywhere else in the regulation.]

“number portability” means the ability of a customer to retain the same telephone number on changing telecommunications providers;

“phased manner” means to reduce or increase gradually or in stages;

“point of interconnection” means thea locations where the exchange of telecommunications between the telecommunications network of an interconnection provider and the telecommunications network of an interconnecting operator takes place; [As joining service is defined, there will be two points of interconnection, one on the interconnection provider’s network and one on the network of the interconnecting operator.]

“point of presence” means a point of interconnection designated by a public network operator at which it will provide and receive interconnection services; [See comments in definition of “joining service”].

“public network operator” means a person who provides telecommunications ~~between two parties neither of whom is affiliated with such person~~ to the public [in some cases a public network operator will provide telecommunications to persons affiliated with it – if Digicel in St. Lucia provides telecommunications between a person in St. Lucia and a Digicel office in Dominica, would that make it not a public network operator? The essence of being a public network operator as opposed to a private one is providing service to the public. The term public does not have to be defined within this definition or if it does, it must be done differently than set out above.], accepts the rights and obligations of public network operators and is licensed to operate a public telecommunications network;

“public telecommunications network” means a telecommunications network used for the provision of telecommunications services to the public;

“reference interconnection offer” means a document setting out the terms on which the dominant interconnection provider proposes to offer interconnection services which includes a description of the interconnection [and other services] offered to interconnecting operators, defines the rights and obligations of both parties, and specifies the charges and other terms and conditions on which those services are offered (“reference interconnection offer provider” shall have a corresponding meaning); [C&W believes that the bracketed words should be removed from this definition. This regulation deals with interconnection services, as should the reference interconnection offer. C&W provides services other than interconnection under separate agreements. The addition of other services into the RIO is unnecessary, would be time-consuming, and not strictly speaking an interconnection matter. In addition, the wholesale regulations speak to the obligation to offer those services, so there is no need to create an additional obligation here.]

“Register” means the register maintained pursuant to regulations 24, 25, 26 and 28;

“transit service” means a network service for carrying traffic between two public network operators that are unaffiliated with the provider of the transit service. [In theory, a provider could transit traffic to an affiliated party which is also a public network operator. It may be better to define this as a service for carrying traffic between two public network operators, where the traffic is passed over one of the providers’ network for ultimate termination on the network of a third party public network operator.]

Rights and obligations of public network operators

4. Public network operators have the following rights and obligations with respect to interconnection:

- a. A public network operator shall act in a manner that enables interconnection to be established as soon as reasonably practicable.
- b. A public network operator is required to promptly provide interconnection at cost-oriented rates to any other public network operator that requests it.
- c. A public network operator is entitled to promptly receive interconnection at cost-oriented rates from any other public network operator.
- d. An interconnecting operator shall provide timely forecasts of usage to the interconnection provider and shall be required to cover the costs that the interconnection provider incurs to meet forecasted needs even if the forecasted traffic fails to materialize.
- e. A public network operator shall configure ~~their-its~~ network to enable –
 - (i) transmission; and
 - (ii) switching or routing,of voice, data and images over ~~their-its~~ networks.
- f. The interconnection provider and the interconnecting operator shall exchange signaling information using standard ~~common-channel~~ signaling systems. [It may be wise to make this slightly more general in the event that different types of signaling are used in the future.]
- g. A public network operator is required to provide call-termination services to any other public network operator that requests them.
- h. A public network operator shall provide to another public network operator with which it is interconnected ~~interconnecting operator~~ written notice of any breach of an interconnection agreement and a reasonable period of time to cure the breach before terminating an interconnection agreement in accordance with the procedure set out in regulation 23. [This obligation should apply to both parties to an interconnection.]
- i. A public network operator shall make it possible for ~~their-its~~ customers to complete international calls using public network operators of their choice,

and such choice shall be available on a call-by-call basis, with the call being completed without the requirement either of second dial tone or manual intervention.[C&W has a number of concerns with this provision which will mandate indirect access. To begin with, the language of the clause is contradictory; on the one hand it seems to suggest call-by-call indirect access which is a form of carrier selection, but then states that the call must be completed without the requirement of either a second dial tone or manual intervention which suggests carrier pre-selection. Without knowing which form of indirect access is being imposed, it is difficult to provide comments in response. C&W notes that there would be different cost and operational implications associated with each form.

Regardless, C&W believes that indirect access is not necessary in the ECTEL Member States at this time. Rigorous competition in the international market already exists between mobile operators, and between mobile and fixed operations (given that the rates are the same on both networks). To date, no analysis has been done to identify a market failure in the international telecommunications market which would necessitate the introduction of indirect access. If there was such a failure, ECTEL and the NTRCs could then consider whether indirect access is the best tool to address that failure or whether there are other, more effective ways to do so – however, without engaging first in that assessment, ECTEL and the NTRCs risk imposing costs and implementing policies to fix a problem which does not need fixing. Further, even if it can be shown that current competition on international rates is not sufficient, it would still be important to determine whether the benefits of introducing indirect access outweigh the costs associated with it. It is only once these questions have been answered that a determination as to whether indirect access should be implemented can be taken.

As noted above, C&W believes that the market for international services is sufficiently competitive. C&W believes that no party holds a dominant position in this market – that is, no operator enjoys a position of economic strength allowing it to behave to an appreciable extent independently of competitors, customers and ultimately consumers. If an operator does not price competitively in international services, customers will switch to other providers (there is anecdotal evidence, for example, that mobile customers with more than one handset routinely switch handsets to take advantage of promotional pricing on international calling). Competition from Digicel currently constrains C&W's pricing of international calls on both the fixed and mobile networks as fixed users would use a mobile phone to call internationally if the rates were lower. C&W does not believe, therefore, that it – or anyone else – holds a dominant position in this market.

C&W did not have sufficient time to put together an analysis of price decreases in the international telecommunications market. However, it is clear that prices have decreased substantially since the introduction of competition in this market, and continue to decrease (although not at the same speed as was previously the case immediately after liberalization). This is the type of information which could be developed to assist ECTEL and the NTRCs in an investigation of whether indirect access is necessary.

Without prejudice to C&W's belief that ECTEL and the NTRCs need to conduct a full market analysis and assessment of existing policies, C&W would like to offer the following comments on the likely costs and benefits of mandating indirect access. C&W notes, as an initial point, that the type of indirect access being considered is critical. It is absolutely vital that any cost benefit analysis take into account the different types of indirect access and how they may offer different net benefits.

For example, carrier pre-selection ("CPS") may appear to offer greater benefits to customers than call-by-call selection, as customers will not need to dial an access code before each international call. Instead they will have made their choice of provider for all their international calls beforehand. This may be the best option for customers who only dial a small number of destinations and can readily ascertain which operator offers the best tariffs for that mix of routes. However, as the number of routes to be dialed increases, there is a greater likelihood that some routes will be offered at higher prices than are available from other operators. In such circumstances, the customer may find it is more beneficial to have call-by-call selection.

The costs of each method of indirect access are also likely to differ. Costs to the providers of indirect access can be categorized in terms of the following (non-exhaustive) types :

- Network costs – for example, the cost of modifying switches so that they are able to recognize carrier routing prefixes and send the call to the appropriate international operator. C&W has not investigated in detail what this cost would amount to, but believe it could be substantial. There are five fixed and one mobile switches across the ECTEL Member States which would need to be updated.
- Information system and Operations Support costs – including installation of systems to record the customer's pre-selection choice; automated provisioning systems to change Carrier

Identification Codes (CICs) on customer request; and systems to facilitate the exchange of information between operators for billing and customer services purposes. These costs are likely to be very substantial, particularly if considered on a per subscriber basis given the relatively low number of subscribers across the ECTEL Member States.

- Administrative costs – for example, to cover the introduction and implementation of procedures for complying with any mandate to offer indirect access. These would include the costs of maintaining customer records, administering the churn process, staff training and generally developing procedures for complying with a pre-selection requirement. There would also be costs associated with agreeing, specifying, developing, testing and billing modifications prior to ready-for-service date.

- Establishing usage monitoring facilities/processes & procedures in order to safeguard revenue

- Creating an IAA (Inter Administration Accounting) process

- Creating and maintaining a process for fraudulent or suspicious calls handling/investigation agreed between carriers

- Costs of dealing with the more complex technicalities for legal compliance for CALEA-type requests

In addition to these costs, any costs that may be borne by the regulator or consumer, such as the costs of informing customers on the options available and the costs of customer balloting, must be taken into account. ECTEL and/or the NTRCs may also face additional costs of regulation, which will need to be taken into account. These may be higher for some forms of indirect access than for others. For example, the introduction of CPS has often been associated with unethical practices such as “slamming”, whereby customers are switched to a new operator without their consent. If this occurs, there will be additional regulatory work required, which will in turn increase the costs.

There are other less quantitative costs that must be assessed as well. For example, ECTEL and the NTRCs should take account of the impact of

mandating indirect access on the incentives for investment in domestic infrastructure. If indirect access is mandated, the charges for indirect access would have to be set at a level that would allow access providers to make a normal economic return on their network investment. If the charges are set too low, this could discourage new investment, and could also result in degradation of access infrastructure.

Finally, in conducting its cost benefit analysis, ECTEL and the NTRCs should factor in the likely take-up of the service (which may differ depending on the form that indirect access takes). If take-up is likely to be low then it is questionable whether valuable resources – in terms of time and money – should be allocated to its implementation. A low level of take-up could also mean that the network operators required to implement indirect access may not be able to recover the full costs of the additional investment needed to facilitate indirect access.

C&W notes that the Regulation does not include any timelines for the introduction of indirect access, or for the completion of critical processes. As highlighted above, the introduction of indirect access would require operators to undertake software upgrades to their switches and to introduce a series of other processes to administer and implement requests. ECTEL and the NTRCs would need to consider numbering issues such as the assignment of Carrier Identification Codes (CICs) and Carrier Access Codes (CACs). It is likely that some processes – especially relating to numbering issues – may require further consultation.

That such processes can take a significant amount of time to resolve has been recognised by other regulators. For example, when the UK regulator Oftel (now part of Ofcom) was implementing CPS it stated that:

“...the introduction of CPS into BT’s network requires a substantial systems software upgrade....in Oftel’s view there would be insufficient time between the end of December 1997 when an EU wide policy of CPS was adopted by the Council and 1 January 2000 when the CPS service must be in place, to specify, design, produce, install and test the necessary network developments..”¹

In fact, Oftel had been involved in discussions with all stakeholders for six months before the consultation started, which involved several different groups being established to look at the wide range of issues associated with implementing indirect access. These groups included a Process Group,

¹ Oftel, Implementation of Carrier Preselection in the UK, February 1999

which considered the various inter-operator procedures that needed to be put in place, and a Consumer Group, to look at consumer-related issues.

This suggests to C&W that there will be the need for a range of consultations before indirect access could be implemented. For example, C&W would suggest that an industry working group would need to be established to develop the appropriate inter-carrier customer transfer, billing and other processes. (Although the need for this may not be so great if ECTEL and the NTRCs were to decide that only call-by-call indirect access should be mandated, as opposed to CPS.)

Given that there will inevitably be different interests within any industry group set up for this purpose, there would also need to be a process in place for resolving any issues that could not be agreed between the carriers themselves. This may mean that any unresolved issues would have to be escalated to the NTRCs. Alternatively, the industry group could be set up in such a way as to minimise the potential for such disputes. For example, in Canada the approach adopted is to set up a “committee model”, whereby the industry working groups are chaired by CRTC² representatives, in an attempt to facilitate consensus solutions. If consensus on an issue is achieved, it is then submitted to the regulator for review and, where appropriate, approval. Once approved, it becomes a determination by the regulator, which carries all the powers of any other determination made by the regulator. Where the industry group is unable to reach a consensus on a particular issue, the industry can refer it to the regulator to make a determination. Naturally, the additional costs to ECTEL and the NTRCs of their involvement as an arbitrator will need to be taken into account in the cost benefit analysis.

The industry working group(s) could also be used to agree the timeframes under which indirect access could be introduced. These timeframes would need to take account of the real and practical issues associated with the administrative requirements for implementing indirect access, which will of course vary depending on the type of indirect access mandated. A system of call-by-call indirect access would be quicker to implement than a system of CPS, which would require agreement on billing solutions, customer provisioning processes, etc.

As noted above, C&W believes submits that indirect access is not necessary. However, even before that decision can be made, C&W believes that an investigation is required. If it is concluded that the

² CRTC is the Canadian Radio Television and Telecommunications Commission

international market is not sufficiently competitive and that some action must be taken, consideration should be given to best possible approach and whether the benefits of a particular solution (like indirect access) outweigh the costs. If it is concluded that indirect access should be implemented, C&W believes that the points out lined above make it clear that operators must be consulted as to the particular form to be adopted. We accordingly believe that this regulation should be modified to state that public network operators “may” be required by the Commission to make indirect access available from their networks after a suitable consultation and conclusion that such access is required.

Obligations of dominant fixed public network operators

5. In addition to the obligations placed on all public network operators set out in regulation 5[this reference is incorrect – it should refer to regulation 4], a dominant fixed public network operator shall:
- (a) provide joining services to any other public network operator that requests them.
 - (b) provide usage-based transit services to other public network operators that request them. [C&W questions why this and the obligation in paragraph (a) would only apply to a dominant “fixed” public network operator. The regulations state in Regulation 17 that the interconnection agreement must provide for any to any connectivity regardless of the type of network provider. The above wording would permit non-fixed network operators to refuse to transit traffic to other networks. This could result in considerable inefficiency in circumstances where new entrant providers are interconnected with each other but not all are interconnected with the fixed network. C&W believes that this obligation should apply to all public network operators.]
 - (c) where it provides broadband Internet access as a retail service, it shall arrange to carry the broadband information to unaffiliated Internet service providers of the end user customer’s choice. [This obligation should only apply where the operator has also been declared dominant in the provision of broadband Internet access. The provision makes reference to a “dominant fixed public network operator” but it is entirely possible, and indeed likely, that while an operator may remain dominant in the provision of some fixed network services, it will not be dominant in the provision of broadband Internet services as these services can be provided over a number of different platforms. If this provision is to be included, it should be included as a separate obligation for an operator found to be

dominant in the market for broadband Internet access (assuming it is appropriate to define the market in that manner).]

Number Portability

6. Interconnection providers and interconnecting operators shall configure their networks to facilitate number portability between similar networks as and when directed by the Commission. C&W has no objection to this provision in theory. C&W notes that there are many issues associated with the implementation of number portability which will impact all operators. As such, it will be necessary to consult with all interested parties prior to making any decisions which will have a material impact on operators. The primary issues which are likely to require consultation are whether number portability is necessary, and if so, what form it should take.]

Non-discrimination and transparency

7. (1) When providing interconnection, a public network operator ~~an interconnection provider~~ shall act in accordance with the following principles:
- (a) interconnection shall be provided to the other interconnecting operators under no less favourable terms, rates and quality as the interconnection provider provides similar services for itself, its affiliates or both itself and its affiliates;
 - (b) interconnection shall be provided without regard to the types of users to be served or the types of services to be provided by the public network operator ~~interconnecting operator requesting interconnection~~;
 - (c) an interconnection provider shall provide on request information reasonably necessary to interconnecting operators considering interconnection, in order to facilitate the conclusion of any agreements. [C&W believes that this regulation should refer to both parties of an interconnection, rather than just the interconnection provider. The mere fact that one party was asked to interconnect as opposed to doing the asking should not determine whether it can act in a discriminatory fashion in providing interconnection. For interconnection to operate properly, both parties have to act in a non-discriminatory manner – this is the approach in the current interconnection agreements. C&W therefore suggests that the regulations be modified as above]
- (2) The information provided pursuant to sub-regulation 1 (b) shall include planned charges for implementation within the next six months following a request, unless otherwise agreed by the Commission. [There is no reference to information in sub-regulation 1(b)]
- (3) Once an interconnection provider concludes an interconnection agreement, it shall–

- (a) offer the terms and conditions of such an agreement to any other interconnecting operators requesting interconnection; and
 - (b) offer the terms and conditions of such an agreement, upon request, to any interconnecting operator with which it has an existing interconnection agreement, except to the extent that it can prove to the satisfaction of the Commission that it is not technically feasible to replicate the same level of quality of the interconnection or to provide interconnection under the same terms and conditions as it provides pursuant to such an agreement.
- (4) The Commission shall take such steps as may be necessary to ensure that the requirements under this regulation are being met.

Confidentiality

8. An interconnection provider or an interconnecting operator shall not knowingly communicate, or allow access to any confidential, proprietary, or competitive information (including but not limited to, customer orders, market forecasts, plans for development of new services, network plans, current or proposed business plans, and new customers) received from another interconnecting operator or an interconnection provider in respect of interconnection, except to the extent authorized by the interconnecting operator or interconnection provider in writing, or by the Act or these Regulations.

Access to Facilities

9. (1) Where access to any facilities is required to effect interconnection such access shall be provided on a non-discriminatory and equitable basis, including with respect to charges, location and other commercial matters, together with the interconnection.
- (2) Pending the conclusion of any agreement between parties to a negotiation for access to facilities, the Commission may, acting on the recommendation of ECTEL, issue such orders or directions for the sharing of any facilities or with respect to providing access to such facilities on an interim basis.

Dominant interconnection provider

10. (1) The Commission, acting on the recommendation of ECTEL, and by Notice or Order published in the Gazette, shall designate a public network operator as a dominant interconnection provider in a particular market or markets for telecommunications services if the Commission has determined, after a public consultation process, that a public network operator:
- (a) enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers in a market or markets for telecommunications services; and

- (b) it is in the long-term interests of consumers of telecommunications services that the public network operator be so designated.
- (2) The Commission shall undertake a consultation process which will commence with a preliminary determination of market dominance within a defined relevant market, and the designation of one or more dominant interconnection providers. [As described in more detail below, the first step in assessing dominance is to define the relevant market within which the assessment is to take place. Any preliminary determination of dominance will therefore also have to make a preliminary definition of the relevant market. As noted below, there are certain actions which must be taken if the market is to be properly defined and these would have to be done either before the preliminary definition is made (and shared with interested parties), or in the process which followed to assess whether the preliminary definition is correct.]
- (3) The Commission shall issue its final determination of market dominance no later than 60 days after its preliminary determination of dominance under subregulation 2. [C&W believes that 60 days will not be sufficient time in all cases to conclude an assessment of dominance. C&W acknowledges that in some cases, 60 days may be sufficient. However, for those circumstances where it is not, flexibility should be retained to specify a longer timeframe. C&W is concerned that if the Commission is mandated to make a decision in 60 days, in circumstances where 60 days is insufficient time there will be a temptation to make a conclusion based on insufficient information or simply “gut feel” as opposed to evidence. Decisions taken in that manner will not be sustainable.]

C&W’s experience is that all regulatory matters take time, but that this is one which can take more time. The steps which are typically taken in assessing market dominance are set out below. Looking solely at the logistics of getting a decision made in the current framework, sixty days seems unrealistic. It is unlikely, for instance, that there will be sufficient time to fit in all of the necessary steps: operators must generate the necessary information, comments must be filed and where necessary reply comments permitted, the Commission must review the proposal, ECTEL must also review it and make a recommendation, and a decision must be taken by the Commission (this in itself takes time to coordinate diaries, etc.). Experience to date with consultations suggests that this timeframe is too optimistic.

Moreover, assessment of dominance can be a fairly difficult task and this assessment should not be curtailed simply to meet an arbitrary deadline. In assessing whether a provider is dominant in a particular market, international practice suggests it will be necessary to take the following steps:

- 1) Define the relevant market, following internationally accepted principles which look primarily at demand side substitutes, but may also consider supply side substitutes where appropriate.

This process will need to involve discussions with customers and suppliers as only by doing this can a view on substitutability be properly reached and the boundaries of the relevant market established. It will be possible to

look for precedence by considering how markets have been defined elsewhere but it will not be sufficient to just take an existing market definition from another jurisdiction without considering whether the same set of circumstances that lead to that market definition also apply to the ECTEL Member States. In many cases it may be unrealistic to expect the market definition stage to be completed in less than 30 days. However, this remains a fundamental part of the dominance determination as it affects all subsequent stages of the assessment. If a market is incorrectly defined too narrowly someone may be declared dominant when in fact they are not; if it is defined too widely then no-one may be defined dominant when in fact a person does have the ability to act independently of competitors and consumers.

2) Identify the participants in that market and collect information on market shares.

Data on market shares will not always be readily available and information on sales of the product/service that belong to the defined market will need to be collected from market participants.

3) Examine other factors that will be relevant to the assessment of dominance, such as the extent of barriers to entry, existence of countervailing buying power, etc.

An assessment of dominance cannot be made purely on the basis of market shares but will need to consider other factors to establish the extent to which any provider can act independently of others. This will again require direct discussions with industry participants. It is unlikely that stages 2) to 3) could be completed in less than 30 days, especially given the need to consult on any preliminary conclusions on who may be dominant, so a timeframe of 60 days may be more realistic.

Finally, it is worth noting that most, if not all, of the NTRCs will not have any particular experience with this type of analysis. This will necessarily require them to come up to speed, which in turn will require further time.

- (4) Notwithstanding the foregoing sub-regulations, a public network operator may consent to being treated as a dominant interconnection provider solely for the purpose of providing interconnection and filing a reference interconnection offer at the time it files a reference interconnection offer.

Publication of information

11. (1) The Commission shall have available, for the use of the general public, documentation on interconnection that is adequate and current.

- (2) The Commission shall use any medium that it considers appropriate to inform the public of the documentation available pursuant to sub-regulation (1) of this Regulation.
- (3) The Commission may impose an administrative fee for providing the documentation to any person.

Rate structure

12. (1) The Commission shall, acting on the recommendation of ECTEL, determine upon its own motion or upon an application by any person, the interconnection rate of any person who provides or offers to provide interconnection.
- (2) Interconnection rates shall be cost-oriented and imposed in a transparent manner and shall identify clearly:
 - (a) charges for interconnection services; and
 - (b) any contribution to the access deficit of the interconnection provider where applicable.
- (3) Where an interconnection agreement is negotiated before the Commission has determined any rates, or where, after the conclusion of any interconnection agreement, the Commission establishes new rates for interconnection for any reason, the agreement shall, where appropriate, be amended by the parties to comply with such rates as may subsequently be determined. [The use of the phrase “where appropriate” imparts some ambiguity – it would be appropriate to indicate who makes that determination.]
- (4) Notwithstanding sub-regulation (2), the Commission may impose cost-oriented rates in a phased manner and on such terms and conditions as may be determined by the Commission, acting on the recommendation of ECTEL.

Reference interconnection offer

13. (1) Each dominant interconnection provider requested to publish a reference interconnection offer shall publish such an offer within sixty (60) days of its receipt of such request by the Commission.
- (2) A reference interconnection offer shall make available to interconnecting operators those services and network elements necessary for the provision of competing retail services. [C&W believes that this statement is too broad. As currently formulated, it could be read to mean that the dominant interconnection provider needs to provide services and network elements for any retail service whereas this should not be the case. An operator should not be required to provide the underlying elements for a retail service offering where it is not dominant in the provision of those elements, and where the retail service can be duplicated in a manner which does not require the provider’s services. In addition, C&W repeats its comments in respect of the definition of Reference

Interconnection Offer to the effect that services other than interconnection should be dealt with outside of the RIO.]

- (3) The reference interconnection offer provider may set different rates, terms and conditions for different interconnection services, where such differences can be objectively justified and do not result in the unfair distortion of competition.
- (4) The reference interconnection offer provider shall apply the appropriate interconnection tariffs, terms and conditions when providing interconnection for its own services or those of its affiliates, subsidiaries or partners.
- (5) The charges of the reference interconnection offer shall be sufficiently unbundled to ensure that the interconnecting operator requesting interconnection is not required to pay for services not related to the service requested.
- (6) Interconnection rates set out in the reference interconnection offer shall be cost-oriented.
- (7) The reference interconnection offer shall contain specific provisions for dispute resolution procedures including the appropriate contact persons whose names and other contact information shall be updated at least quarterly, precise time frames for resolution of complaints, clear and concise escalation procedures that allow for prompt resolution of disputed issues and rules that shall be used for arbitrating any unresolved issues.
- (8) The Commission shall have the authority to ensure that a reference interconnection offer is compliant with the Act and Regulations and contains rates that are cost-oriented.

Payment for interconnection

14. An interconnecting operator shall pay for the investment, operations and maintenance expenses of the facilities necessary to reach the point or points of interconnection.

Calling line identity

15. Every interconnecting operator and interconnection provider shall provide upon request to each other, the Calling Line Identity and all necessary signaling data, in accordance with accepted international standards and any technical standards set by and published by the Commission from time to time.

Form and contents of interconnection agreements

16. (1) All interconnection agreements and reference interconnection offers shall be in writing and the following matters shall be specified in those agreements except where a particular matter is irrelevant to the specific form of the interconnection requested:
 - (a) access to ancillary, supplementary and advanced services;
 - (b) adequate service levels including the remedies for any failure to meet those service levels;

- (c) a provision that deals with regulatory change, including determinations by the Commission;
- (d) duration and renegotiation of interconnection agreements;
- (e) forecasting, ordering, provisioning and testing procedures;
- (f) dispute resolution procedures, including identification of points of contact, time frames and an escalation process;
- (g) geographical and technical characteristics and locations of the points of interconnection;
- (h) information handling and confidentiality provisions;
- (i) intellectual property rights;
- (j) measures anticipated for avoiding interference or damage to the networks of the parties involved or third parties;
- (k) national and international appropriate indexes for service quality; [\[Is this not already covered off in \(b\)?\]](#)
- (l) procedures in the event of alterations being proposed to the network or service offerings of one of the parties;
- (m) provisions for the formation of appropriate working groups to discuss matters relating to interconnection and to resolve any disputes;
- (n) provision of network information;
- (o) technical specifications and standards;
- (p) terms of payment, including billing and settlement procedures;
- (q) the procedures to detect and repair faults, as well as an estimate of acceptable average indexes for detection and repair times;
- (r) the scope and description of the interconnection services to be provided;
- (s) the technical characteristics of all the main and auxiliary signals to be transmitted by the system and the technical conditions of the interfaces;
- (t) transmission of Calling Line Identity, where available to be transmitted;
- (u) provisions for call termination;
- (v) provisions for transit facilities;
- (w) provisions for joining links;
- (x) ways and procedures for the supply of other services that the parties agree to supply to each other, such as operation, administration, maintenance, emergency calls, operator assistance, automated information for use, information on directories, calling cards and intelligent network services;
- (y) the obligations and responsibilities of each party in the event that inadequate or defective equipment is connected to their respective networks; and

- (z) provisions for notice and for remedying any breach that may arise from the agreement; and
 - (aa) any other relevant issue.
- (2) Public network operators shall make available to interested parties, any reference interconnection offers and/or the portions of approved interconnection agreements that have not been designated as confidential by the Commission pursuant to regulation 26.

Connectivity

17. (1) An interconnection agreement shall include provision for any-to-any connectivity to allow any end-user of that network to communicate with any other end-user of public telecommunications services, regardless of whether the end-users are connected to the same, or different, networks.
- (2) An interconnection agreement shall include provision for the suspension, termination or amendment of the agreement in relation to provisions providing for any-to-any connectivity in the event of:
- (a) conduct that is illegal or interferes with the obligations of the interconnection provider, under the relevant licence, Act or Regulations;
 - (b) requirements that are not technically feasible;
 - (c) health or safety problems; or
 - (d) circumstances that pose an unreasonable risk to the integrity or security of the network or services of the interconnection provider, from which interconnection is requested.

[C&W notes that the phrase “in relation to provisions providing for any-to-any connectivity” has been added in this version of this sub-regulation. However, we believe that it qualifies the provision inappropriately. The circumstances in (a) to (d) are all instances where the entire interconnection arrangement, as opposed to the any-to-any connectivity provisions within it, should be subject to suspension, termination or amendment. It would not be easy to determine which provisions relate to “providing for any-to-any connectivity”, but in any event it seems unnecessary to make that distinction. Why would, for instance, the provisions on intellectual property rights survive conduct that is illegal, but not others? C&W believes that the phrase in question should be removed and this clause relocated in the regulation to the provision on termination.]

- (3) An interconnection agreement shall include a provision to allow for the suspension of interconnection where it is necessary to deal with a material

degradation of the interconnection provider's telecommunications network or services.

Non-inclusion

- 18.** An interconnection agreement shall not contain any provision, which has the effect of:
- (a) imposing any unfair or discriminatory penalty or disadvantage upon a person in the exercise of the person's right to be provided with interconnection;
 - (b) precluding or frustrating the exercise of a person's rights or privileges afforded under the Act or Regulations; and
 - (c) preventing a telecommunications provider from lawfully providing an interconnection service to another public network operator.

Notice of request

- 19.** (1) An interconnecting operator shall make a request for interconnection in writing to an interconnection provider and shall forward two copies of the written request to the Commission, one of which shall be addressed to ECTEL.
- (2) A request for interconnection shall contain at least the following information:
- (a) a copy of the licence of the interconnecting operator;
 - (b) the services with respect to which interconnection is sought;
 - (c) a declaration by the interconnecting operator that it accepts the rights and obligations of all public network operators as set out in regulation 4; and
 - (d) any other information as specified in the reference interconnection offer or reasonably required in order for the ~~telecommunications~~-interconnection provider to respond to that request.

Procedures for application

- 20.** (1) Within 30 days after the parties to a negotiation regarding interconnection have concluded an interconnection agreement, the parties shall submit the proposed agreement to the Commission for its approval.
- (2) The Commission shall approve the proposed interconnection agreement if it is satisfied that the proposed interconnection agreement is not inconsistent with the Act, these Regulations, the terms and conditions of the parties' licenses or other provisions of law.
- (3) The Commission shall consult with ECTEL for its advice and recommendations concerning the application, before determining whether to approve the proposed interconnection agreement.
- (4) The Commission may request additional information from the parties to a proposed interconnection agreement where it considers it necessary to further

evaluate the terms, conditions and charges contained in the proposed interconnection agreement.

- (5) Where the Commission notifies the parties that it does not consider that the proposed interconnection agreement or any part thereof should be approved, the parties to that agreement shall negotiate and submit a revised proposed interconnection agreement to the Commission, within a period determined by the Commission, having regard to the matters being the subject of the Commission's request.
- (6) Notwithstanding the Commission's right to approve an interconnection agreement, an interconnection agreement may provide that it will be effective upon submission to the Commission and will remain effective unless the Commission informs the parties to such agreement, within 60 days of its submission, or such longer period as the Commission may reasonably require, that it has not approved the agreement.
- (7) Sub-regulation 6 shall not apply where the parties to an interconnection negotiation have concluded an agreement after the effective date of any interim interconnection decision imposed by the Commission, pursuant to the procedures described in section 29 of these Regulations. [The purpose of this provision is not clear to C&W. Sub-regulation (6) states that an agreement can be effective in the period during which the Commission is evaluating it. Sub-regulation (7) states that sub-regulation (6) will not apply if the parties have concluded an agreement after the Commission has imposed an interim agreement. However, that agreement would still presumably have to be submitted to the Commission for approval – would it not be appropriate for the agreement to be effective pending approval by the Commission as contemplated by sub-regulation (6)?]

Prohibited Interconnection

21. A party shall not negotiate, propose to enter or enter into an interconnection agreement where the Commission determines and rules that:

- (a) the law prohibits the interconnection;
- (b) the interconnection would endanger life or safety, or damage the property or impair the quality of the services of the interconnection provider;
- (c) the licence issued to the interconnecting operator does not authorise the telecommunications services or the type of interconnection for which interconnection is requested;
- (d) the interconnecting operator does not qualify as a public network operator under these Regulations;
- (e) the requested interconnection is not technically feasible; or
- (f) the proposed interconnection is contrary to the law or the public interest.

[C&W believes that the phrase “where the Commission determines and rules” in the introductory sentence could be removed as it creates ambiguity as to whether a party can refuse interconnection without a Commission decision. If a situation has arisen where the law prohibits interconnection or interconnection would endanger life or safety, a provider will want to refuse interconnection without having to wait on a determination of the Commission. The phrase in question could be rewritten as “in circumstances where:”.]

Amendment or modification of interconnection agreement

22. (1) The parties to an interconnection agreement may amend or modify an agreement which has been approved by the Commission by:
- (a) giving not less than 30 days written notice prior to the effective date of the amendment or modification; and
 - (b) submitting a copy of the proposed amendment or modification to the Commission.
- (2) Within the 30 day notice period specified above, or such longer period as it may in any case determine, the Commission shall inform the parties if the agreement, as modified, is no longer approved. [This approach could create problems. If the Commission ultimately determines that an agreement as modified is “no longer approved”, there would be no approved interconnection agreement between the parties and they would be prohibited by law from providing interconnection services to one another. This could be fixed by requiring that amendments only be implemented after approval; however, it would be very important in those circumstances that approval or disapproval be given in a short period of time. If that approach is taken, the Commission should be required to render a decision within 30 days.]

Termination of an interconnection agreement

23. (1) Parties to an interconnection agreement shall provide at least 30 days notice to the Commission and to customers before terminating any interconnection agreement.
- (2) Such notice shall inform customers of the date upon which the essential service will be interrupted and shall also inform them of appropriate steps that can be taken to obtain that service from another operator.
- (3) Notwithstanding the right of the parties to terminate an interconnection agreement, the Commission, acting on the recommendation of ECTEL, shall have the authority to require any party to provide interconnection on such terms and conditions and at such rates as the Commission may deem appropriate, pending renewal or replacement of the interconnection agreement.

Register

24. (1) All copies of an interconnection agreement shall be kept in a Register maintained by the Commission in print form, or as a database in electronic medium, and in any other form determined by the Commission.

- (2) The Register shall be kept at the principal office of the Commission and Parts I and III of the Register shall be open to public inspection during normal working hours.
- (3) A copy of the Register shall be provided to ECTEL.

Contents of Register

25. The Register shall be maintained in 3 parts:

- (a) Part I containing a list of all interconnection agreements with the names of interconnection providers, service areas of their operation, and the dates of the execution of the agreements, and shall be opened for inspection by the public;
- (b) Part II containing portions of interconnection agreements which the Commission has directed to be kept confidential; and
- (c) Part III containing the contents of interconnection agreements excluding those directed by the Commission to be kept confidential which shall be open for inspection by the public.

Confidential portion of Register

- 26.** (1) The Commission may, on the request of any party to an interconnection agreement, direct that any part of the interconnection agreement be kept confidential.
- (2) Any request to keep part of an interconnection agreement confidential shall be accompanied by a non-confidential description of the relevant portion of the interconnection agreement.
 - (3) Where the Commission is satisfied that the interests of a telecommunications provider could be adversely affected if the relevant part were not kept confidential, it may direct that the relevant part of the interconnection agreement be kept confidential and the non-confidential description of that part shall be incorporated in Part III of the Register.
 - (4) Where the Commission declines the request of any public network operator to keep any portion of the interconnection agreement confidential, it shall record its reason for doing so and furnish a copy of its decision to the applicant.
 - (5) Before making any decision to disclose confidential information, the Commission shall afford a hearing to the public network operator who has requested the information be kept confidential.
 - (6) Whenever a public network operator requests that any part of an interconnection agreement should be kept confidential, that portion of the agreement shall remain confidential until the matter is determined by the Commission.

Format for separating information

27. (1) The Commission may, from time to time, determine the format for seeking disaggregated information of parts of an interconnection agreement relating to technical standards or specifications from the Register in respect of:
- (a) access charges;
 - (b) area of operation;
 - (c) consumer related information;
 - (d) downtimes;
 - (e) fault resolving procedures;
 - (f) interconnection;
 - (g) port charges;
 - (h) quality of service; and
 - (i) revenue-sharing arrangements.
- (2) Each licensee shall offer such assistance to the Commission in relation to disaggregating information pursuant to this Regulation as it may reasonably require.

Access to Register

28. (1) Parts I and III of the Register shall be open for inspection by the public on payment of an administrative fee and on the fulfillment of any other condition determined by the Commission.
- (2) Any person seeking inspection of Parts I or III of the Register shall apply to the officer designated by the Commission who shall allow inspection and also make available extracts of the relevant portions of the Register, on payment of the administrative fee.
- (3) The Commission may in accordance with sub-regulations (1) and (2) of this Regulation also allow access to Parts I and III of the Register through the website maintained by it.

Dispute resolution

29. (1) Notwithstanding anything to the contrary contained in any other law, where the parties to any proposed interconnection agreement are unable to agree on the terms thereof within 60 days from the date of a request for interconnection under regulation 19, either party may submit the matter to the Commission for resolution in accordance with such procedures as the Commission may adopt, acting on the recommendation of ECTEL.
- (2) Where no request has been received by the Commission after 60 days pursuant to sub-regulation (1), the Commission may, acting on its own motion, direct the parties to submit the matter for resolution.

- (3) Notwithstanding sub-regulation 2, the Commission may withhold from directing the parties for an additional 30 days where it is reasonably satisfied by both parties that an interconnection agreement is likely to be concluded within that time. [C&W believes that this provision is unnecessary. The way sub-regulation (3) is written, the Commission can intervene any time after the 60 day period. Accordingly, it should not be necessary to specify a power to put that date off. Further, if the Commission institutes a dispute resolution process, it should be within its procedural powers to suspend or terminate that process in the event that it appears that the parties will reach agreement.]
- (4) Any decision made by the Commission pursuant to sub-regulations (1) and (2) shall be binding on the parties pending agreement between them on the terms of any proposed interconnection agreement.
- (5) The decision by the Commission shall -
- (a) be made within 60 days from the date of a request under sub-regulation (1) or a direction by the Commission under sub-regulation (2), or such longer period as the Commission may in any case determine; and
 - (b) specify –
 - (i) the facilities and the network covered by the decision;
 - (ii) the extent of any network over which one party is required to carry information and communication messages including telecommunication messages to enable another party to supply services;
 - (iii) the points of, and the technical standards for, interconnection;
 - (iv) the rates of interconnection;
 - (v) the effective date of the decision; and
 - (vi) any other matters it deems appropriate.
- (6) Each party to the decision under sub-regulation 5 shall submit to the Commission a copy of an interim interconnection agreement implementing the terms and conditions of the decision, together with any other information the Commission may require.
- (7) An interim interconnection agreement shall cease to have effect on the proposed effective date of any interconnection agreement agreed between the parties and approved by the Commission.
- (8) The existence of an interim interconnection agreement shall in no way prejudice, vary, or diminish the right of the Commission to review, approve or reject any proposed interconnection agreement between the parties.
- (9) In the exercise of any of the functions conferred upon it by virtue of sub-regulations (1) – (7), the Commission shall have the authority, acting on the recommendation of ECTEL, to make such orders and issue such directions to the parties as it deems appropriate.

Disputes Regarding Existing Agreements

30. (1) In any dispute involving an approved interconnection agreement between parties thereto, ~~then,~~ notwithstanding the terms of any dispute resolution procedures described in the agreement, ~~the either parties~~ may refer the dispute to the Commission for a binding resolution in accordance with such procedures and upon such terms and conditions as the Commission, acting on the recommendation of ECTEL, may determine.
- (2) In referring any dispute under sub-regulation (1), the parties may request the Commission to issue an interim decision ~~on providing interconnection~~, pending the completion of any dispute settlement procedures described in the agreement, and the interim decision may address prices and any other terms or conditions for interconnection which the Commission, acting on the recommendation of ECTEL, may determine.
- (3) A decision by the Commission under sub-regulations (1) or (2) shall not replace, vary or otherwise amend the provisions relating to dispute resolution established in the interconnection agreement. [C&W would welcome further explanation of this sub-regulation. In particular, C&W is concerned about the overall interaction between this regulation and the dispute resolution provisions in an interconnection agreement. This regulation appears to contemplate parallel streams for dispute resolution which may not be productive. If a dispute is the subject of a binding resolution under the process in sub-regulation (1), a provider who is subject to the decision but not satisfied with it should not then be able to resile from that process and seek to invoke the existing dispute resolution provisions in the agreement. This would give a party two kicks at the same can and would unnecessarily draw out the process for resolving disputes. C&W believes that the parties should seek to resolve disputes between themselves first, including by invoking private dispute resolution if appropriate, before invoking the Commission's dispute resolution jurisdiction. However, where that jurisdiction is invoked, it would not be appropriate for a party to be able to also seek dispute resolution in another forum.]

The dispute resolution provisions in the current interconnection agreements require a period of direct negotiation between the parties following which, if there is no agreement, the parties must refer the dispute to private arbitration or to the Commission. If they are unable to agree on which of the two options to use, the dispute is referred to the Commission.]

Amendment Due to Dispute Resolution

31. Where a decision arising from a dispute resolution process modifies the terms and conditions on which interconnection is provided, the Commission may require an interconnection provider or operator to amend a relevant agreement in order to comply with the decision and submit the amended agreement to the Commission for approval.

Power of Referral

32. If an interconnection provider or operator refuses to obey any order, decision or direction by the Commission under these Regulations, the Commission may apply to a judge of the High Court for an order compelling the interconnection provider or operator to comply with the order, decision or direction of the Commission and for such costs and other relief as the Court may allow.

Repeal

33. The Telecommunications (Interconnection) Regulations [-] are hereby repealed.

Made this [-] day of [-], 200[-]

.....
Minister for Telecommunications

Digicel

The Bigger, Better Network.

**Response of
Digicel (St. Lucia) Limited
to the invitation by**

NTRC

**to comment on the Revised Telecommunications (Interconnection)
Regulations**

June 2, 2008

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1 INTRODUCTION

The document represents Digicel's written response to the Consultation from ECTEL on "TELECOMMUNICATIONS (INTERCONNECTION) REGULATIONS". Digicel wishes to thank ECTEL for being given this opportunity.

Generally, Digicel is in agreement with the draft regulations. However, we are categorically opposed to the proposed regulation on number portability (NP) and on call-by-call carrier selection for international calls. Digicel contends that neither of these regulations would pass a public interest test. Call-by-call carrier selection for international calls is quite inappropriate for mobile networks, and NP has very large setup costs and is known to be uneconomic in countries with a small population.

2 REGULATION 4 – OBLIGATIONS FOR PUBLIC NETWORK OPERATORS

2.1 Rights and Obligations of Public Network Operators

Digicel agrees with the modification of Regulation 4 which provides that interconnection agreements must facilitate the transmission of voice, data and images across networks. With advances in Telecommunications technology, and in anticipation of further development it is desirable for interconnection agreements to provide for the transmission of voice, data and images.

2.2 Call-by-call Carrier Selection

Paragraph (i) of Regulation 4 states that,

“A public network operator shall make it possible for their customers to complete international calls using public network operators of their choice, and such choice shall be available on a call-by-call basis, with the call being completed without the requirement either of second dial tone or manual intervention.”

This amounts to the facility to enable “carrier selection” (CS) for outgoing international calls.¹

2.2.1 Economic analysis

Digicel notes that the proposed regulation is not triggered by a dominance test and as such we believe that it is not in the public interest. In all cases we are aware of, international carrier selection (CS) and carrier pre-selection (CPS) has been imposed only on operators that are

¹ The economics of imposing CS on mobile networks is similar to the economics of imposing the sale of wholesale call origination service as is used by MVNOs, a topic analysed in a recent book from NERA available at http://www.nera.com/Publication.asp?p_ID=2924

dominant in the market for the provision of international calls from fixed lines the country in question. Even here, recent analysis suggests that “fixed line incumbents” is now too narrow a market definition in liberalised telecommunications sectors. Digicel knows of no MNO that faces CS. A law that requires operators that are not dominant to make CS available on their networks goes against expert advice and does not represent good regulatory practice.

Mobile call-by-call international CS provides a form of indirect access to mobile operator’s customers. If such a service was mandated customers would be able to make mobile calls through an international reseller and be billed by this reseller for these calls. In this case, the customer would still pay its existing mobile operator for subscription, local calls and those international calls that were not sent with the selected carrier code.

Call-by-call carrier selection (CS) would allow mobile consumers to use a specific number prefix designated to the international reseller/carrier each time a call is made.²

The impact of mobile CS on competition and consumer welfare involves two classes of effect:

Firstly, it will depend on the scope of CS implementation including for which customer types is CS mandated?

- only post-paid customers
- all customers, including prepaid customers
- customers with subsidised handsets.³

Secondly, the impact will depend on the pricing rule for wholesale call origination imposed by the regulator. For example:

- One possibility is that the price of wholesale call origination might be based on average LRIC (long run incremental costs).
- The other possibility is that the price of wholesale call origination would be based on retail-minus, where the “minus”-margin might, for example, reflect a proportionate reduction intended to cover retailing costs.

Mandating CS will likely provide additional traffic for any international carriers and resellers that would find it viable to establish themselves in St Lucia and may even stimulate some

² If a consumer does not make a choice, the call would be carried by the mobile operator’s network.

³ If this was to occur Digicel would no longer be able to recover the cost of subsidised handsets sold to date. The regulation would force the removal of handset subsidies in St Lucia.

international reseller entry.⁴ The effect will, among other things, depend on the margin between the market retail price for mobile originated calls and the mandated price for wholesale call origination of mobile calls. The scope of mandated CS, and the regulatory pricing rule chosen, will determine to what extent prices for mobile originated calls will come under pressure.

With the loss of international traffic mobile network operators (MNOs) will need to rebalance their retail tariff structures in order to safeguard their financial viability; in the case of post paid customers notably increase activation fees and monthly fixed charges. Packages for pre paid would also change. The tariff structure could substantially change with likely negative effects on consumer welfare. The degree of rebalancing may well increased activation fees significantly, with a likely negative impact on mobile penetration. Lower penetration rates would be accompanied by lower call volumes inducing higher per unit costs due to loss of economies of scale. Network externalities would be lost. Given that the fixed penetration level in St Lucia is well short of that in high income countries, a decrease in mobile penetration would jeopardize universal service goals.

The introduction of CS is also likely to weaken infrastructure competition. Even if CS was only imposed on C&W fixed (arguably not dominant in the provision of international calls⁵), the competition that occurs to provide calls, including international calls, would result in the rebalancing of C&W's mobile tariff structures forcing other MNOs to do likewise.

Putting the costs to one side for the moment, the potential benefits from implementing carrier selection in the mobile sector would, therefore, be considerably less than when CS was imposed on fixed incumbent networks, which mostly occurred between 8 and 15 years ago.⁶

The cost (which include technical setup and ongoing costs discussed below), will outweigh the modest benefits. Moreover, if international CS was imposed on MNOs in St Lucia market share gains by international reseller/operators would almost certainly be modest, but the tariff structure and the nature of competition between mobile operators and between mobile and fixed would be substantially changed and so would the structure of prices.

2.2.2 Technical Considerations

CS implies that switches are able to interpret CS codes of international reseller / carrier. In a fixed network it requires a minimum IN capability in local switches and a modification of the

⁴ The form of entry, assuming it occurs, would be in the shape of hit-and-run entry, i.e. it would not be facilities based sink investors would not want to incur sunk costs where the business was based on a regulation that had no recognised economic merit.

⁵ This of course will depend on the market definition but we believe that the rate of substitution on the margin is such that calls originated on C&W's fixed networks in the ECTEL countries, are not a market on their own. Rather, Digicel strongly suspects that the market is for call originated on any network.

⁶ Nowadays the markets are considered to be different due in part to fixed / mobile call substitution making this type of remedy unsuitable for most fixed networks.

routing tables in those switches; and in mobile networks we would have to have our vendor work on our network to enable pre-selection coded calls to get to the IN platform. This would be a significant expense. We have not sought to analyse what our setup costs would be in order to provide international CS but note that in very small countries such costs do not need to be very high before the proposal becomes uneconomic.

2.3 Digicel's request

Digicel respectfully requests that the requirement to make our network international CS ready, is not included in this interconnection regulation. Indeed, we believe that no sound public interest case exists in favour of such a regulation. Digicel further requests that before imposing any CS regulations on any network in future, a rigorous cost benefit analysis is undertaken by recognised experts to determine whether it is indeed in the interest to impose international CS on any operator in St Lucia.

3 REGULATION 6- NUMBER PORTABILITY

Section 6 of the regulation states:

“Interconnection providers and interconnecting operators shall configure their networks to facilitate number portability between similar networks as and when directed by the Commission.”

Number portability (NP) is a facility that makes it possible for consumers to take their telephone number with them when they change network provider. It can apply in either a fixed or mobile network environment. NP which applies to fixed networks is referred to as Local (or geographic) NP (LNP), while NP for mobile networks is a quite different proposition and is referred to as mobile number portability (MNP).

Due to the very large costs involved in introducing NP it is imperative that before any policy decision is made a full cost-benefit analysis is undertaken by recognized experts. Digicel has recently had course to ask OVUM in London, one of the World's leading 2 or 3 consultancies in performing NP cost benefit analyses, about the prospects for mobile number portability in the Caribbean. Their advice was that setup costs for mobile number portability (MNP) are unlikely to be less than US\$20 million, a figure that will far outweigh the benefits in St Lucia.

London based consultancies OVUM and NERA conducted the early and still most publicised studies (for the UK, Irish, Dutch and Hong Kong regulatory authorities). The authors now admit that these pioneering cost-benefit studies considerably over-valued the benefits, understated the costs and did not fully recognise the technical difficulties. According to OVUM, the earlier cost-benefit studies failed to anticipate the impact of pre pay on demand for mobile services and were over-optimistic in their assessment of the take up of MNP. Those cost-benefit studies done

later failed to anticipate how quickly market saturation would impact what was at the time a rapidly growing market.

There are 2 main areas of cost in providing MNP: (i) Implementation costs and (ii) porting costs. Implementation costs are largely independent of the number of network users. This results in pure economies of scale which can make NP uneconomic in small countries. This appears to be the primary reason that MNP has resulted in a net loss for Ireland, which has a population of 4 million.

Porting costs rise with the number of ported customers and thus will generally be higher in countries where there are more subscribers.

On the benefits side of a cost-benefit analysis for mobile number portability (MNP), the vast majority of benefits have been shown to accrue to those who change their provider and avoid changing their number. These benefits have, however, historically been over-stated due in part to insufficient account being taken in cost-benefit studies of the increasing ease with which private users (the vast majority of users) can notify their circle of callers of their number change – (through email or SMS). Most of the remaining benefits are derived from those people who would only switch providers if NP is available. The most important component of this group are business users who will usually not be able to notify all likely callers of a number change which is why they usually do not switch provider unless NP is available.

The benefits of MNP will increase with the number of competing MNOs. If there is only one MNO there are no benefits of MNO. With two MNOs there will be benefits but these can be expected to be less compared to a situation where there were three MNOs and less still compared to a situation where there were four MNOs.

Some estimates of actual country implementation costs compared to cost-benefit estimates are reported below.

Table: Actual and Predicted costs of MNP ⁷

Country	Hong Kong	Ireland	Netherlands	United Kingdom
Date of cost-benefit study	1998	2000	1996	1997
Implementation costs (US\$m)				
CBA	28	10.3	17.6	17.6
Actual	>28	40	29.5	44
Porting costs (US\$m)				
CBA	11.8	10.3	11.8	41
Actual	n.a.	22	13.2	<44

Converted from € at 1€ = US\$1.47

⁷ Reported in a study by OVUM for MNT (South Africa), “Mobile Number Portability - an international benchmark” January 2005.

The technical issues regarding NP are also highly complex. There are a number of technical approaches to delivering NP in a mobile network and the regulator needs to choose the appropriate option it wants the networks to implement. In working groups attended by the regulator, licensees and their vendors, a “Functional Specification” is then designed and published by the regulator. With this the network operators are then able to begin working on their individual “Technical Specifications” which will be peculiar to each network. Experience from around the World suggests that it takes a minimum of 1 year to reach this point.

Figure: Predicted and Actual Set-up Cost of Mobile Number Portability

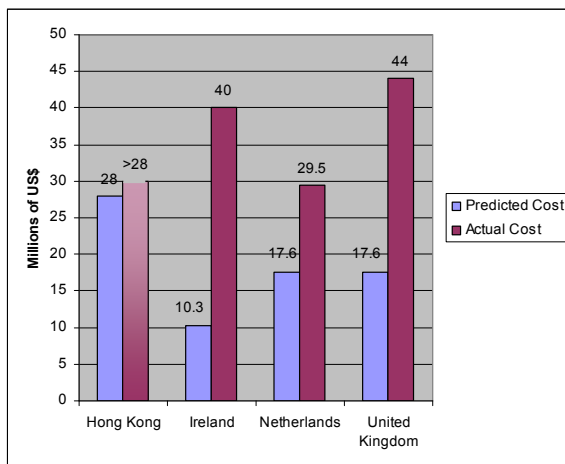
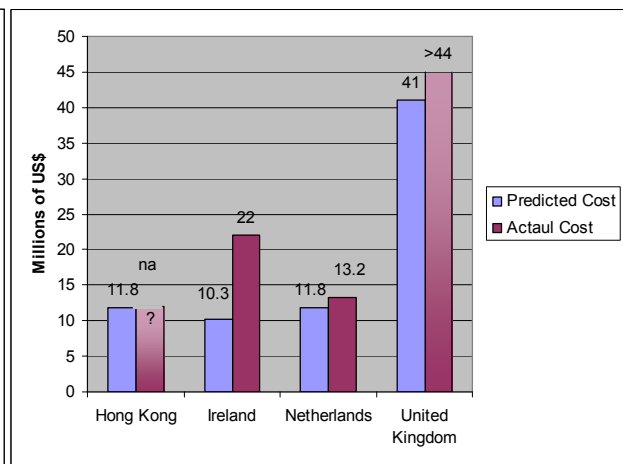


Figure: Predicted and Actual Porting Cost of Mobile Number Portability



Digicel respectfully suggests that there is little to no chance of MNP in St Lucia passing a cost benefit assessment and consequently Digicel requests that Regulation 6 be deleted from the draft Regulations.

Should the regulator wish to pursue NP further we suggest that the regulation commit the regulator to undertaking a rigorous cost benefit analysis before being able to decide whether to mandate NP in St Lucia. A cost benefit analysis for NP is accepted good regulatory practice in deciding whether NP is in the public interest, and to our knowledge no respected regulator has proceeded with NP without first hiring experts to undertake a cost benefit analysis. However, the advice Digicel received recently from OVUM suggests that the cost benefit study would be a waste of resources as the result is a foregone conclusion for a countries with a very small population.

4 DIGICEL APPROVES OF REGULATIONS 7, 8, 9, 10, 13, 20, 29, 31

In Regulation 7 a provision was included to stipulate that upon completion of an interconnection agreement, its terms and conditions must be offered to anyone else who requests similar terms and conditions must be offered to anyone else who requests similar terms and conditions.

Digicel agrees with this provision as it represents s a positive step to encourage competition in the Telecommunications Sector.

Regulation 8 now states that confidentiality of information extends only to proprietary and commercially sensitive information.

Digicel agrees with this modification and as it facilitates transparency while at the same time protects the commercial interests of service carriers.

Regulation 9 has been simplified and Digicel agrees with this alteration.

Regulation 10 has been amended to simplify the procedure for designating a provider as dominant. The consultation process has been shortened to sixty (60) days.

Digicel agrees and welcomes any measure designed to facilitate the fast implementation of interconnection between carriers.

Regulation 13 now provides for a Reference Interconnect Offer (RIO) to be published within sixty (60) days of a receipt of a request from the Commission.

Digicel has no issue with this request and will comply with any such request.

Under the revised Regulation 20, proposed interconnection agreements can be made effective from the date of submission to the Commission for its approval and remains effective unless the Commission informs the parties that the agreements have not been approved and notification of disapproval must be made within sixty (60) days of the date of submission.

Digicel agrees and has no issue with this proposal.

Under the revised Regulation 29 the Commission now has the power to intervene if negotiating parties cannot reach an agreement within sixty (60) days of negotiations. The Commission can issue an interim decision which would bind the parties until a negotiated agreement is arrived at. Digicel welcomes this arrangement as it will speed up market entry and help competition in the Telecommunications Sector.

Regulation 31 now provides for an inter-connection agreement to be amended as a result of the outcome of any dispute between parties. Digicel takes no issue with the inclusion of this provision.

5. CONCLUSION

Digicel thanks the commission for this opportunity to participate in this important public process. Digicel looks forward to further opportunities to contribute to public interest through making submissions to the commission.

Comments from NTRC Dominica

EASTERN CARIBBEAN TELECOMMUNICATIONS AUTHORITY (ECTEL)

CONSULTATION DOCUMENT

TELECOMMUNICATIONS (INTERCONNECTION) REGULATIONS

1. Introduction

Pursuant to a decision taken on the 24th of April 2008 by the Board of Directors of ECTEL, ECTEL is resubmitting the draft revised Telecommunications (Interconnection) Regulations, for comment.

It will be recalled that there was a previous consultation on the initial draft of these Regulations in 2005. Subsequent to the consultation, the Regulations were submitted to the ECTEL Council of Ministers for its approval on the 5th of October 2006. Upon the Council granting its approval, the Interconnection Regulations were forwarded to the ECTEL Member States for publication.

ECTEL, on its own motion, took the decision to undertake a further review of the Regulations. That review was undertaken to ascertain whether the Regulations that had been forwarded to the Member States contained adequate provisions of regulatory oversight with regard to interconnection. The conclusion of the review revealed that there was need to give greater discretion to the Commissions to manage interconnection as well as to streamline the administrative process to achieve greater efficiency. The Regulations have therefore been redesigned to facilitate greater regulatory intervention where appropriate.

Some notable amendments to the Regulations are as follows:

- i. In Regulation 2 which is the Interpretation provision, the following changes were made:
 - The phrase "efficient supplier" was deleted as the phrase was not used in the revised Regulations.
 - "Number portability" was defined to mean the ability of a customer to retain the same telephone number on switching providers.
 - "Phased manner" was defined to mean to reduce or increase gradually or in stages.
- ii. In Regulation 4 interconnection agreements must now facilitate the transmission of voice, data and images across networks.
- iii. In Regulation 6 the Commission has been given the power to request number portability in appropriate circumstances.
- iv. In Regulation 7 a provision was included to stipulate that upon completion of an interconnection agreement, its terms and conditions must be offered to anyone else who requests similar terms and conditions and new entrants can request interconnection on the terms and conditions contained in existing interconnection agreements.
- v. Regulation 8 was amended to provide that confidentiality of information extends only to proprietary and commercially sensitive information.

- vi. Regulation 9 was simplified by removing the requirement to carry out public consultations for the designation of essential services by simply stating that where access to facilities is required such access must be provided.
- vii. Regulation 10 has been amended to simplify the procedure for designating a provider as dominant. The consultation process has been shortened to sixty (60) days.
- viii. Regulation 13 now provides for a Reference Interconnection Offer (RIO) to be published within sixty (60) days of a receipt of a request from the Commission.
- ix. Under the revised Regulation 20, proposed interconnection agreements can be made effective from the date of submission to the Commission for its approval and remains effective unless the Commission informs the parties that the agreements have not been approved. Notification of disapproval must be made within sixty (60) days of the date of submission.
- x. Regulation 29 now provides for the Commission to intervene if negotiating parties cannot reach an agreement within sixty (60) days of negotiations. The Commission can issue an interim decision which would bind the parties until a negotiated agreement is arrived at.
- xi. Regulation 30 now provides for parties to an interconnection agreement involved in a dispute to request assistance from the Commission in resolving the dispute finally or on an interim basis.
- xii. Regulation 31 now provides for an interconnection agreement to be amended as a result of the outcome of any dispute between parties thereto.
- xiii. Regulation 32 now provides for the Commission to apply to the Court to compel a licensee to comply with an order, decision or direction of the Commission.

2. Consultation Procedure and Timetable

In order to carry out this consultation, ECTEL hereby requests the Commission to conduct a national consultation on the proposed draft revised Telecommunications (Interconnection) Regulations in accordance with the 'Consultation Procedure and Timetable' outlined below.

2.1 Council of Minister's Approval

It is ECTEL's intention to finalize these Regulations after taking into account all comments received in this consultation process. The Telecommunications (Interconnection) Regulations will then be recommended for adoption in the ECTEL Member States when approved by the Council of Ministers.

2.2 Consultation Timetable

This ECTEL submission includes a request to the Commission to conduct a national consultation in the ECTEL Member States on the draft revised Telecommunications (Interconnection) Regulations.

The initial consultation period will run from 5th May 2008 and comments should be submitted in writing **no later than** 4:30 pm on 2nd June 2008 to:

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

Reply comments would be from 5th June 2008 to 26th June 2008 and should be sent to the abovementioned address.

All comments should be clearly marked "Comments on Draft Revised Telecommunications (Interconnection) Regulations Consultation Document".

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.

[MEMBER STATE]

TELECOMMUNICATIONS (INTERCONNECTION) 200[-]

ARRANGEMENT OF REGULATIONS

REGULATIONS

1. Citation
2. Commencement
3. Interpretation
4. Rights and obligations of public network operators
5. Obligations of dominant fixed public network operators
6. Number Portability
7. Non-discrimination and transparency
8. Confidentiality
9. Access to Facilities
10. Dominant interconnection provider
11. Publication of information
12. Rate structure
13. Reference interconnection offer
14. Payment for interconnection
15. Calling Line Identity
16. Form and contents of interconnection agreements
17. Connectivity
18. Non-inclusion
19. Notice of request
20. Procedures for application
21. Prohibited Interconnection
22. Amendment or modification of interconnection agreement
23. Termination of an interconnection agreement
24. Register
25. Contents of register
26. Confidential portion of register

27. Format for separating information
28. Access to register
29. Dispute resolution
30. Disputes Regarding Existing Agreements
31. Amendment Due to Dispute Resolution
32. Power of Referral
33. Repeal

[MEMBER STATE]

STATUTORY RULES AND ORDERS No. [-] of 200[-]

(Gazette No....of 200[-])

REGULATIONS

Made by the Minister under section [-] of the Telecommunications Act, 200[-] (Act No. [-] of 200[-]).

Citation

1. These Regulations may be cited as the Telecommunications (Interconnection) Regulations, 200[-].

Commencement

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

Interpretation

3. In these Regulations:

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

“access deficit” means the difference between revenues of the incumbent fixed public network operator from domestic telecommunications services whose prices are regulated and the costs incurred by that operator to provide those services;

“Calling Line Identity” means the information generated by a telecommunications network that identifies the calling number;

“call termination” means the completion of a call that is originated on one public network and terminated on another;

“cost-oriented” means those charges equal to the long-run incremental cost of an efficient provider plus an appropriate portion of shared and common costs;

“dominant interconnection provider” means a public network operator who is designated under regulation 10 by the Commission as dominant for the purposes of providing interconnection services;

“interconnecting operator” means a public network operator who requests or is being provided interconnection from another public network operator under the Act;

Comment: Consider rewriting the definition to achieve the following:- 1) it should be defined to ensure that the deficit is positive when cost is greater than revenue.- The word “difference” may not be sufficient in this regard ; 2) the definition should make clear whether Rate of Return on equity is included in the cost.

Comment: It might be desirable to indicate if this cost includes Rate of Return ?

Comment: Maybe “efficient provider” should be defined.

Deleted: under regulation 10

“**interconnection provider**” means a public telecommunication network operator who receives a request to provide or is providing interconnection under the Act;

“**joining service**” means a service consisting of a transmission facility connecting the points of presence of two public network operators, one of which may or may not be the provider of the joining service;

“**number portability**” means the ability of a customer to retain the same telephone number on changing telecommunications providers;

“**phased manner**” means to reduce or increase gradually or in stages ;

“**point of interconnection**” means a location where the exchange of telecommunications between the telecommunications network of an interconnection provider and the telecommunications network of an interconnecting operator takes place;

“**point of presence**” means a point of interconnection designated by a public network operator at which it will provide and receive interconnection services;

“**public network operator**” means a person who provides telecommunications between two parties neither of whom is affiliated with such person, accepts the rights and obligations of public network operators and is licensed to operate a public telecommunications network;

“**public telecommunications network**” means a telecommunications network used for the provision of telecommunications services to the public;

“**reference interconnection offer**” means a document setting out the terms on which the dominant interconnection provider proposes to offer interconnection services which includes a description of the interconnection and other services offered to interconnecting operators, defines the rights and obligations of both parties, and specifies the charges and other terms and conditions on which those services are offered (“reference interconnection offer provider” shall have a corresponding meaning);

“**Register**” means the register maintained pursuant to regulations 24, 25, 26 and 28;

“**transit service**” means a network service for carrying traffic between two public network operators that are unaffiliated with the provider of the transit service.

Rights and obligations of public network operators

4. Public network operators have the following rights and obligations with respect to interconnection:
- (a) A public network operator shall act in a manner that enables interconnection to be established as soon as reasonably practicable.
 - (b) A public network operator is required to promptly provide interconnection at cost-oriented rates to any other public network operator that requests it.
 - (c) A public network operator is entitled to promptly receive interconnection at cost-oriented rates from any other public network operator.
 - (d) An interconnecting operator shall provide timely forecasts of usage to the interconnection provider and shall be required to cover the costs that the interconnection provider incurs to meet forecasted needs even if the forecasted traffic fails to materialize.
 - (e) A public network operator shall configure their network to enable –
 - (i) transmission; and
 - (ii) switching or routing,of voice, data and images over their networks.
 - (f) The interconnection provider and the interconnecting operator shall exchange signaling information using standard common channel signaling systems.
 - (g) A public network operator is required to provide call-termination services to any other public network operator that requests them.
 - (h) A public network operator shall provide to an interconnecting operator written notice of any breach of an interconnection agreement and a reasonable period of time to cure the breach before terminating an interconnection agreement in accordance with the procedure set out in regulation 23.
 - (i) A public network operator shall make it possible for their customers to complete international calls using public network operators of their choice, and such choice shall be available on a call-by-call basis, with the call being completed without the requirement either of second dial tone or manual intervention.

Obligations of (dominant fixed public network operators)

5. In addition to the obligations placed on all public network operators set out in regulation 4, a dominant fixed public network operator shall:

- (a) provide joining services to any other public network operator that requests them.
- (b) provide usage-based transit services to other public network operators that request them.
- (c) where it provides broadband Internet access as a retail service, it shall arrange to carry the broadband information to unaffiliated Internet service providers of the end user customer's choice.

Comment: What is a Dominant Fixed Public Network Operator? Where is this defined? Is it the same as "Dominant Interconnection Provider". If so shouldn't the same term be used?

Deleted: 5

Number Portability

6. Interconnection providers and interconnecting operators shall configure their networks to facilitate number portability between similar networks as and when directed by the Commission.

Non-discrimination and transparency

7. (1) When providing interconnection, an interconnection provider shall act in accordance with the following principles:

- (a) interconnection shall be provided to interconnecting operators under no less favourable terms, rates and quality as the interconnection provider provides similar services for itself, its affiliates or both itself and its affiliates;
- (b) interconnection shall be provided without regard to the types of users to be served or the types of services to be provided by the interconnecting operator requesting interconnection;
- (c) an interconnection provider shall provide on request information reasonably necessary to interconnecting operators considering inter-connection, in order to facilitate the conclusion of any agreements.

(2) The information provided pursuant to sub-regulation 1 (c) shall include planned charges for implementation within the next six months following a request, unless otherwise agreed by the Commission.

Deleted: b

(3) Once an interconnection provider concludes an interconnection agreement, it shall –

- (a) offer the terms and conditions of such an agreement to any other interconnecting operators requesting interconnection; and

- (b) offer the terms and conditions of such an agreement, upon request, to any interconnecting operator with which it has an existing interconnection agreement, except to the extent that it can prove to the satisfaction of the Commission that it is not technically feasible to replicate the same level of quality of the interconnection or to provide interconnection under the same terms and conditions as it provides pursuant to such an agreement.
- (4) The Commission shall take such steps as may be necessary to ensure that the requirements under this regulation are being met.

Confidentiality

8. An interconnection provider or an interconnection operator shall not knowingly communicate, or allow access to any confidential, proprietary, or competitive information (including but not limited to, customer orders, market forecasts, plans for development of new services, network plans, current or proposed business plans, and new customers) received from another interconnecting operator or an interconnection provider in respect of interconnection, except to the extent authorized by the interconnecting operator or interconnection provider in writing, or by the Act or these Regulations.

Access to Facilities

9. (1) Where access to any facilities is required to effect interconnection such access shall be provided on a non-discriminatory and equitable basis, including with respect to charges, location and other commercial matters, together with the interconnection.
- (2) Pending the conclusion of any agreement between parties to a negotiation for access to facilities, the Commission may, acting on the recommendation of ECTEL, issue such orders or directions for the sharing of any facilities or with respect to providing access to such facilities on an interim basis.

Dominant interconnection provider

10. (1) The Commission, acting on the recommendation of ECTEL, and by Notice or Order published in the Gazette, shall designate a public network operator as a dominant interconnection provider in a particular market or markets for telecommunications services if the Commission has determined, after a public consultation process, that a public network operator:
- (a) enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers in a market or markets for telecommunications services; and

(b) it is in the long-term interests of consumers of telecommunications services that the public network operator be so designated.

- (2) ~~The consultation process undertaken by the Commission for the purposes of subsection 1 shall commence with a preliminary determination of market dominance and the proposed designation of one or more public network operators as dominant interconnection providers.~~
- (3) The Commission shall issue its final determination of market dominance no later than 60 days after its preliminary determination of dominance under subregulation 2.
- (4) ~~As an alternative to the public consultation required by the foregoing sub-regulations, a public network operator may consent to being treated as a dominant interconnection provider solely for the purpose of providing interconnection and filing a reference interconnection offer at the time it files a reference interconnection offer.~~

- Deleted:** The
- Deleted:** undertake a consultation process which will
- Comment:** Since a method for designating has been given in subsection 1 (ie by Order or Notice published in Gazette), it might be better here to add the word proposed, else it would appear necessary to outline exactly how the designation in this subsection should be done.
- Deleted:** d
- Comment:** The change suggested here is also to properly connect / relate subsection 2 to subsection 1.
- Deleted:** dominant
- Deleted:** Notwithstanding

Publication of information

11. (1) The Commission shall have available, for the use of the general public, documentation on interconnection that is adequate and current.
- (2) The Commission shall use any medium that it considers appropriate to inform the public of the documentation available pursuant to subregulation (1) of this Regulation.
- (3) The Commission may impose an administrative fee for providing the documentation to any person.

Rate structure

12. (1) The Commission, ~~acting on the recommendation of ECTEL, may~~ upon its own motion or shall upon an application by any person, determine the interconnection rate of any person who provides or offers to provide interconnection.
- (2) Interconnection rates shall be cost-oriented and imposed in a transparent manner and shall identify clearly:
- (a) charges for interconnection services; and
- (b) any contribution to the access deficit of the interconnection provider where applicable.
- (3) Where an interconnection agreement is negotiated before the Commission has determined any rates, or where, after the conclusion of any interconnection agreement, the Commission establishes new rates for interconnection for any reason, the agreement shall, where appropriate, be amended by the parties to comply with such rates as may subsequently be determined.

- Comment:** Consider using "may" / "shall" in this way
- Deleted:** shall,
- Deleted:** determine

- (4) Notwithstanding sub-regulation (2), the Commission may impose cost-oriented rates in a phased manner and on such terms and conditions as may be determined by the Commission, acting on the recommendation of ECTEL.

Reference interconnection offer

13. (1) Each dominant interconnection provider requested to publish a reference interconnection offer shall publish such an offer within sixty (60) days of its receipt of such request by the Commission.
- (2) A reference interconnection offer shall make available to interconnecting operators those services and network elements necessary for the provision of competing retail services.
- (3) The reference interconnection offer provider may set different rates, terms and conditions for different interconnection services, where such differences can be objectively justified and do not result in the unfair distortion of competition.
- (4) The reference interconnection offer provider shall apply the appropriate interconnection tariffs, terms and conditions when providing interconnection for its own services or those of its affiliates, subsidiaries or partners.
- (5) The charges of the reference interconnection offer shall be sufficiently unbundled to ensure that the interconnecting operator requesting interconnection is not required to pay for services not related to the service requested.
- (6) Subject to section 12(4), interconnection rates set out in the reference interconnection offer shall be cost-oriented.
- (7) The reference interconnection offer shall contain specific provisions for dispute resolution procedures including the appropriate contact persons whose names and other contact information shall be updated at least quarterly, precise time frames for resolution of complaints, clear and concise escalation procedures that allow for prompt resolution of disputed issues and rules that shall be used for arbitrating any unresolved issues.
- (8) The Commission shall have the authority to ensure that a reference interconnection offer is compliant with the Act and Regulations and contains rates that are cost-oriented.

Deleted: Interconnection

Payment for interconnection

14. An interconnecting operator shall pay for the investment, operations and maintenance expenses of the facilities necessary to reach the point or points of interconnection.

Calling line identity

15. Every interconnecting operator and interconnection provider shall provide upon request to each other, the Calling Line Identity and all necessary signaling data, in accordance with accepted international standards and any technical standards set by and published by the Commission from time to time.

Form and contents of interconnection agreements

16. (1) All interconnection agreements and reference interconnection offers shall be in writing and the following matters shall be specified in those agreements except where a particular matter is irrelevant to the specific form of the interconnection requested:
- (a) access to ancillary, supplementary and advanced services;
 - (b) adequate service levels including the remedies for any failure to meet those service levels;
 - (c) a provision that deals with regulatory change, including determinations by the Commission;
 - (d) duration and renegotiation of interconnection agreements;
 - (e) forecasting, ordering, provisioning and testing procedures;
 - (f) dispute resolution procedures, including identification of points of contact, time frames and an escalation process;
 - (g) geographical and technical characteristics and locations of the points of interconnection;
 - (h) information handling and confidentiality provisions;
 - (i) intellectual property rights;
 - (j) measures anticipated for avoiding interference or damage to the networks of the parties involved or third parties;
 - (k) national and international appropriate indexes for service quality;
 - (l) procedures in the event of alterations being proposed to the network or service offerings of one of the parties;
 - (m) provisions for the formation of appropriate working groups to discuss matters relating to interconnection and to resolve any disputes;
 - (n) provision of network information;
 - (o) technical specifications and standards;
 - (p) terms of payment, including billing and settlement procedures;
 - (q) the procedures to detect and repair faults, as well as an estimate of acceptable average indexes for detection and repair times;
 - (r) the scope and description of the interconnection services to be provided;

- (s) the technical characteristics of all the main and auxiliary signals to be transmitted by the system and the technical conditions of the interfaces;
 - (t) transmission of Calling Line Identity, where available to be transmitted;
 - (u) provisions for call termination;
 - (v) provisions for transit facilities;
 - (w) provisions for joining links;
 - (x) ways and procedures for the supply of other services that the parties agree to supply to each other, such as operation, administration, maintenance, emergency calls, operator assistance, automated information for use, information on directories, calling cards and intelligent network services;
 - (y) the obligations and responsibilities of each party in the event that inadequate or defective equipment is connected to their respective networks; and
 - (z) provisions for notice and for remedying any breach that may arise from the agreement; and
 - (aa) any other relevant issue.
- (2) Public network operators shall make available to interested parties, any reference interconnection offers and/or the portions of approved interconnection agreements that have not been designated as confidential by the Commission pursuant to regulation 26.

Connectivity

17. (1) An interconnection agreement shall include provision for any-to-any connectivity to allow any end-user of that network to communicate with any other end-user of public telecommunications services, regardless of whether the end-users are connected to the same, or different, networks.
- (2) An interconnection agreement shall include provision for the suspension, termination or amendment of the agreement in relation to provisions providing for any-to-any connectivity in the event of:
- (a) conduct that is illegal or interferes with the obligations of the interconnection provider, under the relevant licence, Act or Regulations;
 - (a) requirements that are not technically feasible;
 - (b) health or safety problems; or

- (c) circumstances that pose an unreasonable risk to the integrity or security of the network or services of the interconnection provider, from which interconnection is requested.
- (3) An interconnection agreement shall include a provision to allow for the suspension of interconnection where it is necessary to deal with a material degradation of the interconnection provider's telecommunications network or services.

Non-inclusion

- 18.** An interconnection agreement shall not contain any provision, which has the effect of:
- (a) imposing any unfair or discriminatory penalty or disadvantage upon a person in the exercise of the person's right to be provided with interconnection;
 - (b) precluding or frustrating the exercise of a person's rights or privileges afforded under the Act or Regulations; and
 - (c) preventing a telecommunications provider from lawfully providing an interconnection service to another public network operator.

Notice of request

- 19.** (1) An interconnecting operator shall make a request for interconnection in writing to an interconnection provider and shall forward two copies of the written request to the Commission, one of which shall be addressed to ECTEL.
- (2) A request for interconnection shall contain at least the following information:
- (a) a copy of the licence of the interconnecting operator;
 - (b) the services with respect to which interconnection is sought;
 - (c) a declaration by the interconnecting operator that it accepts the rights and obligations of all public network operators as set out in regulation 4; and
 - (d) any other information as specified in the reference interconnection offer or reasonably required in order for the telecommunications provider to respond to that request.

Procedures for application

- 20.** (1) Within 30 days after the parties to a negotiation regarding interconnection have concluded an interconnection agreement, the parties shall submit the proposed agreement to the Commission for its approval.

- (2) The Commission shall approve the proposed interconnection agreement if it is satisfied that the proposed interconnection agreement is not inconsistent with the Act, these Regulations, the terms and conditions of the parties' licenses or other provisions of law.
- (3) The Commission shall consult with ECTEL for its advice and recommendations concerning the application, before determining whether to approve the proposed interconnection agreement.
- (4) The Commission may request additional information from the parties to a proposed interconnection agreement where it considers it necessary to further evaluate the terms, conditions and charges contained in the proposed interconnection agreement.
- (5) Where the Commission notifies the parties that it does not consider that the proposed interconnection agreement or any part thereof should be approved, the parties to that agreement shall negotiate and submit a revised proposed interconnection agreement to the Commission, within a period determined by the Commission, having regard to the matters being the subject of the Commission's request.
- (6) Notwithstanding the Commission's right to approve an interconnection agreement, an interconnection agreement may provide that it will be effective upon submission to the Commission and will remain effective unless the Commission informs the parties to such agreement, within 60 days of its submission, or such longer period as the Commission may reasonably require, that it has not approved the agreement.
- (7) Sub-regulation 6 shall not apply where the parties to an interconnection negotiation have concluded an agreement after the effective date of any interim interconnection decision imposed by the Commission, pursuant to the procedures described in section 29 of these Regulations.

Prohibited Interconnection

21. A party shall not negotiate, propose to enter or enter into an interconnection agreement where the Commission determines and rules that:

- (a) the law prohibits the interconnection;
- (b) the interconnection would endanger life or safety, or damage the property or impair the quality of the services of the interconnection provider;
- (c) the licence issued to the interconnecting operator does not authorise the telecommunications services or the type of interconnection for which interconnection is requested;
- (d) the interconnecting operator does not qualify as a public network operator under these Regulations;

- (e) the requested interconnection is not technically feasible; or
- (f) the proposed interconnection is contrary to the law or the public interest.

Amendment or modification of interconnection agreement

- 22.** (1) The parties to an interconnection agreement may amend or modify an agreement which has been approved by the Commission by:
- (a) giving not less than 30 days written notice prior to the effective date of the amendment or modification; and
 - (b) submitting a copy of the proposed amendment or modification to the Commission.
- (2) Within the 30 day notice period specified above, or such longer period as it may in any case determine, the Commission shall inform the parties if the agreement, as modified, is no longer approved.

Termination of an interconnection agreement

- 23.** (1) Parties to an interconnection agreement shall provide at least 30 days notice to the Commission and to customers before terminating any interconnection agreement.
- (2) Such notice shall inform customers of the date upon which the essential service will be interrupted and shall also inform them of appropriate steps that can be taken to obtain that service from another operator.
- (3) Notwithstanding the right of the parties to terminate an interconnection agreement, the Commission, acting on the recommendation of ECTEL, shall have the authority to require any party to provide interconnection on such terms and conditions and at such rates as the Commission may deem appropriate, pending renewal or replacement of the interconnection agreement.

Register

- 24.** (1) All copies of an interconnection agreement shall be kept in a Register maintained by the Commission in print form, or as a database in electronic medium, and in any other form determined by the Commission.
- (2) The Register shall be kept at the principal office of the Commission and Parts I and III of the Register shall be open to public inspection during normal working hours.
- (3) A copy of the Register shall be provided to ECTEL.

Contents of Register

25. The Register shall be maintained in 3 parts:

- (a) Part I containing a list of all interconnection agreements with the names of interconnection providers, service areas of their operation, and the dates of the execution of the agreements, and shall be opened for inspection by the public;
- (b) Part II containing portions of interconnection agreements which the Commission has directed to be kept confidential; and
- (c) Part III containing the contents of interconnection agreements excluding those directed by the Commission to be kept confidential which shall be open for inspection by the public.

Confidential portion of Register

26. (1) The Commission may, on the request of any party to an interconnection agreement, direct that any part of the interconnection agreement be kept confidential.
- (2) Any request to keep part of an interconnection agreement confidential shall be accompanied by a non-confidential description of the relevant portion of the interconnection agreement.
- (3) Where the Commission is satisfied that the interests of a telecommunications provider could be adversely affected if the relevant part were not kept confidential, it may direct that the relevant part of the interconnection agreement be kept confidential and the non-confidential description of that part shall be incorporated in Part III of the Register.
- (4) Where the Commission declines the request of any public network operator to keep any portion of the interconnection agreement confidential, it shall record its reason for doing so and furnish a copy of its decision to the applicant.
- (5) Before making any decision to disclose confidential information, the Commission shall afford a hearing to the public network operator who has requested the information be kept confidential.
- (6) Whenever a public network operator requests that any part of an interconnection agreement should be kept confidential, that portion of the agreement shall remain confidential until the matter is determined by the Commission.

Format for separating information

27. (1) The Commission may, from time to time, determine the format for seeking disaggregated information of parts of an interconnection agreement

relating to technical standards or specifications from the Register in respect of:

- (a) access charges;
- (b) area of operation;
- (c) consumer related information;
- (d) downtimes;
- (e) fault resolving procedures;
- (f) interconnection;
- (g) port charges;
- (h) quality of service; and
- (i) revenue-sharing arrangements.

- (2) Each licensee shall offer such assistance to the Commission in relation to disaggregating information pursuant to this Regulation as it may reasonably require.

Access to Register

- 28.** (1) Parts I and III of the Register shall be open for inspection by the public on payment of an administrative fee and on the fulfillment of any other condition determined by the Commission.
- (2) Any person seeking inspection of Parts I or III of the Register shall apply to the officer designated by the Commission who shall allow inspection and also make available extracts of the relevant portions of the Register, on payment of the administrative fee.
 - (3) The Commission may in accordance with sub-regulations (1) and (2) of this Regulation also allow access to Parts I and III of the Register through the website maintained by it.

Dispute resolution

- 29.** (1) Notwithstanding anything to the contrary contained in any other law, where the parties to any proposed interconnection agreement are unable to agree on the terms thereof within 60 days from the date of a request for interconnection under regulation 19, either party may submit the matter to the Commission for resolution in accordance with such procedures as the Commission may adopt, acting on the recommendation of ECTEL.
- (2) Where no request has been received by the Commission after 60 days pursuant to sub-regulation (1), the Commission may, acting on its own motion, direct the parties to submit the matter for resolution.
 - (3) Notwithstanding sub-regulation 2, the Commission may withhold from directing the parties for an additional 30 days where it is reasonably

satisfied by both parties that an interconnection agreement is likely to be concluded within that time.

- (4) Any decision made by the Commission pursuant to sub-regulations (1) and (2) shall be binding on the parties pending agreement between them on the terms of any proposed interconnection agreement.
- (5) The decision by the Commission shall -
 - (a) be made within 60 days from the date of a request under sub-regulation (1) or a direction by the Commission under sub-regulation (2), or such longer period as the Commission may in any case determine; and
 - (b) specify -
 - (i) the facilities and the network covered by the decision;
 - (ii) the extent of any network over which one party is required to carry information and communication messages including telecommunication messages to enable another party to supply services;
 - (iii) the points of, and the technical standards for, interconnection;
 - (iv) the rates of interconnection;
 - (v) the effective date of the decision; and
 - (vi) any other matters it deems appropriate.
- (6) Each party to the decision under sub-regulation 5 shall submit to the Commission a copy of an interim interconnection agreement implementing the terms and conditions of the decision, together with any other information the Commission may require.
- (7) An interim interconnection agreement shall cease to have effect on the proposed effective date of any interconnection agreement agreed between the parties and approved by the Commission.
- (8) The existence of an interim interconnection agreement shall in no way prejudice, vary, or diminish the right of the Commission to review, approve or reject any proposed interconnection agreement between the parties.
- (9) In the exercise of any of the functions conferred upon it by virtue of sub-regulations (1) – (7), the Commission shall have the authority, acting on the recommendation of ECTEL, to make such orders and issue such directions to the parties as it deems appropriate.

Disputes Regarding Existing Agreements

- 30. (1) In any dispute involving an approved interconnection agreement between parties thereto, then, notwithstanding the terms of any dispute resolution procedures described in the agreement, the parties may refer the dispute to the Commission for a binding resolution in accordance with such procedures and upon such terms and conditions as the Commission, acting on the recommendation of ECTEL, may determine.
- (2) In referring any dispute under sub-regulation (1), the parties may request the Commission to issue an interim decision on providing interconnection, pending the completion of any dispute settlement procedures described in the agreement, and the interim decision may address prices and any other terms or conditions for interconnection which the Commission, acting on the recommendation of ECTEL, may determine.
- (3) A decision by the Commission under sub-regulations (1) or (2) shall not replace, vary or otherwise amend the provisions relating to dispute resolution established in the interconnection agreement.

Amendment Due to Dispute Resolution

- 31. Where a decision arising from a dispute resolution process modifies the terms and conditions on which interconnection is provided, the Commission may require an interconnection provider or operator to amend a relevant agreement in order to comply with the decision and submit the amended agreement to the Commission for approval.

Power of Referral

- 32. If an interconnection provider or operator refuses to obey any order, decision or direction by the Commission under these Regulations, the Commission may apply to a judge of the High Court for an order compelling the interconnection provider or operator to comply with the order, decision or direction of the Commission and for such costs and other relief as the Court may allow.

Repeal

- 33. The Telecommunications (Interconnection) Regulations [-] are hereby repealed.

Made this [] day of [], 200[-]

.....
Minister for Telecommunications

Comments from KaribCable:

Change:

4 (f) The interconnection provider and the interconnecting operator shall exchange signaling information using standard common channel signaling systems.

To:

4 (f) The interconnection provider and the interconnecting operator shall exchange signalling information using standard signalling systems.

Change:

4 (g) A public network operator is required to provide call-termination services to any other public network operator that requests them.

To:

4 (g) A public network operator is required to provide termination services to any other public network operator that requests them.

Change:

6. Interconnection providers and interconnecting operators shall configure their networks to facilitate number portability between similar networks as and when directed by the Commission.

To:

6. Interconnection providers and interconnecting operators shall, where their network functionality allows it, configure their networks to facilitate number portability between similar networks as and when directed by the Commission.

Change:

7 (1) (b) interconnection shall be provided without regard to the types of users to be served or the types of services to be provided by the interconnecting operator requesting interconnection

To:

7 (1) (b) interconnection shall be provided with regard to the applicable laws of the country in which it is provided in but without regard to the types of users to be served or the types of services to be provided by the interconnecting operator requesting interconnection

Change:

7 (2) The information provided pursuant to sub-regulation 1 (b) shall include planned charges for implementation within the next six months following a request, unless otherwise agreed by the Commission.

To:

7 (2) The information provided pursuant to sub-regulation 4 (b) shall include planned charges for implementation within the six months following a request, unless otherwise agreed by the Commission.

Change:

7 (3) (a) offer the terms and conditions of such an agreement to any other interconnecting operators requesting interconnection; and

To:

7 (3) (a) offer similar terms and conditions of such an agreement to any other interconnecting operators requesting interconnection; and

Change:

7 (3) (b) offer the terms and conditions of such an agreement, upon request, to any interconnecting operator with which it has an existing interconnection agreement, except to the extent that it can prove to the satisfaction of the Commission that it is not technically feasible to replicate the same level of quality of the interconnection or to provide interconnection under the same terms and conditions as it provides pursuant to such an agreement.

To:

7 (3) (b) offer similar terms and conditions of such an agreement, upon request, to any interconnecting operator with which it has an existing interconnection agreement, except to the extent that it can prove to the satisfaction of the Commission that it is not technically feasible to replicate the same level of quality of the interconnection or to provide interconnection under the same terms and conditions as it provides pursuant to such an agreement.

Change:

8 An interconnection provider or an interconnection operator shall not knowingly communicate, or allow access to any confidential, proprietary, or competitive information (including but not limited to, customer orders, market forecasts, plans for development of new services, network plans, current or proposed business plans, and new customers) received from another interconnecting operator or an interconnection provider in respect of interconnection, except to the extent authorized by the interconnecting operator or interconnection provider in writing,

or by the Act or these Regulations.

To:

8 An interconnection provider or an interconnection operator shall not knowingly communicate or allow access to any confidential, proprietary, or competitive information (including but not limited to, customer orders, market forecasts, plans for development of new services, network plans, current or proposed business plans, and new customers) received from another interconnecting operator or an interconnection provider in respect of interconnection, except to the extent authorized by the interconnecting operator or interconnection provider in writing, or by the Act or these Regulations, to any other party.

Change

9 (1) Where access to any facilities is required to effect interconnection such access shall be provided on a non-discriminatory and equitable basis, including with respect to charges, location and other commercial matters, together with the interconnection

To:

9 (1) Where access to any facilities is required to effect interconnection such access shall be provided where practicable and on a non-discriminatory and equitable basis, including with respect to charges, location and other commercial matters, together with the interconnection

Change:

10 (4) Notwithstanding the foregoing sub-regulations, a public network operator may consent to being treated as a dominant interconnection provider

solely for the purpose of providing interconnection and filing a reference interconnection offer at the time it files a reference interconnection offer.

To:

10 (4) Notwithstanding the foregoing sub-regulations, a public network operator may consent to being treated as a dominant interconnection provider solely for the purpose of providing interconnection at the time it files a reference interconnection offer.

Change:

15 Every interconnecting operator and interconnection provider shall provide upon request to each other, the Calling Line Identity and all necessary signaling data, in accordance with accepted international standards and any technical standards set by and published by the Commission from time to time.

To:

15 Every interconnecting operator and interconnection provider shall provide, where applicable, upon request to each other, the Calling Line Identity and all necessary signalling data, in accordance with accepted international standards and any technical standards set by and published by the Commission from time to time.

Change

24 (2) The Register shall be kept at the principal office of the Commission and Parts I and III of the Register shall be open to public inspection during normal working hours.

To:

24 (2) The Register shall be kept at the principal office of the Commission and

Parts I and III of the Register shall be open to public inspection during normal working hours and at any time through the web site maintained by the Commission.

Change:

28 (1) Parts I and III of the Register shall be open for inspection by the public on payment of an administrative fee and on the fulfillment of any other condition determined by the Commission.

To:

28 (1) Parts I and III of the Register shall be open for inspection in the Commissions office by the public on payment of an administrative fee and on the fulfilment of any other condition determined by the Commission.

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National Telecommunications Regulatory Commission Saint Lucia
Comments on the Draft Revised Telecommunications (Interconnection) Regulations
Consultation Document

Section 2 – Interpretation

“public telecommunications network – means a telecommunications network used for the provision of telecommunications services to the public”,

Does it also include holders of an International Simple Voice Resale Licence?

Section 4 (h)- Rights and obligations of public network operators

A public network operator shall provide to an interconnecting operator written notice of any breach of an interconnection agreement and a reasonable period of time to cure the breach before terminating an interconnection agreement in accordance with the procedure set out in regulation 23.”

A penalty for the breach of this obligation should be included.

Section 5 (c)– Obligation of dominant fixed public network operators

“where it provides broadband Internet access as a retail service, it shall arrange to carry the broadband information to unaffiliated Internet service providers of the end user customer’s choice.”

We are unsure as to what is being said here.

Section 6 – Number Portability

This issue of number portability should also be addressed in the Telecommunications (Numbering) Regulations.

Section 10 (1) (b) - Dominant interconnection provider

“it is in the long-term interests of consumers of telecommunications services that the public network operator be so designated”

How does the Commission determine what is in the best interest of consumers of telecommunications services?



Ref. No. COR/ECTEL

June 2, 2008

Mr. Peter Norville
Managing Director (Ag)
ECTEL
Vide Boutielle
P. O. Box 1886
St. Lucia

Dear Sir

Consultation on the Interconnection Regulations

The Commission having reviewed and discussed the consultation document wishes to comment as follows:

1. **Regulation 3 page 4:** The term “public network operator” does not appear in the definitions of the telecom act. While the NTRC is of the view that you can introduce new terms within regulations under the Act we are concerned whether a term such as this one which seems to be a significant definition could be defined and implemented in the regulations.
2. **Regulation 20 (6):** The NTRC is not clear on the objective/benefit (s) of this regulation. If the Commission was not to approve an agreement as submitted what effect would this have retroactively on the interconnection rates that were being used in the interim and most likely would have affected the retail rates paid by customers of the parties in question? The NTRC cannot see a scenario where this regulation would be beneficial to the public but can see a scenario where it might not be beneficial. The NTRC also believes the timeframes outlined in this section are too open ended and should be clearly laid out.

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This section can also lead parties to an issue of expectation in that they may file an interconnection agreement (for approval) that has certain rates outlined and begin to offer service (especially as it may relate to a new entrant into the market). You can then have the NTRC making a future ruling on the matter requiring the rates to be lowered. This can then lead to one of the parties raising legal issues of expectations in that they would not have invested and entered the market if they were aware that the rates that they had agreed to and started operations under would not be approved. This is a very serious matter and our NTRC is of the view that this section needs to be removed in its entirety from the regulations as drafted. If it is not removed it can set a bad precedent for the drafting of other regulations in the future.

3. **Regulation 29 page 16:** It seems that the changes now being made to this regulation are to address issues that our NTRC had asked to be addressed in regulation 19 during the last consultation on interconnection regulations. However, our NTRC is of the view that regulation 19 still needs to be amended to be in sync with what is now being proposed in regulation 29.

In closing an issue that our NTRC believe was not raised before but which we believe is important is the definition of “**interconnection**” and “**interconnection services**”. These regulations are built around these two words but they are not defined in the regulations. While “interconnection” is defined in the Act it should be repeated in the regulations just as how other definitions that are in the act are repeated in the regulations. However “interconnection services” is not defined in the Act. Another issue that the Commission is of the view need to address is the access to emergency numbers by customers of all networks. Specifically we are concerned with customers of one mobile network being able to access emergency numbers via the networks of other mobile providers. For example we are not sure if a mobile customer of Cable & Wireless can access the emergency number 911 via Digicel network in the event that he cannot get service from his network but is receiving a signal from the Digicel network. This provision should be mandated through regulations and should be part of the interconnection regulations.

The Commission wishes to express our appreciation for being given an opportunity to comment on this consultation document.

Sincerely yours

Apollo Knights
Secretary/Director
NTRC

Cc Mr. Jason Hamilton -Chairman/Board of ECTEL
Mr. Isaac Solomon - Director/Board of ECTEL