

## **COUNCIL PAPER**

### **DRAFT REPORT OF THE CHAIRMAN OF THE BOARD OF ECTEL TO THE COUNCIL OF MINISTERS**

#### **Introduction**

This report presents the highlights of the operations of the ECTEL Directorate during the period October 2008 to September 2009. While periodic reports were discussed by the ECTEL Board of Directors during the past year, the report of the Chairman of the Board summarises the implementation of work programme activities, and articulates the strategic priorities for the year 2009 – 2010.

The 2008 – 2009 work programme was set against the following strategic priorities:

1. Operational and regulatory efficiency of the NTRCs
2. Increasing revenues from new uses of spectrum
3. Advancing the regulatory response to convergence
4. Increased access to services –USF and cost-based interconnection
5. Strengthening the core skills at the Directorate

The key function of the Directorate is to provide advice on a wide range of issues, as well as the implementation of activities aimed at advancing the harmonisation objectives of the regulatory system.

The achievements of the 2008 – 2009 work programmes were due in part to the following approaches to the delivery of tasks:

- (a) increased consultation with the NTRCs, and the continuous communications with Ministers responsible for Telecommunications;
- (b) broad-based internal rigorous analysis of the staff of the requests for advise and technical support from NTRCs and other stakeholders;
- (c) the engagement of the expertise of regional and international consultants.

Notwithstanding the combination of approaches employed, some goals were not realised. These included the implementation of the Universal Service and Information and Communications Technology pilot projects under the TICT Project, and the allocation of frequencies in the 700 MHz band.

## **Trends in the Sector**

The telecommunications sector continues to grow at a rapid rate. During the year, there were changes in all the indicators, most of them upward, but some experienced downward movements. The following extract from the Annual Telecommunications Sector Review 2007 – 2008 illustrates some of these trends (ATR p.16).

*“For the period ending March 2008, the telecommunication sector in the ECTEL Member States expanded in terms of both subscribers and call volumes. Despite expansion in these areas, total revenues were estimated to have fallen some 6 per cent as a result of the continued decline in the fixed line market. At the end of 2007, the sector was estimated to have contributed 10.8 per cent to GDP up from 10.6 per cent in the previous period.*

*The main highlights of the sector for the review period:*

- a Voice services remain the main source of revenue for the industry but revenues from Internet services record a 20 per cent increase even as overall sector revenue is estimated to have contracted some 6 per cent.*
- b The mobile market recorded 16 per cent growth in subscribers with three Member States recording mobile penetration rates in excess of 100 per cent.*
- c The decline in fixed lines in service stabilized and the number of lines in service experienced modest growth of 2 per cent.*
- d The mobile market for voice services dominated fixed services in terms of revenue generation, subscribers and outgoing international traffic. However, the majority of local traffic still originated from the fixed network*
- e Growth in the market for Internet access outpaced growth in the markets for voice as reduced rates and increased speeds for high speed Internet access resulted in increased uptake of fixed broadband service. There is still significant room for expansion in the market for Internet access with average penetration registered at 11.6 per cent.*
- f The market for mobile Internet access and in particular, mobile broadband access was enhanced with the introduction of Enhanced Data rates for GSM Evolution (EDGE).*
- g SMS messaging continues to be widely used by customers owing to its affordability and ease of use.”*

## **Competition and Telecommunications Pricing**

Among the highlights of the work of the Directorate was the completion of the recommendation of cost-based interconnection prices by the Economics and Finance Department. Following an extensive consultation process on the application of LRIC models, the proposed rates for interconnection reflect decreases ranging from 40 per cent in the first year to 60 per cent in the third year of a three-year glide path. The Directorate further assisted the Members of Council in the presentation of the new LRIC based wholesale rates to government ministers and to the public via media conferences.

During the year, the Economics and Finance Department, along with the TICT Project, led the process where a consultant completed work on the review of the current Price Cap Plan (PCP) and the recommendation for a new PCP. This task involved extensive review of the current PCP, and consultations with service providers and NTRCs. The initial recommendation was reviewed by the NTRCs during a specially convened forum, and will be submitted to the Board and Council for final approval.

For the third consecutive year, ECTEL compiled and published the Annual Telecommunications Review, which clearly maps out the trends in the telecommunications sector in the Caribbean and in ECTEL Member States during the year. This is a very significant publication which provides current data on the trends in the telecommunications sector in the ECTEL Member States. Another milestone was the completion of the study on the use of ICTS by small and medium sized enterprises (SMEs) in the ECTEL Member States, adding to the number of significant publications of the organisation.

## **Licensing**

A critical function of the Directorate is to review various types of applications for licences and frequency authorisations for the provision of telecommunications services. This is a collective task of all departments. During the past year, 42 recommendations were made for frequency authorisations in the five ECTEL Member States. No new recommendations were made for new individual licences.

The Directorate also provided the NTRCs with recommendations on licensing for a wide range of other telecommunications goods and services, including exemptions of some services from licence provision, and modifications of frequency authorisations.

## **Spectrum Management**

Spectrum management continues to be a priority for the Technical Services Department. The Department provided extensive support to the NTRCs in

repairing of equipment and resolving cases of interference. During the past year, detailed consultations were held with the NTRCs on the way forward for spectrum monitoring. At the end of the process, ECTEL contracted a vendor to provide six (6) portable spectrum monitoring units as the first stage in the rebuilding of the capabilities of the NTRCs and ECTEL in spectrum monitoring.

While the technical recommendations for the use of the 700 MHz band were completed during the past year, the recommendations on the pricing of the band will be completed during the coming year and assignments will be made to the successful applicants. The Directorate was unable to complete the more complicated task of developing a new pricing structure for the use of the 700 MHz band and therefore could not realise the goal of generating revenues from the new uses of spectrum. However, modest increases in revenue from the use of spectrum was the direct result of more aggressive billing, particularly of broadcast operators.

The technical services and spectrum management team at ECTEL, in collaboration with the NTRCs, worked seamlessly to process a high volume of applications for the use of the electromagnetic spectrum. ECTEL made over forty recommendations for frequency authorisations of varying types from land mobile to television and radio FM broadcast and VSAT in all ECTEL Member States.

### **Legislation and Regulations**

During the year, the Directorate completed the review of the legislation governing the operations of the ECTEL regulatory systems. Consequently, a Draft Communications Bill has been prepared and is to be circulated for consultation among the stakeholders in the ECTEL Member States. The revisions were aimed at strengthening the harmonisation of the system and consolidating the gains of liberalisation, thus achieving the first major step in the advancement of the regulatory response to convergence.

A major achievement was the promulgation of the revised interconnection regulation in the ECTEL Member States, which resulted from over six months of consultation, and paved the way for the introduction of new lower interconnection rates and enhanced powers of the NTRCs. Other regulations completed by the Legal Affairs Department during the year were Quality of Service for Resellers, Access to Facilities, Conduct of Public Hearings and Radio Amateurs. The Department also completed consultations on new voice resale regulations (VoIP) and an Interconnection code.

One of the highlights of the year was the significant increase in the rate of promulgation of regulations in the Member States, following the implementation of a strategic plan to address the issue of low rate of promulgation. As a result, promulgation rates in all but one of the Member

States stands at about 80 per cent, up from 20 per cent in some cases.

2008 – 2009 was a very busy year for the regulator in general, and the ECTEL staff in particular, in critical areas such as review of interconnection agreements and approval of retail packages and market trials for consumers. Agreements were reviewed for interconnection between the incumbent fixed line provider and new entrants in all the Member States. Fifteen interconnection agreements were recommended for approval.

Several opinions and recommendations were made to the NTRCs on matters such as the introduction of new services and new tariffs, reassignment of frequencies, and the suspension of licences and waiver of fees.

### **TICT Project**

Through the TICT Project, several consultancies have been completed resulting in a wide range of reports and compiled information on issues related to the management and regulations of the Telecommunications sector. Also, in the past year, two consultancies focussing on the administrative and policy issues of ECTEL and the NTRCs were completed. The information obtained from these two consultancies and the further work of a legal drafting consultant resulted in the preparation of a draft Communications Bill which is designed to expand the mandate of ECTEL and the NTRCs into the broad areas of ICT regulation.

Significant progress was made on two remaining components of the project – Universal Service and ICT pilot projects. All Member States have identified ICT pilot projects which are at varying stages of implementation.

While the Universal Service project continues to be a major challenge for the Directorate, ECTEL and the NTRCs have benefitted tremendously from the expertise of an international consultant who was retained to provide advice on the development of procedures for the rollout of Universal Service projects. Notwithstanding, delays encountered have been caused by the slow response to the call for proposals for Universal Service Projects, resulting in delays in the commencement of the projects. During the past year, through the engagement of a consultant, ECTEL provided extensive technical assistance to the NTRCs on approaches to the implementation of Universal Service. By the end of the year however, only the NTRC of St. Vincent and the Grenadines had established its administrative structure for the implementation of the Universal Service Fund.

In light of the significance of these projects for the region, the World Bank approved the extension of the TICT Project by one year to December 2010.

## **Administration**

Four new staff members joined ECTEL during the reporting year, thus completing the full complement of administrative and professional staff. The Directorate bade farewell to the Director of Technical Services, Mr. Donnie De Freitas, who had served the organisation in various senior management capacities from the establishment of ECTEL in 2000.

The Board of Directors met for four regular and one special meeting during the year when decisions were taken on a wide range of matters, including the recommendations to Council on regulations and policy matters. The ECTEL Council of Ministers met in St. Kitts and Saint Lucia, and approved the new LRIC rates as well as provided clear policy guidelines in support of ECTEL and the NTRCs to expand their mandates to include regulatory oversight of Information and Communications Technologies (ICTs).

ECTEL paid tribute to longstanding retiring Director from Grenada, Mr. Michael Pierre. On the advice of the Council of Ministers, the Directorate also paid tribute to former Member of Council, Mr. Gregory Bowen of Grenada.

The period under review was very active for the Directorate in terms of training and collaborative work with the NTRCs. The programmes resulted in the enhancement of core skills of the staff of the Directorate and the NTRCs. The following training programmes and consultations were held.

<b>TRAINING WORKSHOPS/MEETINGS</b>	<b>DATES</b>
9 <sup>th</sup> NTRC/ECTEL Consultative Forum which addressed Universal Service, LRIC and NTRC operational Issues	22 <sup>nd</sup> – 23 <sup>rd</sup> January 2009 Saint Lucia
Training workshop on the use of portable spectrum monitoring equipment	February 2009 St. Vincent and the Grenadines
Training workshop in ECTEL Licensing Procedures	June 2009 Saint Lucia
Workshop on the “Recommendation for a new Retail Tariff Regulation Scheme”	19 <sup>th</sup> August 2009 Saint Lucia
Regional workshop on the draft “Communications Bill”	20 <sup>th</sup> – 21 <sup>st</sup> August 2009 Saint Lucia
Training workshop for Administrative staff of the	17-18 <sup>th</sup> September, 2009

NTRCs and ECTEL on the theme "Enhancing the Efficiency of the Regulatory System"	Grenada
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In addition to the above-mentioned activities, ECTEL collaborated with the NTRCs in the training of staff through the financial and technical support for attachments. In particular, NTRC St. Vincent and the Grenadines hosted staff of Grenada and St. Kitts and Nevis.

All professional staff were involved in the public awareness and public education activities on behalf of the Directorate.

One of the highlights of the public awareness and outreach undertaken during the year was the joint observance of the ninth anniversary of ECTEL and World Telecommunications and Information Society Day (WTISD). During a two-week period, approximately 120 students representing primary and secondary schools in Saint Lucia were educated on the role and functions of ECTEL and the NTRCs, the impact of liberalisation on the telecommunications sector, and the dangers of the Internet.

A special ceremony in observance of the ninth anniversary of ECTEL was held at the Directorate, and included addresses from the Chairman of the ECTEL Board of Directors, staff of the Directorate and officials of the Saint Lucia Government including the Member of the Council, Hon. Guy Joseph.

Among the major activities undertaken in the area of public and media relations during the past year were:

1. The redesign and re-launch of the ECTEL website
2. The publication of four quarterly newsletters
3. Printing of new ECTEL brochure and promotional folders
4. Publication of the Annual Telecommunications Review
5. A dramatic presentation of the ITU WTISD theme – "Protecting Children in Cyberspace"
6. Publication of the survey of ICT use by SMEs

The management of the property housing the Directorate continues to pose challenges due to the problems with the infrastructure which were inherited with the establishment of the office in Saint Lucia. Discussions are ongoing with the Government of Saint Lucia to facilitate the necessary upkeep of the property under the terms and conditions of the Headquarters Agreement. During the past year the Directorate's security measures have been enhanced with the installation of electronic surveillance equipment, and the commencement of works for perimeter fencing and enhanced parking. In the coming year, with assistance from the Government of Saint Lucia, some major

refurbishing of floors and interior painting will be undertaken.

In an effort to enhance the technical and administrative operations at the Directorate, a central uninterrupted power system (UPS) was installed, and the first phase of the upgrading of the information technology infrastructure capacity commenced with the addition of new computers and the upgrade of Internet capacity at the Directorate.

### **Finance and Revenues**

During the past year there was an improvement in the revenues from the use of Spectrum due to the more deliberate and sustained attention to billing. ECTEL and the NTRCs continue to develop their capacities to respond to the regulatory matters through the implementation of cost-effective operations mechanisms.

The Directorate continues to develop the replacement fund for the Spectrum Management and Monitoring System, which at the end of the year was estimated to be approximately EC\$1.5 million. Outstanding and contentious billing issues have affected revenue collections in spite of the increases recorded in the past year.

### **External Relations**

ECTEL continued to play a significant role in regional initiatives aimed at advancing the regulation of an increasingly liberalised telecommunications sector in the Caribbean and the use of ICTs in the development of the region. Among these initiatives during the period under review were:

- (a) HIPCAR – The Harmonization of ICT Legislation Programme of the ITU and the CTU. ECTEL's representative served as a member of the Steering Committee which advised on the management of the project and reviewed the technical work of the consultants and working groups. During the year meetings were held in Barbados and Grenada.
- (b) CARICAD - E-Government Strategy Development. ECTEL served on the steering committee which advised on a wide range of issues related to the strategy. The strategy development team met on three occasions in Barbados and St. Kitts and Nevis.
- (c) OOCUR - ECTEL continues to support the work of OOCUR and benefitted from a training programme which was conducted in collaboration with the Public Utility Research Centre (PURC) at the University of Florida, on pricing of telecommunications services. ECTEL participated in the General Assembly and Executive Meeting of OOCUR



during the past year.

- (d) CANTO - ECTEL participated in a conference in observance of the 25<sup>th</sup> anniversary of CANTO where the Managing Director made a presentation on the question “Is More or Less Regulation Necessary?”
- (e) PURC- In addition to the participation of ECTEL and NTRC personnel at the 26<sup>th</sup> International PURC session, the ECTEL General Counsel was one of the lecturers at this high level training programme for utility regulators.

### **Challenges**

As the Directorate approaches its tenth anniversary, there is a wide range of operational and regulatory challenges to be addressed. The initial regulatory agenda of paving the way for liberalisation has been made almost irrelevant by the new marketing strategies of the major players in the telecommunications market. Administrative and financial procedures have become extant and approaches to the management of human resources need urgent review. Equipment acquired for the administration of the Directorate and the monitoring of the use of spectrum have become obsolete.

The existing administrative structure of ECTEL and the NTRCs does not facilitate ongoing forward-looking research due to the preoccupation with routine regulatory matters. It is critical therefore that some capacity for research be considered in the short-term.

### **Priorities for the New Year**

The strategic goals identified for ECTEL in the past year remain relevant. However, they have been clearly articulated and refined to reflect some progress, and also the challenges these priorities continue to pose for the regulatory system. The 2009 – 2010 organisational priorities therefore are:-

1. Revenue Generation – The increase in the revenue base of ECTEL to meet both the increased costs and expansion of the regulatory tasks of ECTEL and the NTRCs. The measures will include strengthening collections, rationalizing billing deficiencies, and the development of proposals for new revenues from both traditional and non-traditional sources.
2. Capacity Building – Coordinated training and acquisition of appropriate equipment which are central and critical to the core tasks of the regulator. Training will focus on enhancing core skills and developing technical capabilities to respond to the changing ICT landscape. Special attention will be paid to the joint training of ECTEL and NTRC personnel as part of the efforts at harmonisation. This will also include the strengthening of the capacity for spectrum monitoring.

3. Extending Harmonisation Mechanisms – Greater levels of implementation of ECTEL advice and recommendations, and also continuing to improve on the levels of promulgation of regulations. Measures to support this priority include extending the cases of pre-consultation with the NTRCs and other regulatory stakeholders in the development of policies, procedures and regulations.
4. Improving the Management of Information – The implementation of records and enterprise content management systems to facilitate quick and accurate retrieval and exchange of information, which is critical to the administrative processes and regulatory functions of ECTEL and the NTRCs.

*These must be taken against the background of the broader regulatory priorities, which are:*

1. Expansion of the ECTEL mandate to include jurisdiction over a wide range of ICT matters. In this regard, the Directorate will continue to work with the respective stakeholders in the ECTEL Member States to facilitate the additional consultations and the promulgation of the revised legislation.
2. Strengthening the legislation to improve and safeguard the operations of all providers in the competitive markets, and also to address anti-competitive behavior. Competition rules to address the issues related to service offerings, prices and general market behavior will be developed.
3. Number Portability. The Directorate will respond to the increasing demand from providers and consumers for the establishment of clear guidelines and procedures for number portability.
4. Infrastructure sharing. The work of the Directorate will continue to ensure that the regulations and codes for facilities and infrastructure sharing are established in all the ECTEL Member States.
5. Universal Service. The guidance and support to the NTRCs in the establishment and operation of the Universal Service Funds through the appropriate regulatory and management advice. The completion of the Universal Service component of the TICT project is part of this priority.
6. Legislation revision in support of organisational priorities. Recommendations in this regard will include streamlining of licensing procedures, funding of the NTRCs' operations and corporate status for the NTRCs.

The specific activities in pursuance of these priorities are outlined in the Directorate's Work Plan for 2009 – 2010. These will include the continued

revision of problematic regulations and the introduction of new policies and regulations, extensive consultation on the draft Communications Bill, the promotion of Universal Service, review of high volume calling plans and upgrading the information management capabilities of the Directorate.

## **CONCLUSION**

During the past year, the ECTEL Directorate continued to fulfill its obligations under the Treaty though the provision of the highest quality of advice to the NTRCs. The implementation of the work programme is increasingly challenged by the higher cost of operations at the Directorate and the NTRCs.

While a number of significant regulatory and operational goals were achieved, there were shortcomings due to a wide range of internal and external factors. The members of the Board of Directors continued to provide timely and critical guidance to the Directorate.