



**EASTERN CARIBBEAN
TELECOMMUNICATIONS AUTHORITY (ECTEL)**

COUNCIL PAPER

**REPORT OF THE CHAIRMAN OF THE BOARD OF ECTEL TO THE COUNCIL
OF MINISTERS FOR THE YEAR ENDED 30TH SEPTEMBER, 2005**

1. INTRODUCTION

The Financial Year which ended on 30th September 2005 provided the ECTEL Regulatory System with an opportunity to consolidate on the gains made in advancing the Telecommunications Liberalisation Process. The year began with a request by the Incoming Chairman, Hon Gregory Bowen, to change the venue of the Council Meeting from St. Vincent and the Grenadines to Grenada.

It was a request/invitation that was promptly accepted by members of Council, as it afforded Ministers an opportunity to witness the near total devastation of the Grenadian Economy by Hurricane Ivan on September 7th 2004. In the face of the severe damage to infrastructure, and property, and loss of life, the Incoming Chairman re-affirmed his Government's total commitment to the Principles of the ECTEL Treaty and the goal of complete liberalisation of the Telecoms Sector.

It was also a period in which the Board strengthened external relations with the World Bank and Member Governments through the successful completion of negotiations for the Telecommunications and ICT Development Project. The Board also improved relations with NTRCs through its meetings and periodic visits.

During the year, the Directorate was able to complete the recruitment of key professional staff, thereby affording the Board the opportunity to respond more adequately to Council's directives and the timely implementation of the Work Programme. The Report also reveals that all areas of Regulatory Intervention received attention; namely Legal and Regulatory, Licensing and Technical Services, Tariffs and Pricing, Spectrum Management and Dispute Resolution.

2. MAJOR ACHIEVEMENTS

There were several significant achievements during the period under review. However, the completion of the Regional Numbering Plan and the Regional Radio Spectrum Plan must be seen as the critical milestones. Although various initiatives were taken between 2001 and 2003, these documents had not been prepared. These Plans represent a mix of policy directives, technical analyses and stakeholder input through internal and external consultations.

The consultations were carried out at the level of ECTEL/NTRC, Ministries of Telecommunications, input from Service Providers and the wider public; though there is still considerable scope for greater participation from civil society and consumer groups. In the case of the latter, there are very few well organised and functional groups in the Member States, and this may be a contributory factor.

Another important accomplishment was the completion of the Preliminary Report on the Socio-economic Impact Study on the Liberalisation of the Telecommunications Sector. Through the use of enumerators, various service providers, consumers and government agencies were interviewed in organized field surveys on Investments, Employment and Savings. This was done as a means of validating the widely held view that liberalisation has produced considerable benefits to the economies and people of the Member States.

In 2004/2005 also, the Board monitored the Implementation of the Price Cap Plan signed between Cable & Wireless, the Member States and ECTEL. There were two components to the implementation of the Price Cap Regime, the approval of the Price Cap Plan by

each NTRC and the Gazette Publication of new Telecommunications (Retail Tariff) Regulations by the Minister for Telecommunications. All Member States completed the process and saw the reduction in fixed line rates from January 2005, except Grenada where the reductions were effected in May 2005.

3. LEGAL AND REGULATORY

Several important activities were planned in support of the Legal and Regulatory Environment. An important pre-requisite to regulatory certainty is the consistent application of laws that provide clear guidance to service providers and users within the Sector. Therefore, a comprehensive review of the Telecommunications Act was initiated.

However, when the Work Programme was approved last October, it was envisaged that the Telecommunications and ICT Development (TICT) Project would have become effective earlier and thereby provide additional resources. These resources would provide the necessary technical assistance to undertake a comprehensive review of the Telecommunications Act, Treaty and Regulations. The delay, notwithstanding, the Legal Affairs Department completed a number of major assignments.

These are:-

1. A review of the Telecommunications Act, with an examination of gaps, areas for change, new sections required to provide greater clarity of roles or for enforcement of provisions;
2. Completion of Retail Tariff Regulations, following internal and external consultation on the Draft prepared under the Price Cap Consultancy;
3. Preparation of new and detailed Dispute Resolution Regulations;
4. Major review and re-drafting of the Telecommunications Fees Regulations, Licensing and Authorisation, Spectrum Management and Numbering Regulations;
5. Preparation of first draft Exemption Regulations and Quality of Service Regulations;

6. Completion of the Broadcast Licence Templates for AM, FM Radio and Cable Television;
7. Review of the Terminal Equipment and Public Network Regulations;
8. Review and Advice on the Change of Control of AWS/Cingular Wireless Interests in the Member States.

Noteworthy to the regulatory process is the considerable level of effort expended in the Public Consultations. The Board noted during the 2004/05 Financial Year, the successful introduction of three levels of consultation partly in response to requests from NTRCs for greater involvement and participation in the harmonised regulatory system.

At the first level, NTRCs are invited to offer comments on policy initiatives or draft legislation, and then the matter is put to Public Consultation (with the NTRCs having another opportunity to comment.) In the final phase an ECTEL/NTRC Forum is convened prior to presentation to Council for policy decision.

In 2005/06 the focus of the Legal and Regulatory Interventions will be on the completion of the Comprehensive Review of the ECTEL Treaty, the Telecommunications Act and the development and drafting/redrafting of Regulations in five areas.

These are:-

1. Quality of Service
2. Universal Service Fund Management
3. Technical Standards
4. Interconnection (to include Infrastructure Sharing and Wholesale)
5. Submarine Cable Systems

Consideration is being given to the drafting of a Pro-competition Code for inclusion in the regulatory instruments to guide the Regulator in the monitoring of anti-competitive behaviour in the Sector. This proposed activity has been included in the 2005/06 Work Programme.

4. LICENSING AND TECHNICAL SERVICES

The evaluation of applications for Individual Licences continued throughout the year. These applications were received for the transfer of a PSTN, Submarine Cable Systems, Internet Networks and Services, and one Fixed Wireless Network. Two Cable Systems and four Internet Network and Services applications were recommended; while the Fixed Wireless Application was incomplete and the Applicant has not supplied the information necessary for evaluation. The PSTN request was recommended with two conditions. Several other applications were received and processed. The submission of complete data remains an area of concern that must be tackled through enhanced administrative skill and capacity at the NTRCs.

As earlier indicated, the Regional Numbering Plan was completed and will be presented under Agenda Item # 8 of this Meeting. A request from *Connexion by the Boeing*, a subsidiary of the Boeing Company, was also evaluated and a general recommendation provided. Given the specific nature of the request, the minimal demands that will be made on the Spectrum Resource and on the Administrative System, the exemption from payment of fees has been proposed. A Public Consultation process will shortly be held on the Proposal.

Also, as part of the collaborative engagements with the World Bank, a Universal Access (Internet) Study was completed in April 2005. This study was funded by the Netherlands Government. The Final Report was presented to a forum which comprised ECTEL/NTRC/Ministry of Finance and Ministry of Telecommunications Staff, together with representatives of regional organizations and the World Bank.

The authors concluded that while the Member States were all connected, this was primarily through dial-up services which were still very expensive relative to rates charged in developed economies. That Study will serve as a precursor to a more detailed assessment of the opportunities and challenges faced by Member States in moving

towards more affordable Broadband Connectivity. This too will be pursued under the TICT Project.

Other assignments completed by the Technical Services Division of the Directorate include:-

1. The Policy Paper on Use of “Foreign” Home Network Identification Codes in ECTEL Member States;
2. Quality of Service Parameters;
3. Evaluation of Consultancy Proposals under the TICT Project.

There are a few critical areas that require urgent attention. These are completion of Annexes of the Licensing Regime, preparation of templates for a range of Class Licences and the emerging issues of Telecommunications Convergence and Voice over Internet Protocol (VoIP) – “*to regulate or not to regulate.*” These issues will be addressed early under the 2005/06 Work Programme.

5. ADMINISTRATION

Most of these activities fall to the Office of the Managing Director. Pursuant to a request from Council, visits to discuss Accession to the ECTEL Treaty were undertaken in June and August. The OECS Member States of Antigua and Barbuda and Montserrat, together with the OECS Associated States of Anguilla and BVI, were visited.

In Antigua and Barbuda, Anguilla and BVI we found no clear demonstration of interest to accede to ECTEL in the near term. Of course, Antigua and Barbuda poses the greatest challenge since the Government, through the APUA, owns the physical infrastructure for the fixed lines network. However, Prime Minister, Baldwin Spencer indicated it is the wish of his Government to join the ECTEL family and expressed the view that, that should have occurred when ECTEL was launched in 2000.

Anguilla and BVI are at varying stages of preparedness even though Anguilla has a functioning PUC. There, Public Mobile Licences were issued two years ago to applicants but there is still no competition in mobile services. In every case, there was a request for further discussions. Montserrat demonstrated the greatest interest and the Board will actively pursue this OECS Member State. Meanwhile, the issue of cost of Accession vis-à-vis the Treaty provision for *notification* and *depositing* of an Instrument of Accession with the Director General of the OECS under Article 22 of the Treaty must be resolved. In the case of the other three islands, a Scoping Paper will be developed.

In the year under review, the Board also introduced compulsory Continuing Professional Development (CPD) for professional staff. Although the Budget of \$50,000 proved inadequate, 55% of the professional staff was facilitated while 57% of the support staff received financial assistance with personal development programmes. Training opportunities were in Legal Drafting, Interconnection and Pricing, IS/IT Management, Accounting, Management, Para-legal Studies and Library and Documentation Studies.

Two Directors and one NTRC Chairman attended the 18th Regular International Training Programme on Utility Regulation and Strategy at PURC; while two NTRCs received subventions for specialized staff training. Also, at the joint request of the UWI and two applicants, partial support has been provided for tuition fees for the Master's degree in Regulatory Policy.

Work started on an Administrative Policy Manual (to include a Disaster Management Plan), and will be completed in the New Financial Year. The Financial Policies and Procedures Manual was successfully executed as a collaborative effort between Economics, Finance and Accounting. The Manual has been approved and is currently in use.

The Board also witnessed an increase in the number of Media Releases particularly in St. Lucia and the strengthening of Public Relations generally. These efforts need to be intensified in all Member States. In that regard, a Public Relations/Media Relations Unit will be created in the coming year.

The Dispute Resolution Panel required under the provisions of Article 14 Annex 3 (1) of the Treaty remains incomplete despite several reminders. Two States must still complete their nominations. This is the Panel required in the event of a dispute between Member States. Also, in the area of Dispute Resolution, it appears that only Grenada has published the Regulations approved by Council at its 11th Meeting held in March 2005.

The Office of the Managing Director coordinated the publication of a 5th Anniversary Magazine. Board Member Charles provided technical assistance on the approach and content. The Magazine will feature a mix of messages, feature articles, technical presentations and short articles with perspectives on the liberalisation process and the future of Telecommunications and ICTs in our Member States. Three Committees were engaged in the effort; namely Editorial, Production and Marketing & Distribution with design, layout, production and printing provided by the Private Sector. Professional as well as support staff participated in all committee activities.

6. SPECTRUM MANAGEMENT

Perhaps the most significant accomplishment of the Spectrum Management Department is the completion of the Regional Radio Spectrum Plan required under Article 5 (1) (b) of the ECTEL Treaty. The Plan is divided into fifteen sections with Section 7 as the Principal area; that section deals with the Allocation Table; while section 8 deals with the process of Spectrum Management in the ECTEL Member States.

At the time of preparation of this Report, the Public Consultation process was continuing. This is being done at two levels. First the Directorate consulted key stakeholders at the ECTEL/NTRC Forum in August 2005 followed by a 30-day Public Consultation period.

The comments from these two events, together with any further comments later received, will inform the final version of the Plan.

Currently we are still faced with the challenge of developing suitable arrangements for the maintenance of the Spectrum Management and Monitoring System (SMMS). In January, 2005, the Board sought the assistance of the NTRCs in identifying a suitable person or company that would provide maintenance services. The responses indicated that the relevant skills were not available on a retainer basis. An approach was therefore made to the supplier, TADIRAN Electronics Systems, for a four-week training attachment for the Engineer/Spectrum Officer. But their fee proposal of US\$60,000 was considered grossly excessive. Even with the intervention of the World Bank, no meaningful progress has been made. Other avenues are being pursued for suitable training.

Meanwhile, a pilot project on the use of IRIS software under the SMMS got underway recently with the cooperation of the NTRC, St. Vincent and the Grenadines. This system is designed for continuous updating of spectrum management information and automatic generation of bills. The project will continue to February 2006. Several Type Approval requests were received from the NTRCs and processed.

A major challenge in the new Financial Year will be the allocation and usage of spectrum by one of the service providers following the acquisition by Digicel of AWS/Cingular's interests in the ECTEL States. To date, Council has maintained a policy of payment for 15 MHz per PMT Operator, despite actual usage. This development could impact adversely on the fees and the Service Provider and ECTEL have agreed to hold discussions in that regard early in the 2005/06 Financial Year.

Last year, the Directorate initiated a process for the management of the Mobile Spectrum Management Vehicle and Equipment, through the mechanism of a MOU. To date, all countries have executed the document, except Grenada. The latter had raised concerns

regarding the dispute resolution provision of the MOU. The Board will pursue this matter in the New Year.

7. ECONOMICS AND FINANCE

The major constraint that had hampered this area of the Directorate's functions was removed in March 2005. Miss Cheryl Hector, a Dominican national, was appointed to the post of Senior Financial Analyst. She was previously employed with the Eastern Caribbean Securities Exchange.

With her arrival, immediate attention was given to the long awaited Socio-economic Impact Study. With the assistance of the Ministry of Finance in St. Lucia, the Survey Instruments were developed and tested. The Preliminary Findings of that Study are being presented to this meeting. The Final Report will assist Member Governments in policy planning for the Telecommunications Sector, and the wider economy.

The Department also reviewed the Annual Compliance Filing under the Price Cap Plan signed with Cable & Wireless. A model for determining the cost for accession to ECTEL is nearing completion. Also, a Proposal for charging fees for the use of numbers has been developed and will be the subject of public consultation. The Department has also begun an Assessment of the staffing and cost structure of the NTRCs given the recent trend of annual increases in NTRC Budgets.

In addition to the above, the Economics and Finance Department contributed to the OOCUR sponsored study on Roaming Charges in OOCUR Member Countries. The findings of that survey were presented to a workshop held in Belize in March 2005.

The Economics and Finance Department has also begun a joint review of the Pro-competitive Pricing Model agreed to under the Price Cap Plan with Cable & Wireless. Work on that Study should intensify within the next few months. Issues such as cost of termination of mobile calls, interconnection charges and wholesale rates will be examined. Funding for this assignment will be provided under the TICT Project.

8. INFORMATION SYSTEM/INFORMATION TECHNOLOGY

The IS/IT Unit continued to play its key role in supporting the work of various departments thereby ensuring that the Directorate remains connected. Earlier, it was envisaged that by the end of 2004/05 a detailed study on alternative connectivity would have been undertaken. The preliminary works carried out on the Implementation of an Alternative Communication System recommended the use of Satellite Technology. This was considered to be equally expensive to existing connectivity arrangements even though there may have been some additional benefits. A more detailed study should begin shortly that will carefully analyse various design options.

Other tasks completed in the 2004/05 are:-

1. Development of the Local Area Network (LAN) to include:-
 - a. Linux File Server Implementation (Redhat Fedora)
 - b. Linux Domain Name Server (DNS) Server Implementation
 - c. Corporate Parameter Firewall (CISCO PIX)
 - d. Linux Intrusion Detection System (IDS) Implementation
 - e. Workstations Upgrades from Win 2000 to win XP (open license)
2. Website redesign and launch
3. Email/Server upgrade (Unix)
 - Anti spam and virus control
 - Unix software firewall (FreeBSD)
4. TOR for Alternative Communication System Acquisition (Flexibility of solutions)
5. Spectrum Local Area Network (LAN) implementation (ECTEL)
 - Vertical Private Network (VPN) Testing and Reconfiguration
 - Software upgrades (ECTEL – server and workstations)
 - Wide Area Network (WAN) Design layout for Spectrum Management including IP address configuration.

In addition, the Unit also provided software support, hardware repairs, and procurement of computers systems, software and peripherals. Also, a draft three Year IT Strategic Plan for the Directorate has been developed.

CONCLUSION

The Financial Year 2004/05 proved to be another challenging but successful year for the Regulatory System. In that period, the Board strengthened its relations with its key stakeholders, notably the NTRCs through in-country dialogue.

Meanwhile, relations with the OECS Secretariat remained strong with critical support provided during the developmental stage of the new TICT Project and the Universal Access Study. The Secretariat also assisted with the Telecommunications Reform Project Completion Report. This Project registered a satisfactory rating with the World Bank. The OECS Secretariat attended all regular Council Meetings and all but one Board Meeting during 2004/05. In return, the ECTEL Directorate also provided vital support in the development and drafting of the Broadcasting Authority Bill.

The Board continued its active collaboration with the ITU, CTU and OOCUR. CTU and OOCUR provided several opportunities for training and networking. Funding limitations did not allow the Board to avail itself of participating in the working sessions of the ITU. However, efforts will be made this year to participate in the forums on Internet Governance and the World Summit for an Information Society.

The Board is pleased to report that the ECTEL Regulatory System continues to gain the respect of national, regional governments and international agencies. In the year ahead, we will endeavour to remain focussed on our Mission “*to create a fully liberalised Telecommunications environment by implementing applicable laws, treaties and agreements through fair, transparent and independent processes.*”

This Report is being submitted in accordance with the provisions of Article 7 (3) of the ECTEL Treaty.

ISAAC SOLOMON
CHAIRMAN, BOARD OF DIRECTORS

24th September, 2005

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