

CONSULTATION DOCUMENT

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

To the National Telecommunications Regulatory Commission to consult on
Draft Telecommunications Quality of Service for Resellers Regulations.

Comment on Comments

March 26, 2009

1. On February 10th 2009 the National Telecommunications Regulatory Commission received a submission from ECTEL containing ECTEL's recommendation for Draft Telecommunications Quality of Service for Resellers Regulations for [Member States].
2. A copy of the Consultation Document on "Draft Telecommunications Quality of Service for Resellers" is available on the ECTEL website (www.ectel.int) and copies can be made available upon request from the National Telecommunications Regulatory Commission.
3. The Initial Comments period was set for 11th February 2009 to 6th March 2009 and was subsequently extended to March 19th 2009.
4. ECTEL received comments from:
 - a. Cable & Wireless/LIME (*Please note that in keeping with a request for confidentiality, Cable & Wireless/LIME Service Level Agreement has not been published*)
 - b. NTRC Dominica
 - c. NTRC Saint Lucia
5. These initial comments are hereto attached and ECTEL now invites comment to these comments.
6. The Comment on Comments originally set to run from 11th March to 25th April 2009 was subsequently extended to March 27th - April 10th 2009.
7. Following the Comment on Comments period, the Directorate will consider all comments received and then present revised Quality of Service for

Resellers 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 10th April 2009 to: -

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

Disclaimer

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

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

Hello.

Landline | Internet | Mobile | Entertainment

www.time4time.com

2 - 6 Carlton Crescent
Kingston 10
Jamaica, W.I.

F: 876 926 9700
F: 876 968 9696

LIME

March 6, 2009

BY E-MAIL TO: consultation@ectel.int

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

Dear Sirs:

Re: Quality of Service for Resellers Regulations

Reference is made to ECTEL's consult on the captioned which was published on February 11, 2009. LIME comments specifically in the context of paragraph 11 (1)(b) which states that:

11 (1) *The Commission may take into account factors relating to:*

(b) any service deficiencies that arise partly or wholly from the operations of another telecommunications provider

which may affect a reseller of service's ability to achieve the obligations set out in these Regulations or any related Codes.

It is agreed that the network service quality offered by resellers is impacted by the network service quality that is provided by the supplier of the service to the reseller. It also must be appreciated that poor service quality from a reseller could be entirely its own doing and have no correlation to the service offered by the wholesaler. On its part LIME endeavours to offer the best service possible both to its direct retail customers and to resellers.

A fresh approach from Cable & Wireless

Cable & Wireless Jamaica Ltd.
Mr. Leonardo deBarros - Chairman
Mr. Geoff Houston - Country Manager
Mr. Andrew Cocking
Mr. Jorge M. Diaz
Mr. Richard Dodd
Hon. Patrick Reussseau, O.J.

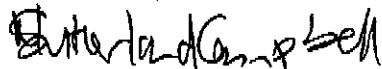
In this regard, LIME provides Service Level Agreements (SLAs) to its large corporate customers and to resellers of its internet service in the Eastern Caribbean. LIME guarantees to its resellers that average network availability will be 99.6%. This network performance target equates to 2.92 hours of network outage per month. This is a very common metric among Tier 2 and Tier 3 carriers globally. LIME sources its IP bandwidth from Tier 1, 2 and 3 carriers and as such, LIME offers a service standard to its resellers which is not different from what in several cases is obtained by LIME for itself. LIME has attached, in confidence, for the better information of ECTEL, the SLAs that it offers to resellers of its internet service.

Given that LIME does offer an SLA, any service standards established by the NTRCs must take the existing standards into consideration and the two must be reconciled, since it will be impossible for a reseller to meet a network service standard that is controlled by its supplier unless the supplier guarantees the service level. Having said this however, LIME is confident that its service standards, as contained in the SLAs provided to the ISPs are robust and as such it is the view of LIME that it would be extraordinary for any reseller to fail to achieve its obligation, under any proposed Quality of Service (QoS) regulation due to consistent service delivery failures on the part of LIME.

There have been occasions where resellers have erroneously communicated to their customers that the problem being experienced by the customers is attributable to LIME. Erroneous allegations are troubling to LIME because the quality of the service delivered by the Company is a fundamental element of its competitiveness. In this context LIME recommends that it be allowed to verify claims by resellers of any service delivery deficiency attributable to LIME before the reseller submits its report to the NTRC.

LIME thanks ECTEL for extending an invitation to LIME to participate in this consultation. Please send any communication in relation to this consultation to the undersigned at melesia.campbell@time4lime.com

Yours sincerely,



MELESIA SUTHERLAND CAMPBELL
Regulatory Advisor

EASTERN CARIBBEAN TELECOMMUNICATIONS AUTHORITY

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

**To the National Telecommunications Regulatory Commission to consult on a Draft
Policy for Quality of Service for Resellers Regulations**

CONSULTATION DOCUMENT

1. The National Telecommunications Regulatory Commission is in receipt of a submission from ECTEL containing ECTEL's Consultative Document for the Draft Quality of Service for Resellers Regulations.
2. The Consultative Document is attached.
3. The initial comments period will run from the 11th February 2009 to the 6th March 2009.
4. The comment on comments period will run from the 11th March 2009 to the 25th March 2009.
5. Following the Comment on comments period ECTEL will finalize and submit the draft regulations to the ECTEL Council of Ministers for its recommendation for adoption in the ECTEL Member States.
6. All responses to this Consultative Document should be written and sent by post, fax or email to:-
The Managing Director
ECTEL
P.O. Box 1886
Vide Boutielle
Castries
St. Lucia
Facsimile: 1 758 458 1698
E-mail: consultation@ectel.int

Formatted: French (France)

All comments should be clearly marked "Comments on Draft Revised Telecommunications Quality of Service for Resellers 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.

RATIONALE

In 2007 after a series of consultations on the Quality of Service (QoS) Regulations it was concluded that the resellers of services as well as the holders of International Simple Voice Resale (ISVR) Licences should be excluded from the QoS Regulations and separate regulations should be drafted specifically for this group.

The draft QoS Regulations for Resellers (the regulations) was discussed at the 7th ECTEL/National Telecommunications Regulatory Commission (NTRC) forum. There concerns were raised about the definition of 'reseller' and the obligations placed on those persons that fell within the ambit of the regulations. In particular it was felt that the majority of resellers were small operators who were not seized of the requisite skills and resources to fulfill the reporting and publishing requirements. The revised regulations have taken into consideration the views expressed at the forum.

In light of the amendments, ECTEL is of the view that the revised regulations should be subject to further consultation.

Consultation Procedure and Timetable

This ECTEL submission includes a request to the Commission to conduct a national consultation in [Member State] on the draft revised Telecommunications (Quality of Service) for Resellers Regulations in accordance with the timetable outlined on the cover page. NTRCs are specifically requested to draw the attention of Resellers and other class licensees to the draft regulations.

Council of Minister's Approval

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

Explanatory Memorandum

DRAFT TELECOMMUNICATIONS QUALITY OF SERVICE FOR RESELLERS REGULATIONS

These Explanatory Notes relate to the Telecommunications (Quality of Service for Resellers) Regulations. These notes have been prepared to assist the reader and do not constitute part of the Regulations. Additionally, the notes are not nor are they meant to be a comprehensive description of the Regulations and where a clause does not appear to require comment none will be supplied.

1. The regulations establish a regulatory framework to govern quality of service issues for resellers. Therefore, it mandates that resellers provide information on the services supplied, treat with the resolution of customer disputes and maintain records on its customer service as well as adhere to quality of service standards.
2. Section 1 and 2 of the regulations provide for preliminary matters such as citation and commencement.
3. Section 3 deals with the interpretation of particular words contained in the regulations. In particular, the term 'reseller of service' is now refined to exclude 'agents or contractors of a telecommunications provider who sell or promote telecommunication services for or on behalf of that provider.' This exclusion omits small proprietors from the ambit of the regulations. Also excluded is 'any person who establishes, operates, or maintains a public telecommunications network.' Such an entity would require an individual licence and is outside the scope of these regulations. These exclusions were necessary due to the wide definition of 'reseller' employed in ECTEL Contracting States thus far.
4. Section 4 states clearly the entities to which the regulations apply.
5. Section 5 outlines a list of obligations to be imposed on resellers. It mandates that resellers are responsible for dealing with customer issues. To that end, resellers are prohibited from sub contracting their obligation to deal with customer complaints and are directed to retain adequate numbers of trained customer service personnel and supply the customer with sufficient information to assist in the resolution of problems. Additionally, the section in keeping with data protection principles, seeks to prevent the abuse of a customer's personal information by prohibiting

the sale of the same for profit and requiring the disposal of customer information when it is no longer required by the reseller.

6. Section 6 allows for the establishment of a quality of service code (hereinafter referred to as the code). The code, which would set out quality of service standards as well as any other appropriate standards, may be adopted by NTRC's acting on the recommendation of ECTEL. The procedure outlined in this section presents a flexible approach for the creation and adoption of standards. Referring to the code within the regulations obviates the need for parliamentary approval and as such the time frame for adoption is shortened. **Note - ECTEL does not anticipate the need for the development or publication of such a code at this time.** The provision is intended to build in some flexibility for NTRCs to impose standards as they deem appropriate where circumstances require in the future.
7. Section 7 deals with the binding effect of the Code.
8. Section 8 obliges resellers to retain data on QoS compliance levels for a minimum period of twelve (12) months.
9. Section 9 deals with the reseller's duty to report annually to the Commission on its level of compliance with QoS standards.
10. Section 10 speaks to the possible steps that may be undertaken in the resolution of valid complaints. Thus resellers may reimburse the customer, compensate him on clear terms and conditions set by the reseller, offer to provide an additional service at no extra cost or take any other appropriate measure. Where the reseller and an affected customer are unable to reach a resolution then the reseller must inform the customer that the matter can be referred to the Commission for resolution.
11. Section 11 outlines the factors that an NTRC may take into account when a reseller is unable to achieve the obligations set out in the regulations. In such circumstances, the reseller may apply for extensions of time or may be exempted from an obligation to submit a report.
12. Section 12 provides the time period for resellers to comply with the regulations. Therefore resellers must comply with the regulations within six months of the regulations coming into effect. Further, the section lists the situations which would amount to a breach of the regulations and which would authorize the NTRC to either suspend or revoke the licence. However, there is room for flexibility, as an NTRC possesses the discretion to allow the offending reseller to remedy its breach.

[MEMBER STATE]

Telecommunications (Quality of Service for Resellers) Regulations 200[-]

ARRANGEMENT OF REGULATIONS

1. Citation
2. Commencement
3. Interpretation
4. Application
5. Obligations of Resellers of Service
6. Establishing and Amending Quality of Service Standards
7. Code to Bind Resellers of Service
8. Record Keeping
9. Information to Commission
10. Customer Complaints
11. Unpredictable situations and cases of *force majeure*
12. Compliance and Enforcement

[Member State]

Telecommunications (Quality of Service for Resellers) Regulations

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

(Gazette [Date])

REGULATIONS

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

Citation

1. These Regulations may be cited as the Telecommunications (Quality of Service for Resellers) 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[-];

“**Commission**” means the National Telecommunications Regulatory Commission established by section [-] of the Act;

“**Force majeure**” means any event or effect that can be neither anticipated nor controlled and includes both acts of nature such as earthquake, flood, lightning and hurricane, and acts of people such as riot, strike, civil disorder, declared state of emergency and war or any similar act which the Commission determines to be *force majeure*;

“**Quality of Service**” means the measurement of the performance for a telecommunications network or service and the degree to which the network or service conforms to stipulated parameters and the term “Quality of Service Standards” shall have a corresponding meaning;

“**Quality of Service Code for Resellers**” means a document published by the Commission setting out quality of service standards and related matters for resellers, recommended for adoption by ECTEL;

“Reporting Period” means a calendar year;

“Reseller of Service” means a telecommunications provider who purchases telecommunications services from another telecommunication provider for the subsequent sale or lease to an end- user of the service on a commercial basis with or without adding value to it, and for the avoidance of doubt, such services do not include;

- (a) Telecommunications services that are sold or promoted by agents or contractors of a telecommunications provider for or on behalf of that provider; and
- (b) telecommunications services provided any person using a a public telecommunications network which he establishes, operates or maintains,

(2) Unless otherwise specified, terms used in these Regulations shall have the meanings assigned to them under the Act.

Application

4. These Regulations apply to resellers.

Obligations of Resellers of Service

5. Every reseller of service shall:

- (a) provide, establish and maintain sufficient information to assist customers in resolving questions and issues relating to the services that it provides including:
 - (i) the name of the reseller of service;
 - (ii) the customer service telephone number of the reseller of service;
 - (iii) clear instructions pertaining to the use of the service;
 - (iv) the tariffs related to the use of the service;
 - (v) the duration or validity period of the service;
 - (vi) the terms and conditions on which a customer with a valid complaint against the service shall be compensated by the reseller;
 - (vii) the contact details of the Commission; and
 - (viii) the right of the customer to address complaints to the Commission where unsatisfied with the service for any reason.
- (b) be responsible for the treatment of customers’ complaints;
- (c) maintain adequate numbers of trained personnel sufficiently authorized to receive and respond promptly to complaints from customers;

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Deleted: who sell or promote telecommunications services

Deleted: a public telecommunications network

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Comment [D1]: Although the term “Reseller of Service” has been defined above, the term “resellers” has not been defined. Should “Resellers of Service” therefore be used here instead of “resellers”, or should the defined term have been “Resellers” instead? This comment applies to all instances where “resellers” instead of “Reseller of Service” is used in the Regulations.

Comment [D2]: Should some attempt be made to specify the means/form in which such information should be provided etc.

- (d) take all reasonable commercial steps to promptly remedy and avoid the recurrence of the cause of all customer complaints which relate to the quality, availability or delivery of the services that it provides;
- (e) keep and maintain all information on the complaints made by customers and shall provide such information to the Commission at least once a year;
- (f) keep confidential any and all personal information obtained from a customer in connection with the use of its services or in the course of a dispute with the reseller and not knowingly communicate, sell or otherwise disclose such information to a third party for any reason, unless requested by the Commission;
- (g) upon the expiration of not less than one year after the end of the reporting period, promptly and permanently dispose of any and all personal information obtained from customers, unless otherwise directed by the Commission;

Establishing and Amending Quality of Service Standards

6. The Commission, acting on the recommendation of ECTEL, and having regard to market needs or the regulatory objectives of the Commission –
 - (a) may, in addition to the obligations set out in these Regulations, issue a Quality of Service Code for Resellers, to establish quality of service standards, and setting out any other standards or guidelines the Commission may deem appropriate;
 - (b) shall publish the Code in the Gazette and on its website;
 - (c) may amend, replace or revoke a Code at any time

Code to Bind Resellers of Service

7. (1) A reseller of service shall comply with the quality of service standards and any other standards or guidelines published in the Code.

Record Keeping

8. (1) A reseller of service shall retain quality of service data detailing levels of compliance with established standards of service and related records for a minimum period of twelve months after the end of the reporting period or until such time as the Commission shall direct.

Information to Commission

9. (1) A reseller of service shall submit to the Commission on an annual basis a report on its levels of compliance with established quality of service standards for any obligations set out in these Regulations or related Codes for the last reporting period.

Comment [D3]: Should "not less than" be removed here? How does one determine when "not less than one year" has expired?

Comment [D4]: This regulation seems to have the following possible problems depending upon its interpretation:

1. It appears to be suggesting that customer's personal information / records should be disposed of after about 2 years? This seems to be impractical where a customer subscribes to a service for an extended period (say in excess of 2 years) because the customer's personal record must be maintained by the provider in order to keep the customer's account active. If the expression "personal information obtained from customers" is not intended to include basic personal information like name, address etc. needed to keep a record of customer's active account, then this distinction should be made clear in the Regulations.

2. Even if the customer does not subscribe to the service for an extended period, one (1) year following a reporting period seems to be too short a time period for which to maintain such information/records unless one is absolutely convinced that disputes may not arise after one year or that disputes may not possibly drag out for more than one year.

3. If the intention was to just say that the information should not be destroyed within less than one year after the end of the reporting period, then the regulation should be reworded to say just that in a much simpler way.

- (2) The reseller of service shall submit the report referred to in sub-regulation (1) on the last working day of the calendar year in a form acceptable to the Commission.

Comment [D5]: Since the reporting period is defined as the calendar year itself, the requirement to submit the report on the last working day of the calendar year seems a bit too soon. A short time after the end of the period should be allowed for putting the report together. Maybe one (1) month after?

Customer Complaints

10. (1) Where the reseller of service receives a complaint from a customer about the quality of its service, the reseller of service shall make such investigation as is required in the particular case and take all necessary steps to address valid complaints by:
- (a) reimbursing the customer for the costs of the service;
 - (b) compensating the customer on terms and conditions clearly set out by the reseller of service;
 - (c) offering to provide additional service at no extra cost to the customer; or
 - (d) taking any other measures it deems appropriate having regard to the nature of the customer's complaint as the case may be.
- (2) In the event that the customer complaint is not resolved, the reseller of service shall inform the customer that he may refer the matter to the Commission for resolution.

Unpredictable situations and cases of *force majeure*

11. (1) The Commission may take into account factors relating to:
- (a) any changes in environmental or operating conditions that could not have been reasonably foreseen by the reseller of service; or
 - (b) any service deficiencies that arise partly or wholly from the operations of another telecommunications provider;
- which may affect a reseller of service's ability to achieve the obligations set out in these Regulations or any related Codes.
- (2) Where a reseller of service is unable to submit a report during the relevant reporting period as a result of a natural disaster or a case of force majeure, he may apply to the Commission in writing for an extension of time.
- (3) In the event of a natural disaster or a case of force majeure, the Commission may exempt a reseller of service from the obligation to submit a report during the reporting period in which the natural disaster or the case of force majeure occurred until the last working day of the first quarter of the subsequent year.

Compliance and Enforcement

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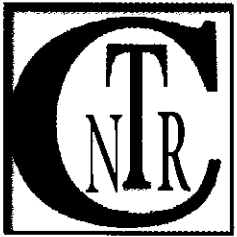
12. (1) A reseller of service to whom these Regulations apply shall comply with the obligations provided for in these Regulations within six months of the coming into effect of these Regulations.
- (2) A reseller of service who:
- (a) fails to comply with these Regulations after six months have elapsed from the coming into effect of these Regulations;
 - (b) fails to submit during a time period specified in these Regulations or by the Commission, information requested by the Regulations;
 - (c) knowingly submits or publishes false or misleading information relating to its compliance with quality of service standards;
 - (d) knowingly submits or publishes false or misleading information to customers relating to any of its services;
 - (e) obstructs or prevents an investigation by the Commission into a complaint by a customer or the quality of service reporting or record keeping procedures or with respect to any related matter; or
 - (f) fails to comply with the terms and provisions of the Act, these Regulations, any related Codes, its licence or any order, decision or direction of the Commission
- (3) shall be liable to the enforcement measures outlined in the Act including suspension and revocation of its licence as provided for in Section [relating to Suspension and Revocation of licences and authorisations] of the Act.

Without prejudice to sub-regulation (2) above, where the Commission determines that a reseller has failed to comply with established quality of service standards, the Commission may require the reseller of service to implement a remedial plan to improve the quality of service of the relevant service over a period to be determined by the Commission and the reseller of service shall comply with such a plan once directed.

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Made this day of 200[-]

Minister Responsible for Telecommunications



SAINT LUCIA

#2609
ORIGINAL
ORIGINAL

NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

Suite #1, S&S Building, 35 Chisel St., P.O. Box GM690, Castries, St. Lucia (W.I.)

March 17th, 2009

OUR REF: 130-02.02/MAR17.09/AA.01

MAILED
18th March '09

Mr. Embert Charles
Managing Director
Eastern Caribbean Telecommunications Authority
P.O. Box 1886
Vide Boutielle
Castries

Received by: *am*
Mail
Courier
Fax
Hand Delivery ✓
Date: 25/3/09

Dear Mr. Charles

Re: Comments on Draft Revised Telecommunications Quality of Service for Resellers Regulations

The Commission having received and reviewed the comments on the draft revised Telecommunications Quality of Service (QoS) for Resellers Regulation wishes to make the following observations:

General Comments

The Commission welcomes the draft of the revised QoS for Resellers regulations as it believes that the regulations when promulgated will assist in the development of the Reseller's sector of the telecommunications market; a sector of the market which we believe that has not received the required attention, because much of the attention and resources of the regulator are most times diverted (though no fault of the regulator) to regulating the public telecommunications operators. Notwithstanding the overall prudence given to the drafting of the new regulations, the Commission believes that certain sections of the draft regulations may prove to be onerous on the persons to whom it was directed and the obligations of certain regulations may even prove as a hindrance to persons operating or wishing to enter certain section of the reseller's market.

The Commission has observed that the QoS regulations offer little indications or measurements for the monitoring of QoS in relation to the different telecommunications service as compared to the Telecommunications (Quality of Service) Regulations. Is it the general expectation that the code will address the QoS measurements in order that monitoring can be conducted.

Specific Comments

Establishing and Amending Quality of Service Standards

Section 6 should refer to consultation or any other means of receiving feedback from the public before the Regulations has been finalized.

Section 6 (c) the sentence is missing the word “time” at the end.

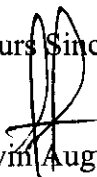
Consumer Complaints

As mentioned in the General Comments and specific to this section, what are the markers/ measurements to identify whether there is good service or bad service? Provisions should be included to reflect this in order to direct the consumers.

Section 10 (a) and (b) – who does this apply to as it may not be applicable to all classes of resellers e.g. small business owners, internet cafes etc.

Finally the Commission wishes to express our profound appreciation for being given the opportunity to provide its feedback on the Draft Revised Telecommunications Quality of Service for Resellers Regulations and hopes that the Directorate gives due consideration to its observations.

Yours Sincerely



Alvin Augustin
Officer in Charge