

UNIVERSAL SERVICE AND ACCESS

FINAL REPORT

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INTRODUCTION

The Consultant was engaged by the Eastern Caribbean Telecommunications Authority to -

- (a) Review and examine the provision of the Telecommunications Acts, as it relates to the Universal Service Fund, the Telecommunications (Universal Service Fund) Regulations, the Telecommunications Universal Service Guidelines and the Universal Service Fund Contribution Order¹;
- (b) Review the submissions on the Universal Service Funds presented at the November 10 -11 2014, ECTEL/NTRC Forum on Universal Service Funds;
- (c) Review the ECTEL Directorate's summary of the main issues identified for consultation;
- (d) Prepare a first draft consultation paper on proposed changes to the Universal Service Program in the ECTEL Member States based the reviews conducted in tasks 2 and 3;
- (e) Prepare a final consultation paper on proposed changes to the Universal Service Program in the ECTEL Member States based on comments from the NTRCs and ECTEL;
- (f) Prepare a compilation of comments from the public consultation process;
- (g) If necessary, participate in a meeting of NTRCs and ECTEL to discuss final recommended changes to the Universal Service Program;

¹ Due to the proposed repeal of the Telecommunication Acts, Telecommunications (Universal Service Fund) Regulations, Telecommunications (Universal Service Fund Contribution) Order by the Electronic Communications Bill, whenever reference is made to any of these pieces of legislation the reference is to the Electronic Communications Bill and Regulations.

(h) Prepare a final report outlining the updates to be made to the Telecommunications Acts, the Telecommunications (Universal Service Fund) Regulations, the Universal Service Fund Contribution Order to give effect to the changes agreed by the NTRCs and ECTEL.²

In accordance with paragraph (h), this final report sets out the amendments that must be made to the Electronic Communications Bill to give effect to the instructions received from ECTEL. It also provides Electronic Communications (Universal Service and Access Fund) Regulations and the Electronic Communications (Universal Service Fund Contribution) Order. A copy of the Consultation Document and the Consultation Response Document are attached to this report in Annex 1 and 2 respectively.

² See footnote 1.

Updates

Electronic Communications Bill

This part of the report seeks to highlight the changes required in the Electronic Communications Bill that will give effect to the instructions from ECTEL. It examines the definition of universal service and access as well as the substantive provisions that should be included in the Electronic Communications Bill for the purposes of universal service and access.

In relation to universal service and access, it is important to have a flexible definition that will allow for the change in the types of electronic communications service or equipment in the future. Thus, the following definition is proposed:

“universal service and access” means the widespread provision of or access to an electronic communications service or equipment to a geographic area, population group or institution under section 76(2)(a).

One of the obligations to be imposed on licensees under the Electronic Communications Bill is the obligation to contribute to the Universal Service and Access Fund. If the obligation is contravened the licensee commits an offence and is liable on summary conviction to a fine not exceeding \$20,000 and in the case of a continuing offence to a fine not exceeding \$1,000 for each day that the offence continues after conviction.

In the Part of the Bill which is dedicated to the Universal Service and Access Fund, the following amendments may be made:

Contracting States should be provided with options in the way that they may wish to create the Universal Service and Access Fund as follows:

“There shall be established a fund to be known as the Universal Service and Access Fund./There shall continue to be a fund to be called the Universal Service and Access Fund./The fund established under section [] of the Telecommunications Act known as the universal service fund is preserved and continues in existence for the

purposes of this Act but shall be known after the commencement of this Act as the Universal Service and Access Fund.”

In addition to the power of the Minister to make an order published in the [Official] Gazette to specify the percentage of the gross annual revenue which a licensee must contribute to the Universal Service and Access Fund, the Minister must be empowered to make an order to specify the electronic communications service or equipment that allows access to an electronic communications service to a geographic area, population group or institution to which universal service and access would apply. The text of the provision may be as follows:

“The Minister shall, by Order published in the [Official] Gazette, on the recommendation of ECTEL, specify the electronic communications, equipment, geographic area, population group or institution to which universal service and access applies.”

The objectives of the Universal Service and Access Fund must be properly articulated. It is noted that the objectives of the Fund are currently provided under regulation 6 of the Telecommunications (Universal Service Fund) Regulations. This provision is substantive and should be inserted under the Bill. It is proposed that the provision reads as follows:

“ OBJECTIVES

The objectives of the Fund are to —

- (a) ensure efficient access to and use of an electronic communications network and an electronic communications service throughout [ECTEL Contracting State] with special focus on **geographic areas** with a goal to help promote social, educational and economic development;
- (b) ensure the reasonable availability and affordability of a basic and advanced electronic communications service over both wired and wireless networks at the community, household and individual levels, particularly where the commercial electronic communications market may be unable to deliver such services in a financially viable manner independently, as well as to **a specified population group**;
- (c) provide support for the introduction and expansion of an electronic communications service to institutions;
- (d) promote technological innovation in electronic communications;
- (e) provide human resource training and capacity building in support of a Fund project; or

- (f) support the development of locally relevant information, content or applications to be delivered over an electronic communications network.”
- (g) [Provide grant funds for information and communication technology entrepreneurial start-ups.](#)

The management of the Fund by the Commission and ECTEL should also be provided for in the Electronic Communications Bill. This means that the provisions which were in regulations 7 (Role of the Commission), 8 (Role of ECTEL), 10 (Fund Administrator), 11 (Duties of Fund Administrator) and 12 (Conflict of interest) of the Telecommunications (Universal Service Fund) Regulations must be incorporated into the Bill. The following is a suggested draft of the provision:

“ MANAGEMENT OF UNIVERSAL SERVICE AND ACCESS FUND

- (1) The Commission shall establish mechanisms for proper management of the Fund.
- (2) Without limiting the generality of subsection (1), the Commission –
 - (a) may appoint a Fund Administrator under subsection (3) to manage the Fund;
 - (b) shall —
 - (i) develop appropriate indicators of electronic communication access within [ECTEL Contracting State],
 - (ii) identify appropriate targets for moving toward universal service and access nationwide within a reasonable time frame,
 - (iii) monitor and enforce the mechanism for the assessment, collection and recovery of the required contributions to the Fund,
 - (iv) liaise and consult with the Minister and ECTEL to promote consistency between the operation of the Fund and national and regional electronic communication policies,
 - (v) liaise and consult with licensees and other industry stakeholders on the status of electronic communication industry technologies, markets, and other relevant developments.
- (3) The Commission may appoint as Fund Administrator, a person who —
 - (a) is a graduate of an accredited university, or a chartered or certified institute;
 - (b) has knowledge and experience in one or more of the following:

- (i) management,
 - (ii) finance,
 - (i) accounting,
 - (ii) electronic communications,
 - (v) or any other related field to ensure adequate performance of the requirements of the position; and
- (c) does not have a conflict of interest with regard to the principal functions of the Fund.
- (4) A person who fails to disclose a conflict of interest to the Commission is liable to have his or her appointment as Fund Administrator summarily terminated without compensation.
- (5) Subject to subsection (6) the Fund Administrator shall be appointed on such terms and conditions as shall be set out in the contract of employment.
- (6) The Fund Administrator shall report to the Chief Executive Officer for all personnel and administrative matters, but shall submit his or her recommendations for Fund Project decisions both to the Chief Executive Officer and to the Chairperson.
- (7) Subject to the direction of the Commission, the Fund Administrator shall do all things necessary for and incidental to the proper functioning of the Fund.
- (8) The functions of the Fund Administrator include, to —
 - (a) assist the Commission in identifying potential projects for Fund support;
 - (b) define, prepare and distribute bidding documents and other documentation for projects approved for Fund financing and implementation;
 - (c) supervise and monitor Fund projects;
 - (d) participate in the selection of consultants to support Fund project implementation;
 - (e) sensitize the public of Universal Service and Access Fund matters;
 - (f) supervise the preparation and monitoring of the Fund's Operating budget;
 - (g) prepare progress reports on Fund Projects and overall Fund operations, and prepare or cause to be prepared the financial statements of the Fund for the approval of the Commission;

- (h) request and receive project proposals;
- (i) prepare bid evaluation reports; and
- (j) any other function assigned to the Fund Administrator by the Commission.

ASSISTANCE WITH MANAGEMENT OF THE FUND FROM ECTEL

- (1) ECTEL shall provide assistance to the Commission in relation to the performance of technical tasks associated with the management of the Fund.
- (2) Without limiting the generality of subsection (1), ECTEL may contribute financial, accounting, technical and legal expertise in –
 - (a) the maintenance of Fund accounts; or
 - (b) electronic communications market analysis and review of Fund objectives.

Regulation 9 of the Telecommunications (Universal Service Fund) Regulations must also be removed and inserted into the Electronic Communications Bill as it is a substantive provision relating to the Universal Service and Access Fund. Therefore, the provisions in the Electronic Communications Bill on the allocation of funds would read:

“ALLOCATION OF FUNDS

The Fund may be allocated to compensate Fund projects or to promote universal service and access.

FUND PROJECTS

- (1) In identifying projects for fund allocation the Commission -
 - (a) shall promote the establishment of efficient, self-sustaining entities, which may continue to expand access to electronic communications on their own initiative, requiring the minimum amounts of Fund resources possible;
 - (b) may use the Fund to support projects that may not be economically feasible without Fund support;
 - (c) may use the Fund to finance projects to the extent necessary to create adequate economic incentives for investors;

- (d) shall take into account the policy of Government when determining which fund projects would receive funding in any given financial year.
- (2) The Commission shall, in the prescribed manner —
 - (a) determine, in consultation with ECTEL and the public and industry stakeholders, appropriate socio-economic criteria to identify the geographic areas, population groups, institutions and organizations that may be eligible to benefit from Fund projects;
 - (b) approve the application, qualification, and competitive bidding conditions for the awarding of funds under designated projects;
 - (c) evaluate and define the scope and terms of potential Fund projects;
 - (d) monitor Fund projects and enforce the terms of Fund project contracts;
 - (e) determine whether sole source procurement can be used.
 - (3) ECTEL shall provide assistance to the Commission in relation to the performance of technical tasks associated with the allocation of Fund projects.
 - (4) Without prejudice to subsection (3), ECTEL may contribute financial, accounting, technical and legal expertise in one or all of the following –
 - (a) identification of prospective Fund projects;
 - (b) conduct of project appraisals for short-listed projects;
 - (c) development of documents and other materials for the competitive bidding process, including bidding documents;
 - (d) valuation of bidder eligibility and technical and financial proposals;
 - (e) evaluation of bids;
 - (f) preparation of annual reports, project reviews and monitoring;
 - (g) reviewing and monitoring Fund projects.
 - (5) ECTEL shall recommend to the Commission whether sole source procurement may be used.”

The accounting requirements in Part 4 of the Telecommunications (Universal Service Fund) Regulations are also to be placed in the Electronic Communications Bill as these provisions are the financial aspects of the Fund. Regulations 13 (Fund bank accounts), 14 (Budgets), 15 (Accounts and financial audit) and 16 (annual report) are to be incorporated in the Bill in the following manner:

“ FUND BANK ACCOUNTS

- (1) The Fund’s income shall be kept in accounts, separate and independent from the other operating accounts of the Commission.
- (2) The Fund’s income shall be initially deposited in a designated Fund bank account and shall be disbursed upon authorization of the Commission for specific Fund related activities in accordance with the guidelines.

BUDGETS

- (1) The Commission shall prepare and keep annually through accounting allocations –
 - (a) a Fund Projects Budget; and
 - (b) an Operating Budget.
- (2) The Fund Projects Budget under section (1)(a) shall be allocated to Fund Projects that have been selected for financing in accordance with the Regulations
- (3) The Operating Budget under section (1)(b) shall not exceed 10% of the Fund Projects Budget.
- (4) Grant funds for information and communications technology entrepreneurial start-up shall not exceed 10% of the Fund Projects Budget.
- (5) The Minister shall, by Order published in the [Official] Gazette, on the recommendation of ECTEL, vary the percentage (%) of the Operating Budget to be utilized in relation to subsection (3) or to be applied in relation to Grant Funds in subsection 4.
- (6) Before the end of the financial year, the Commission shall prepare budget forecasts for the Fund for the following financial year, subject to the prescribed Fund Operating Plan.

ACCOUNTS AND FINANCIAL AUDIT

- (1) The Commission shall keep books of accounts and maintain proper records of the operations of the Fund in accordance with international accounting standards.
- (2) The accounts of the Fund may at any time and shall, at the end of each financial year, be audited by an independent auditor appointed by the Commission on such terms and conditions as the Commission may determine.

ANNUAL REPORT

The Commission shall include in its annual report:

- (a) the audited financial statements of the Fund;
- (b) details of activities supported by the Fund; and
- (c) details of awards of contracts.”

Electronic Communications (Universal Service and Access Fund) Regulations

First Draft

In accordance with the requirements in the consultation response document, the following Electronic Communications (Universal Service Fund) Regulations was drafted:

Electronic Communications (Universal Service Fund) Regulations

[NAME OF CONTRACTING STATE]

ARRANGEMENT OF REGULATIONS

Regulation

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2. Interpretation

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PROPOSAL FOR FUND PROJECT

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4. Submission of approval
5. Criteria for evaluation of proposal
6. Preliminary appraisal and short list
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8. Selection of project

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- 19. Rejection of all bids
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- 21. Cancellation of invitations for bids

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PROJECT IMPLEMENTATION

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- 23. Project accounts
- 24. Right to audit records
- 25. Sanctions for non-compliance

Electronic Communications (Universal Service Fund) Regulations

[NAME OF CONTRACTING STATE]

Made by the Minister responsible for electronic communications, on the recommendation of ECTEL, under section [] of the Electronic Communications Act, No. of 20[].

PRELIMINARY**Citation**

1. These Regulations may be cited as the Telecommunications (Universal Service Fund) Regulations.

Interpretation

2. In these Regulations unless the context otherwise requires –

“Act” means the Electronic Communications Act, No. of 20[];

“bid bond” means a guarantee to ensure that a bid will remain valid during the period stated in the bidding document;

“bidding documents” means a set of documents issued by the Commission for the purposes of soliciting bids in the course of the procurement process;

“contract bond” means a bond to secure the performance of a Fund project;

“contractor” means a licensee who is awarded a contract in accordance with regulation 20;

“restricted bidding” means the direct solicitation of a limited number of potential bids where there is reason to believe that the service required is available from a limited number of potential contractors.

PART I
PROPOSAL FOR FUND PROJECT

Application for proposal for Fund project

3. (1) A person may make an application for a proposal for a Fund project.
- (2) An application under sub-regulation (1) must include –
 - (a) the name of the entity proposing the project;
 - (b) the contact details of the proposing entity;
 - (c) the nature of the project with a drop down menu of the categories of possible project for funding;
 - (d) a summary of the project objectives;
 - (e) an outline of the project proposal;
 - (f) the target group;
 - (g) the expected project input;
 - (h) the estimates of the project cost and benefits.

Submission of proposal

4. (1) The Commission shall establish and make a public announcement of the deadline for submission of the proposal.
- (2) The public announcement under sub-regulation (1) must include the place for submission of the proposal.

Criteria for evaluation of proposal

5. (1) The Commission shall prepare and make public the criteria to be used in the evaluation of the proposal.

(2) The criteria must ensure that the proposal addresses the objectives of the Fund under section of the Act and the established priorities for the financial year.

Preliminary appraisal and short list

6. (1) The Fund Administrator shall conduct a preliminary appraisal of the project proposal based on the criteria under regulation 5.

(2) The Fund Administrator shall recommend a short list of projects to be considered for Fund compensation based upon the preliminary appraisal.

(3) The Commission shall, on the recommendation of the Fund Administrator, make the final determination of the project proposal to be included in the short list.

Expanded project appraisal

7. (1) The Fund Administrator shall undertake an expanded project appraisal for a project proposal selected by the Commission for the short list of Fund projects to determine the project that will be recommended for Fund compensation.

(2) In undertaking an expanded project appraisal, the Fund Administrator may –

(a) require assistance from employees of the Commission, experts and ECTEL; or

(b) conduct public inquiries to obtain further information about the scope, nature, and costs of a proposed project, including requests for information or public consultations with relevant stakeholders.

(3) An expanded project appraisal under this regulation must include –

(a) policy priorities;

(b) technical feasibility and requirements;

(c) institutional requirements;

(d) financial analysis;

(e) economic and social cost-benefit analysis; and

(f) risk analysis.

(4) The policy priorities under sub-regulation (3)(a) must determine whether the objective of the project is in keeping with the objectives of the Fund.

(5) The technical feasibility and requirements under sub-regulation (3)(b) must evaluate and identify the technical and institutional components of the project to define a general idea of the various elements that would be required for a licensee to implement the project as defined.

(6) The institutional requirements under sub-regulation (3)(c) must include institutional arrangements that will be necessary, including the size and nature of the organization and personnel required to operate the proposed services.

(7) The financial analysis under sub-regulation (3)(d) must –

- (a) estimate the initial capital investment and other, start-up expenditures necessary to launch the project;
- (b) provide a breakdown of the costs under paragraph (a) by location and service unit as appropriate;
- (c) estimate annual recurring expenses for operation, maintenance and support needed to maintain the ongoing delivery of the service over a five-year period;
- (d) prepare estimated forecasts of the annual service revenues that will be generated by the project, and will offset some of its costs and forecasts must attempt to take into account expected revenue growth for a period of at least five years;
- (e) based on the capital and operating cost estimates and the revenue forecast, develop a business case analysis of the approximate net present value of the project for a five year period.

(8) The economic and social cost-benefit analysis under sub-regulation (3)(e) must contain an assessment of the economic and social benefits to the user population, and to the country as a whole, that would be likely to result from implementing the proposed project.

(9) The risk analysis under sub-regulation (3)(f) must –

- (a) identify the most likely threats to the project and analyse the related vulnerabilities of the project to these threats including evaluating existing physical and environmental and other unexpected changes including political, social and other external threats;

- (b) involve the impact of the threats under paragraph (a) on the projects overall performance and the approach required for the management of such risks;
- (c) a risk management plan or action to ensure that the risks are controlled.

Selection of project

8. (1) The Fund Administrator shall, based on the expanded project appraisal, prepare recommendations to the Commission as to the priority projects to be compensated.
- (2) A recommendation under sub-regulation (1) is subject to the constraint that the total cost of the combined recommended projects does not exceed the available Fund project budget amount for the relevant time period.
- (3) The final project appraisals and recommendations shall be presented to the Commission for review and consideration in the selection of projects to be compensated.
- (4) The Commission shall make a final selection of the project to be compensated and publicly announce the project selections, providing a summary explanation of the reasons for the selection.

PART II

PROCUREMENT

Methods of procurement

9. (1) Subject to sub-regulation (2), Fund project implementation contracts shall be awarded on the basis of an open competitive bidding procedure.
- (2) Notwithstanding sub-regulation (1), the Commission may, where it is considered appropriate, award Fund Project implementation contracts on the basis of a restricted bidding procedure, a sole source procurement procedure or an emergency procurement procedure.
- (3) The Commission shall determine which method of procurement is appropriate in the circumstances and manage the procurement process in accordance with the requirements and procedures set out in these Regulations.

Terms of reference

10. (1) The Fund Administrator, with assistance from ECTEL as necessary, shall prepare detailed terms of reference for each project to be compensated.

(2) Terms of reference under sub-regulation (1) must include –

- (a) background information on the project;
- (b) a detailed description of the services to be provided under the project;
- (c) service locations and beneficiaries including the precise geographic locations and target user groups that are to be provided by the Fund services, and all relevant details concerning the required scope and availability of the services in the locations;
- (d) financial parameters;
- (e) information on the timing and schedule of the project;
- (f) legal and regulatory terms and conditions that apply to the licensee selected to deliver the project.

Open competitive bidding

11. Where the Commission determines that open competitive bidding is appropriate in the circumstances, it shall prepare bidding documents and publicly invite eligible interested parties to submit open competitive bids.

Restricted bidding

12. Restricted bidding may be used where the estimated cost of the project is less than EC\$250,000.00

Sole source procurement

13. Where the Commission determines, in consultation with ECTEL, that there is only one economically feasible source to undertake a particular Fund project the Commission may use sole source procurement.

Emergency procurement

14. The Commission may make emergency procurements for a Fund project without bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary to prevent or minimize serious disruption in services.

Bid bond

15. (1) The Commission may, where applicable include in the bidding documents a requirement for a bid bond.
- (2) Forfeiture of a bid bond shall be imposed by the Commission only in the event of:
- (a) a modification or withdrawal of a bid after the deadline for the submission of bids during its period of validity;
 - (b) refusal by a bidder to accept a correction of an error appearing on the face of the bid;
 - (c) failure by a successful bidder to sign a contract in accordance with the terms set out in the bidding documents;
 - (d) failure of a successful bidder to provide a contract bond for the performance of the contract as required by the Commission.

Bid opening

16. The Commission shall include in the bidding documents the date, time, details and procedure for the opening of bids.

Bid evaluation

17. (1) The Commission may co-opt independent evaluators to examine and evaluate the bids.
- (2) On completion of the evaluation, the Fund Administrator shall prepare a written report detailing the examination and evaluation of bids and identifying the winning bid that meets the qualification criteria.

Notice

18. The Commission shall notify bidders of the results of the bidding process within 28 days of the bid opening.

Rejection of all bids

19. (1) The Commission may reject all bids within twenty one days of the bid opening where the Commission considers that the bids received are not substantially responsive to the requirements of the bidding documents or that the bid prices are higher than the project budget and shall inform the bidders of the rejection by written notice.

(2) Where the Commission rejects all bids because the lowest evaluated responsive bid exceeds the project budget, the Commission may:

- (a) enter into negotiations within 7 days of the notice referred to in regulation 18 with the lowest evaluated bidder to try and obtain a satisfactory contract; or
- (b) repeat the invitation for bids.

(3) Where the Commission rejects all bids because the bids are not substantially responsive to the requirements of the bidding documents, the Commission shall review the causes justifying the rejection and consider making revisions to the bidding documents before repeating the invitation for bids.

Award

20. (1) The Commission shall award the contract within 14 days of the conclusion of negotiations by written notice to the bidder whose bid best meets the requirements and criteria set out in the bidding documents.

(2) Upon selection of the successful bidder, the Commission shall cause the results to be published in a newspaper of wide circulation in Saint Lucia and posted on the Commission's website.

(3) After the award of the contract, the Commission shall cause the evaluation report to be opened to public inspection.

(4) Where sole source or emergency procurements are used, the Commission shall award the contract within 14 days of successful negotiation of the contract.

(5) Subject to section 42 of the Act, the award of a contract shall be subject to the grant of a licence by the Minister for the purpose of fulfilling the contract service requirements.

(6) The Commission may require a contractor to give a contract bond guaranteeing complete execution of the Fund project as required by the contract.

Cancellation of invitations for bids

21. (1) The Commission may cancel without penalty to bidders an invitation for bids or any other solicitation where it is in the best interest of the Fund.
- (2) The Commission shall notify bidders of the reasons for cancellation.
- (3) The Commission shall publish the reasons for cancellation on its website.
- (4) Where an invitation for bid is cancelled, the Commission shall return within 7 days in full any bid bond that was deposited with it to all bidders who were required to deposit a bid bond.

PART III**PROJECT IMPLEMENTATION****Project implementation and follow-up**

22. (1) The Commission shall ensure that all Fund projects are implemented in accordance with the terms and conditions of the contract.
- (2) A contractor shall provide periodic reports to the Commission, detailing its progress in fulfilling contractual requirements and timetables, and explaining any delays.
- (3) The Commission may, in cases it considers appropriate, provide an advance payment of no greater than 20% of the total Fund project, subject to reimbursement or a lien against equipment purchased in cases of non-compliance in accordance with regulation 25.

Project accounts

23. (1) A licensee that receives Fund financing shall maintain separate books of account for each Fund project and shall make these accounts available for review by the Commission within 21 days of its request.
- (2) Accounts kept under sub-regulation (1) shall include detailed records of all revenue and expenditure associated with the project, including calculation of the net costs of the project.

Final Draft

ECTEL reviewed the First Draft and sought clarification on the following on 8 December, 2016:

1. Section 82(2) of the EC Bill states: “The Fund’s income shall be initially deposited in a designated Fund bank account and shall be disbursed upon authorization of the Commission for specific Fund related activities in accordance with guidelines”. Grateful if you could clarify whether it is necessary to retain the phrase “in accordance with the guidelines”.
2. A review of the Legislation has revealed that the section of the Guidelines on “Fund Operating Plan” has not been addressed in the legislation. We would therefore be grateful for your consideration of including a provision on the Fund Operating Plan in the new Regulations.
3. We would also be grateful for the inclusion of a provision in the Regulations which defines who is eligible to bid on Fund Projects. In this regard, we are suggesting that recommendation xvi from the proposed changes to the Universal Service Fund may assist in drafting the provision. Recommendation xvi states: “ECTEL recommends changing the bidding eligibility to – (a) include in the definition a person as opposed to limiting to telecoms service provider; (b) identify components of projects that would be open to persons who were not telecoms service providers; (c) divide project into lots – telecoms service providers could bid on all lots and non-providers would be restricted to bid only on some lots”. It may be necessary in your deliberations to consider including a provision which specifies that licensees may be eligible to bid on all projects whereas non-licensees may only be required to bid on components of the projects. In this regard, it may also be necessary to define the size of the component that non-licensees may be able to bid on.
4. From our review, it was observed that the provision 25(2) of the Telecommunications (Universal Service Regulations) Regulations which speaks to the cap on percentage of the Fund Project budget which may be applied to emergency procurement has not been retained in the new Regulations. We accordingly seek your guidance on the matter.

The Consultant responded to the areas of clarification and sought guidance on other matters which were addressed as indicated below (ECTEL’s responses identified in red):

1. The Regulations will be amended to include provisions on the Operating Plan. **Noted**
2. The current Regulations begin with provisions on the Fund Project Proposal. The Part contains provisions regarding the application for a proposal for Fund projects, submission of a proposal and the criteria for evaluation of a proposal. There is also included in this Part provisions for preliminary appraisal and short list, expanded project appraisal and selection of Fund projects. As indicated, it is believed that these provisions do not flow. Please confirm whether the provisions on preliminary appraisal and short list, expanded project appraisal and selection of Fund project seek to identify the Fund Projects that would be financed by the Fund by making an analysis beforehand.

This is correct

3. Procurement follows in the next Part. This is also confusing. Please confirm whether the provisions for terms of reference are actually provisions for request for proposals. After the request for proposals are received a short list is developed and the persons short listed are asked to present their bids. It is at this point that an invitation to bid would be issued. Note that the Regulations makes reference to an invitation to bid but does not contain any provisions on the invitation to bid and at what stage it is required.

The process envisaged for the USF is slightly different from standard procurement. It is expected that the USF will seek proposals for consideration and once it has determined that a proposed project is eligible for funding the procurement process will take place.

Also note that the Terms of Reference is meant to be a component of the bidding document and not part of the Request for proposals. In the case of the USF a request for proposal is a very open process just seeking general ideas for projects as outlined in section 3(2) of the version of the Regulations in your draft Report.

The process for project identification and procurement

4. The procurement process:

(a) Identification of Fund project and persons eligible for Fund financing.

- request for proposals
- submission of proposals
- criteria for evaluation of proposal
- short list
- Extended project appraisal
- Selection of projects to be funded

(b) Procurement process

- open competitive bidding
- restricted bidding
- request for proposal

- Identification of persons eligible to bid on project to be funded
- Invitation to bid
- Bidding documents (will include the terms of reference)
- Bid opening

- Bid evaluation

- Award.

5. Sole procurement and emergency procurement would not require bidding and so these provisions should be made after the bidding provisions.

6. It is additionally noted that the Regulations mention a contract bond and dispute resolution provisions under the contract. However, no provisions requiring the contract to contain such requirements are included in the Regulations.

Noted, then we need to include these provisions. Do you need any information from us to prepare these provisions?

6. Please indicate the aspects that licensees and non-licensees would be allotted as suggested. It is proposed that licensees should be financed for service-related costs and non-licensees with administrative costs. However, it is not clear how a non-licensee will be engaging in a Fund project for an electronic communications service without having obtained a licensee.

The idea is that a licensee should be eligible to bid on all USF projects and non-licenses can bid on a component of a USF project which can be successfully completed without having to obtain a licence except that the funds allocated to this component of the fund project should not exceed 30% of the overall budget for the fund project.

Additional instructions were received from ECTEL on 18 May, 2017 as follows:

In the USAF please see our proposed edits/changes in sections 8 and 26. In the case of section 8, it's a small adjustment to the language which we appreciate was our original language in the Guidelines.

Consequently, the following changes were required by ECTEL:

1. The name of the Regulations to be changed to "Electronic Communications (Universal Service and Access Fund) Regulations".

2. Regulation 8 to be modified as follows:

“Budget estimates

8. (1) A budget estimate of the Fund Operating Plan must contain a summary of available resources for ~~new projects~~ ~~in~~ the upcoming year, including –

- (a) total Fund assets at the beginning of the year;
- (b) projected collections for the year;
- (c) commitments and expected disbursements for prior approved projects; and
- (d) estimated allocations for new projects to be approved during the year.

(2) Budget amounts for Fund administration, and total expenditures must be within available funds.”

3. The changes to regulation 26 were as identified below:

“Lots

26. (1) Where the splitting up or division of a project into two separate lots or segments is possible ~~without the bidder having a licence~~, the Commission ~~shall~~ **may** divide the project for the award of the separate part or lot to a bidder ~~whether the person is a licensee or not~~.

(2) Where a project is divided under sub-regulation (1), the bidding document must specify –

- (a) the nature of the lot;
- (b) the manner in which the bid for each lot is **to be** submitted, indicating whether separate bids are submitted for each lot; ~~and~~
- (c) the basis for an award, ~~which is the lowest combination of evaluated bids~~; and

(d) Whether the bidder must be a licensee.

(3) Nothing in this regulation limits or restricts the Commission from awarding two lots to the same bidder, if such an award achieves the lowest evaluated bid for the combined lots.

(4) Notwithstanding this regulation, the funds allocated to the part or lot that does not involve an electronic communications service must not exceed 30% of the overall budget for the fund project.”

All the comments and changes were incorporated in the final draft of the Regulations which was submitted to ECTEL on 13 June, 2017. Below is a copy of the final draft:

Electronic Communications (Universal Service and Access Fund) Regulations

[NAME OF CONTRACTING STATE]

ARRANGEMENT OF REGULATIONS

Regulation

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2. Interpretation

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PART III
PROJECT IMPLEMENTATION

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Electronic Communications (Universal Service **and Access** Fund) Regulations**[NAME OF CONTRACTING STATE]**

Made by the Minister responsible for electronic communications under section [] of the Electronic Communications Act, No. of 20[].

PRELIMINARY**Citation**

1. These Regulations may be cited as the Telecommunications (Universal Service **and Access** Fund) Regulations.

Interpretation

2. In these Regulations unless the context otherwise requires –

“Act” means the Electronic Communications Act, No. of 20[];

“bid bond” means a guarantee to ensure that a bid will remain valid during the period stated in the bidding document;

“bidding documents” means a set of documents issued by the Commission for the purposes of soliciting bids in the course of the procurement process;

“contract bond” means a bond to secure the performance of a Fund project;

“contractor” means a licensee who is awarded a contract in accordance with regulation 31;

“restricted bidding” means the direct solicitation of a limited number of potential bids where there is reason to believe that the service required is available from a limited number of potential contractors.

PART I
FUND OPERATING PLAN

Annual Fund Operating Plan

3. The Commission shall establish, on an annual basis a Fund Operating Plan.

Contents of Fund Operating Plan

4. The Fund Operating Plan must –

- (a) summarize the current state of development of electronic communications in [Name of Contracting State];
- (b) set out the broad objectives, targets, and types of projects that the Fund seeks to promote during the current operating year;
- (c) budget outlining the resources available to support projects during the year and the intended allocation of these resources;
- (d) include –
 - (i) an introduction under regulation 5,
 - (ii) a summary market assessment under regulation 6,
 - (iii) priority goals under regulation 7, and
 - (iv) budget estimates under regulation 8.

Introduction

5. The introduction of the Fund Operating Plan must include –
 - (a) a summary of key points of the Fund Operating Plan, including market status, recent developments, overall Fund Budget, and objectives for the upcoming year;
 - (b) an overview and background on the purpose and mandate of the Fund.

Summary market assessment

6. (1) A summary market assessment must contain –
 - (a) a review of the status of electronic communications development in [Name of ECTEL Contracting State], including identification of key targets and areas where the use of the Fund resources are of value;
 - (b) an account of existing projects, including prior years' Fund projects, and the contribution and progress the projects are making toward sector development goals.
- (2) The following indicators may be used to assess the status of the market and need for the Fund intervention –
 - (a) service penetration;
 - (b) geographic coverage;
 - (c) affordability of connectivity;
 - (d) affordability of service.
- (3) In conducting a summary market assessment, the Fund Administrator shall -
 - (a) identify and collect data on electronic communications from licensees and other sources;
 - (b) develop and maintain databases of key data, updated regularly;

- (c) review studies and reports on electronic communications economic conditions, including –
 - (i) network construction and operating costs,
 - (ii) market demand and changing industry dynamics,

taking account of differences across regions and among different types of users, communities and institutions.

Priority goals

7. (1) The priority goals must contain a definition of the priority goals or targets for the present year, which is the basis for project solicitations and ultimate selection.

(2) The Commission may make a goal specific or general for a given year, depending on whether it seeks to focus attention narrowly on a particular development target, such as a school or the disabled, or whether it will be open to a more broad range of potential projects during the upcoming year.

Budget estimates

8. (1) A budget estimate of the Fund Operating Plan must contain a summary of available resources **for the upcoming year**, including –

- (a) total Fund assets at the beginning of the year;
- (b) projected collections for the year;
- (c) commitments and expected disbursements for prior approved projects; and
- (d) estimated allocations for new projects to be approved during the year.

(3) Budget amounts for Fund administration, and total expenditures must be within available funds.

Inspection of Fund Operating Plan

9. Once approved by the Commission, the Fund Operating Plan shall be made available for inspection.

PART II

PROCUREMENT

Proposal for Fund Project

Application for proposal for Fund project

10. (1) A person may make an application for a proposal for a Fund project.
- (2) An application under sub-regulation (1) must include –
 - (a) the name of the entity proposing the project;
 - (b) the contact details of the proposing entity;
 - (c) the nature of the project with a drop down menu of the categories of possible project for funding;
 - (d) a summary of the project objectives;
 - (e) an outline of the project proposal;
 - (f) the target group;
 - (g) the expected project input;
 - (h) the estimates of the project cost and benefits.

Submission of proposal

11. (1) The Commission shall establish and make a public announcement of the deadline for submission of the proposal.
- (2) The public announcement under sub-regulation (1) must include the place for submission of the proposal.

Criteria for evaluation of proposal

12. (1) The Commission shall prepare and make public the criteria to be used in the evaluation of the proposal.
- (2) The criteria must ensure that the proposal addresses the objectives of the Fund under section of the Act and the established priorities for the financial year.

Preliminary appraisal and short list

13. (1) The Fund Administrator shall conduct a preliminary appraisal of the project proposal based on the criteria under regulation 12.
- (2) The Fund Administrator shall recommend a short list of projects to be considered for Fund compensation based upon the preliminary appraisal.
- (3) The Commission shall, on the recommendation of the Fund Administrator, make the final determination of the project proposal to be included in the short list.

Expanded project appraisal

14. (1) The Fund Administrator shall undertake an expanded project appraisal for a project proposal selected by the Commission for the short list of Fund projects to determine the project that will be recommended for Fund compensation.
- (2) In undertaking an expanded project appraisal, the Fund Administrator may –
 - (a) require assistance from employees of the Commission, experts and ECTEL; or
 - (b) conduct public inquiries to obtain further information about the scope, nature, and costs of a proposed project, including requests for information or public consultations with relevant stakeholders.

(3) An expanded project appraisal under this regulation must include –

- (a) policy priorities;
- (b) technical feasibility and requirements;
- (c) institutional requirements;
- (d) financial analysis;
- (e) economic and social cost-benefit analysis; and
- (f) risk analysis.

(4) The policy priorities under sub-regulation (3)(a) must determine whether the objective of the project is in keeping with the objectives of the Fund.

(5) The technical feasibility and requirements under sub-regulation (3)(b) must evaluate and identify the technical and institutional components of the project to define a general idea of the various elements that would be required for a licensee to implement the project as defined.

(6) The institutional requirements under sub-regulation (3)(c) must include institutional arrangements that will be necessary, including the size and nature of the organization and personnel required to operate the proposed services.

(7) The financial analysis under sub-regulation (3)(d) must –

- (a) estimate the initial capital investment and other, start-up expenditures necessary to launch the project;
- (b) provide a breakdown of the costs under paragraph (a) by location and service unit as appropriate;
- (c) estimate annual recurring expenses for operation, maintenance and support needed to maintain the ongoing delivery of the service over a five-year period;
- (d) prepare estimated forecasts of the annual service revenues that will be generated by the project, and will offset some of its costs and forecasts must attempt to take into account expected revenue growth for a period of at least 5 years;

(e) based on the capital and operating cost estimates and the revenue forecast, develop a business case analysis of the approximate net present value of the project for a five-year period.

(8) The economic and social cost-benefit analysis under sub-regulation (3)(e) must contain an assessment of the economic and social benefits to the user population, and to the country as a whole, that would be likely to result from implementing the proposed project.

(9) The risk analysis under sub-regulation (3)(f) must –

(a) identify the most likely threats to the project and analyse the related vulnerabilities of the project to these threats including evaluating existing physical and environmental and other unexpected changes including political, social and other external threats;

(b) involve the impact of the threats under paragraph (a) on the projects overall performance and the approach required for the management of such risks;

(c) a risk management plan or action to ensure that the risks are controlled.

Selection of project

15. (1) The Fund Administrator shall, based on the expanded project appraisal, prepare recommendations to the Commission as to the priority projects to be compensated.

(2) A recommendation under sub-regulation (1) is subject to the constraint that the total cost of the combined recommended projects does not exceed the available Fund project budget amount for the relevant time period.

(3) The final project appraisals and recommendations shall be presented to the Commission for review and consideration in the selection of projects to be compensated.

(4) The Commission shall make a final selection of the project to be compensated and publicly announce the project selections, providing a summary explanation of the reasons for the selection.

*Methods of Procurement***Methods of procurement**

16. (1) Subject to sub-regulation (2), Fund project implementation contracts shall be awarded on the basis of an open competitive bidding procedure.

(2) Notwithstanding sub-regulation (1), the Commission may, where it is considered appropriate, award Fund Project implementation contracts on the basis of a restricted bidding procedure, a sole source procurement procedure or an emergency procurement procedure.

(3) The Commission shall determine which method of procurement is appropriate in the circumstances and manage the procurement process in accordance with the requirements and procedures set out in these Regulations.

Open competitive bidding

17. Where the Commission determines that open competitive bidding is appropriate in the circumstances, it shall prepare bidding documents and publicly invite eligible bidders to submit open competitive bids.

Restricted bidding

18. The Commission shall use restricted bidding where the estimated cost of the project is less than EC\$250,000.

Invitation to bid

19. (1) The Commission shall invite bidders by causing an invitation to bid to be published.

(2) An invitation to bid under sub-regulation (1) must contain –

(a) the criteria and procedures to be used to evaluate the eligibility of bidders;

(b) the means of obtaining the bidding document and the place where it may be obtained;

(c) the language in which the bidding document is available;

(d) the place, date and time for the opening of bids; and

(e) any other information considered relevant by the Commission.

Cancellation of invitations for bids

20. (1) The Commission may cancel without penalty to bidders an invitation for bids or any other solicitation where it is in the best interest of the Fund.

(2) The Commission shall notify bidders of the reasons for cancellation.

(3) The Commission shall publish the reasons for cancellation on its website.

(4) Where an invitation for bid is cancelled, the Commission shall return within 7 days in full any bid bond that was deposited with it to all bidders who were required to deposit a bid bond.

Eligibility of bidder

21. In order to participate in bidding, a bidder shall demonstrate to the satisfaction of the Commission that he or she –

(a) has the financial resources to carry out a project;

(b) has the equipment and other physical facilities for purpose of the project;

(c) has personnel and managerial capability for the project;

(d) subject to regulation 26(2)(d), holds a valid licence.

Bidding document

22. (1) The Commission shall provide the bidding document to bidders in accordance with the procedures and requirements specified in the invitation to bid.

(2) A bidding document must contain –

(a) the eligibility requirements and specify documentary evidence required as proof of eligibility;

- (b) terms of reference under regulation 23;
- (c) where applicable, a requirement for a bid bond under regulation 24;
- (d) the date, time, details and procedure for the opening of bids;
- (e) the methodology and criteria to be used in the evaluation of bids and the determination of the best evaluated bid;
- (f) the date and time of the bidding deadline clearly stated, and a statement that a late bid will not be accepted and will be returned unopened to the bidder.

Terms of reference

23. (1) The Fund Administrator, with assistance from ECTEL as necessary, shall prepare detailed terms of reference for each project to be compensated.
- (2) Terms of reference under sub-regulation (1) must include –
- (a) background information on the project;
 - (b) a detailed description of the services to be provided under the project;
 - (c) service locations and beneficiaries including the precise geographic locations and target user groups that are to be provided by the Fund services, and all relevant details concerning the required scope and availability of the services in the locations;
 - (d) financial parameters;
 - (e) information on the timing and schedule of the project;
 - (f) legal and regulatory terms and conditions that apply to the licensee selected to deliver the project.

Bid bond

24. (1) The Commission may, where applicable include in the bidding documents a requirement for a bid bond.
- (2) The Commission may forfeit a bid bond if -
- (a) there is a modification or withdrawal of a bid after the deadline for the submission of bids during its period of validity;
 - (b) a bidder refuses to accept a correction of an error appearing on the bid;
 - (c) a successful bidder fails to sign a contract in accordance with the terms set out in the bidding documents; or
 - (d) a successful bidder fails to provide a contract bond for the performance of the contract as required by the Commission.

Bid evaluation

25. (1) The Commission may co-opt independent evaluators to examine and evaluate the bids.
- (2) On completion of the evaluation, the Fund Administrator shall prepare a written report detailing the examination and evaluation of bids and identifying the winning bid that meets the qualification criteria.

Lots

26. (1) Where the splitting up or division of a project into two separate lots or segments **is possible, the Commission may** divide the project for the award of the separate part or lot to a bidder.
- (2) Where a project is divided under sub-regulation (1), the bidding document must specify -
- (a) the nature of the lot;
 - (b) the manner in which the bid for each lot is **to be** submitted, indicating whether separate bids are submitted for each lot;
 - (c) **the basis for an award;** and

(d) whether the bidder must be a licensee.

(3) Nothing in this regulation limits or restricts the Commission from awarding two lots to the same bidder, if such an award achieves the lowest evaluated bid for the combined lots.

(4) Notwithstanding this regulation, the funds allocated to the part or lot that does not involve an electronic communications service must not exceed 30% of the overall budget for the fund project.

Notice

27. The Commission shall notify bidders of the results of the bidding process within 28 days of the bid opening.

Rejection of all bids

28. (1) The Commission may reject all bids within 21 days of the bid opening where the Commission considers that the bids received are not substantially responsive to the requirements of the bidding documents or that the bid prices are higher than the project budget and shall inform the bidders of the rejection by written notice.

(2) Where the Commission rejects all bids because the lowest evaluated responsive bid exceeds the project budget, the Commission may -

- (a) enter into negotiations within 7 days of the notice referred to in regulation 28 with the lowest evaluated bidder to try and obtain a satisfactory contract; or
- (b) repeat the invitation for bids.

(3) Where the Commission rejects all bids because the bids are not substantially responsive to the requirements of the bidding documents, the Commission shall review the causes justifying the rejection and consider making revisions to the bidding documents before repeating the invitation for bids.

Sole source procurement

29. Where the Commission determines, in consultation with ECTEL, that there is only one economically feasible source to undertake a particular Fund project the Commission may use sole source procurement.

Emergency procurement

30. The Commission may make emergency procurements for a Fund project without bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary to prevent or minimize serious disruption in services.

Award

31. (1) The Commission shall award the contract within 14 days of the conclusion of negotiations by written notice to the bidder whose bid best meets the requirements and criteria set out in the bidding documents.

(2) Upon selection of the successful bidder, the Commission shall cause the results to be published in a newspaper of wide circulation in Saint Lucia and posted on the Commission's website.

(3) After the award of the contract, the Commission shall cause the evaluation report to be opened to public inspection.

(4) Where sole source or emergency procurements are used, the Commission shall award the contract within 14 days of successful negotiation of the contract.

(5) The Commission may require a contractor to give a contract bond guaranteeing complete execution of the Fund project as required by the contract.

Contract

32. (1) Subject to sub-regulation (2), a contract awarded under regulation 32 must include the terms and conditions that are set out in the bidding documents or request for proposals.

(2) A contract must include –

(a) the name, address, telephone and fax numbers, of the contact persons of the parties to the contract;

(b) the scope of the project;

(c) the contract price or its mode of determination;

(d) the conditions of acceptance;

- (e) the provision for termination of the contract;
- (f) where applicable, a provision for a contract bond;
- (g) the procedure for dispute resolution; and
- (h) the applicable law.

PART III

PROJECT IMPLEMENTATION

Project implementation and follow-up

33. (1) The Commission shall ensure that all Fund projects are implemented in accordance with the terms and conditions of the contract.

(2) A contractor shall provide periodic reports to the Commission, detailing its progress in fulfilling contractual requirements and timetables, and explaining any delays.

(3) The Commission may, in cases it considers appropriate, provide an advance payment of no greater than 20% of the total Fund project, subject to reimbursement or a lien against equipment purchased in cases of non-compliance in accordance with regulation 36.

Project accounts

34. (1) A licensee that receives Fund financing shall maintain separate books of account for each Fund project and shall make these accounts available for review by the Commission within 21 days of its request.

(2) Accounts kept under sub-regulation (1) shall include detailed records of all revenue and expenditure associated with the project, including calculation of the net costs of the project.

Right to audit records

35. (1) A licensee receiving Fund financing shall maintain books and records relating to the performance of the contract for a period of 7 years from the date of final payment under the contract or completion of the contract, whichever is later.

Electronic Communications (Universal Service Fund Contribution) Order

On June 16, 2016 the following instructions were provided to the Consultant in relation to USF Contribution Order:

(a) Amendment to USF Contribution Order

At the 33rd Meeting of the Council of Minister of ECTEL it was agreed that contributions from the providers should be amended such that following on from the current maximum contribution of 1% of gross revenue after three years of operations contributions should be increased to 1.5% of gross revenue for providers operating for more than 3 years then to 1.75% of gross revenue in the following year and finally to a maximum of 2.0% of gross revenue thereafter. This means for an existing provider operating for more than 3 years it would take three years (from the date of effect of the amendment) to get to the max of 2% but for a new entrant it would take 6 years starting at 0.25% up to the 2% max.

Therefore, the Section 3 of the Order should be amended as following

1. Include the following sub-sections

(d) for the fourth year of its licence, the USF contribution would be 1.5% of Gross Annual revenue

(e) for the fifth year of its licence, the USF contribution would be 1.75% of Gross Annual revenue

(f) for the sixth year of its licence, the USF contribution would be 2% of Gross Annual revenue

2. Include a provision that after the sixth year the contribution would be 2% thereafter.

3. Add a new provision that for **existing** providers operating for more than three years.

(a) for the next year of its licence, the USF contribution would be 1.5% of Gross Annual revenue

(b) For the following year of its licence, the USF contribution would be 1.75% of Gross Annual revenue

(c) for the year following that the USF contribution would be 2% of Gross Annual revenue

4. Include a provision that thereafter the contribution would be 2%.

Consequently, the following Order has been drafted:

Electronic Communications (Universal Service and Access Fund Contribution) Order

[NAME OF CONTRACTING STATE]

STATUTORY INSTRUMENT 20[], No.

[]

The Minister responsible for telecommunications, on the recommendation of ECTEL, makes the following Order:

Citation

1. This Order may be cited as the Electronic Communications (Universal Service and Access Fund Contribution) Order, 20[].

Universal Service and Access Fund contribution

2. (1) A licensee shall contribute to the Universal Service and Access Fund as follows:

- (a) for the first year of its licence, 0.25% of its gross annual revenue;
- (b) for the second year of its licence, 0.5% of its gross annual revenue;
- (c) for the third year of its licence, 1.0% of its gross annual revenue;
- (d) for the fourth year of its licence, 1.5% of its gross annual revenue;
- (e) for the fifth year of its licence, 1.75% of its gross annual revenue;

(f) for the sixth and each subsequent year of its licence, 2% of its gross annual revenue.

(2) Notwithstanding subsection (1), a licensee operating for more than 3 years shall contribute to the Universal Service and Access Fund as follows:

(a) for the first year of its licence, 1.5% of its gross annual revenue;

(b) for the second year of its licence, 1.75% of its gross annual revenue;

(c) for the third year of its licence and each subsequent year, 2% of its gross revenue.

Gross annual revenue

3. The gross annual revenue referred to in section 2 is the gross revenue earned in the provision of an electronic communications service for the reporting year, received by, or due to the licensee and its affiliates, from whatever source derived before any deductions for expenses, discounts, returns, or offsets of any kind except domestic interconnection payments, taxes and charges collected for and on behalf of the Government.

Due date for payment

4. The due date for payment is within 45 days of the reporting year and shall be accompanied by a gross annual revenue report and supporting attachments that provide details of the calculation.

Made this _____ day of _____, 20[].

.....
**Minister responsible for
electronic communications.**

Electronic Communications (Universal Service and Access) Order

In addition to the changes required above, the new clause inserted in the Bill to provide for an Order to specify the electronic communications service, equipment, geographic area, population group or institution is essential. Below is a draft of the Order:

Electronic Communications (Universal Service and Access) Order

[NAME OF CONTRACTING STATE]

[STATUTORY INSTRUMENT/STATUTORY RULES AND ORDERS], 20[], No.

[]

Made by the Minister, on the recommendation of ECTEL, under section 75(2)(a) of the Electronic Communications Act, No. of 20[].

Citation

1. This Order may be cited as the Electronic Communications (Universal Service and Access) Order, 20[].

Universal service and access

2. The requirement of universal service and access applies to the electronic communications service, equipment, geographic area, population group or institution specified in the Schedule.

SCHEDULE

(Section 2)

Electronic Communications

Public voice telephony

Internet access

Geographic area

Rural areas

Under-served areas

Maritime areas

Indigenous communities

Population group

Physically challenged

Elderly

Institutions

Schools

Health facilities

Public safety agencies.

On 18 May, 2017, ECTEL stated:

“In the case of the order we were thinking that we should also identify the other areas considered by the consultation for ease of reference I have inserted the para from the consultation paper which proposed the expansion of the definition.”

In that regard, ECTEL proposed that the Schedule to the Order be amended as stated below:

SCHEDULE

(Section 2)

Electronic Communications Service

Public voice telephony

Internet access

Geographic area

Rural areas

Under-served areas

Maritime areas

Indigenous communities

Population group

Physically challenged

Elderly

Institutions

Schools

Health facilities

Public safety agencies.

- (i) *ECTEL recommends that the definition or scope of universal service is redefined to include the provision of access devices to users, and the provision of ancillary services (security, training), infrastructure equipment (a/c, generator, electricity, UPS) that is relevant to the USF project.*

Equipment

Electronic communications access devices

Infrastructure and equipment relevant to a USAF project

Ancillary services

Power

Security

Training in use of ICTs and content development

The final Order was submitted as follows on 13 June, 2017:

Electronic Communications (Universal Service and Access) Order

[NAME OF CONTRACTING STATE]

[STATUTORY INSTRUMENT/STATUTORY RULES AND ORDERS], 20[], No.

[]

Made by the Minister, on the recommendation of ECTEL, under section 75(2)(a) of the Electronic Communications Act, No. of 20[].

Citation

1. This Order may be cited as the Electronic Communications (Universal Service and Access) Order, 20[].

Universal service and access

2. The requirement of universal service and access applies to the electronic communications service, equipment, geographic area, population group or institution specified in the Schedule.

SCHEDULE

(Section 2)

Electronic Communications Service

Public voice telephony

Internet access

Ancillary services

Power

Security

Training in use of information and communications technology and content development

Equipment

Electronic communications access devices

Infrastructure and equipment relevant to a [USAF](#) project

Geographic area

Rural areas

Under-served areas

Maritime areas

Indigenous communities

Public parks and other similar areas

Population group

Physically challenged

Elderly

Institutions

Schools

Health facilities

Public safety agencies.

Made this

day of

, 20[].

.....
**Minister responsible for
electronic communications.**

Annex 1

CONSULTATION DOCUMENT

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

To the National Telecommunications Regulatory Commission to consult on

Universal Service Fund

Consultation Document

/NO.

December 4, 2015

1. The National Telecommunications Regulatory Commission is in receipt of a submission from ECTEL containing ECTEL's recommendation for *Proposed changes to the Universal Service Fund in the ECTEL Member States*.
2. A copy of the Draft Recommendation is attached to this Consultative Document.
3. The initial comments period will run from **December 10, 2015 to January 8, 2016**
4. The Comment on Comments period will run from **January 13 to January 28, 2016**.
5. Following the Reply Comments period, ECTEL's Directorate will revise and submit the Final Recommendation to the NTRCs. The Directorate will also make the necessary adjustments to the USF Regulations and Guidelines for adoption in the ECTEL Member States.

6. All responses to this Consultative Document should be written and sent by e-mail 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.

Suggested Guidelines for Responses to Consultations

In order to promote faster processing of views expressed and to reduce administrative lags in ECTEL's public consultation processes, ECTEL hereby recommends that parties desirous of making contributions to the attached consultation follow the procedures outlined below. ECTEL would therefore be grateful if commenting parties could please observe these guidelines where possible.

- 1) Responses to consultations should be clearly labelled as a response to the particular ECTEL consultation and correctly referenced by title.
- 2) Documents should contain; the Name of Party/Licensee/NTRC commenting, address and telephone, fax number and email contacts of commentary author or corporate officer(s) responsible for document. This information will enable ECTEL to clarify any comments where necessary, or to facilitate follow-up dialog by ECTEL where required.
- 3) Commenting parties should avoid making comments in the form of tracked changes to consultation documents.

- 4) Where possible, comment documents should be submitted in PDF format.
- 5) Where possible, parties should make explicit reference to academic articles, legislative provisions in other jurisdictions, or other sources relied on, and should provide copies of these together with comments. Accurate citations of resources relied on will suffice if copies cannot be provided.
- 6) Where parties are commenting on specific provisions of legal language, alternative language should be proposed where possible. Such language should be appropriately highlighted and double spaced. Parties should avoid proposing alternative language in tracked changes to the consultation document.

ECTEL is grateful to those parties adopting the recommended guidelines for submitting comments.

Eastern Caribbean Telecommunication Authority
Proposed changes to the Universal Service Fund in the ECTEL Member States

Consultation Paper

December 4, 2015

1 Introduction or Background

In the ECTEL Member States of Commonwealth of Dominica, Grenada, St. Christopher and Nevis, Saint Lucia and St. Vincent and the Grenadines the Universal Service Funds (USF) were established under the Telecommunications Act (the Act) which is supplemented by the Telecommunications (Universal Service Fund) Regulations (USF Regulations) and the Universal Service Guidelines. The USF in every ECTEL Member State is administered by the National Telecommunications Regulatory Commission (NTRC). As part of its responsibility under the Act and USF Regulations, the NTRC collects and disburses monies from the USF and makes decisions with respect to the USF.

The NTRC according to the Act can use the USF to compensate telecommunications providers that provide or promote universal service. Licensed telecommunications service providers make contributions to the USF as determined by USF Contribution Order.

2 Purpose of the Consultation

The NTRC is desirous of revising the provisions relating to the USF. Therefore, this consultation paper seeks to solicit comments on the proposed changes to the USF in the ECTEL Member States. This paper highlights the regulatory issues relating to the USF, taking into account best regulatory practices for USF and proposes approaches that may be implemented.

ACTION REQUIRED BY COMMENTATORS

Commentators are asked to indicate via “YES” or “NO” replies, whether they agree with each of ECTEL’s recommendations listed in the following sections, and to provide reasons for their views on each recommendation.

3 Main Recommendations

The key eighteen recommendations made by ECTEL are as follows:

- (i) *ECTEL recommends that the definition or scope of universal service is redefined to include the provision of access devices to users, and the provision of ancillary services (security, training), infrastructure equipment (a/c, generator, electricity, UPS) that is relevant to the USF project.*
- (ii) *ECTEL recommends a change of philosophy and mandate of Universal Service to include promotion and adoption of service.*

- (iii) *ECTEL recommends that the scope of the USF is to ensure that all citizens and public institutions are afforded opportunity to provide and receive information knowledge and services via ICTs that will improve efficiency, productivity and safety of our economies via publicly tendered projects.*
- (iv) *ECTEL recommends a name change to Universal Service and Access Fund in accordance with the proposed increase in scope.*
- (v) *ECTEL recommends the following definition of under-served –*

“under-served” means any area –
 - (a) *where the penetration rate for broadband subscribers in [ECTEL Member State] is below the national penetration rate;*
 - (b) *with a population density of eighty persons per square kilometer or less, and where public cellular services are not available.*
- (vi) *ECTEL recommends the use of licensing or regulatory provisions to encourage uptake of broadband services.*
- (vii) *ECTEL recommends that audited financial statements are submitted by providers or contributors to the Fund.*
- (viii) *ECTEL recommends the imposition of a penalty for non-contribution to the USF.*
- (ix) *ECTEL recommends the establishment of a reserve fund for contingencies and if agreed the making of rules for use of the reserve fund.*

- (x) *ECTEL recommends the establishment of regional USF to cover cross-border activities.*
- (xi) *ECTEL recommends that the administrative budget could be used for market surveys, studies or consultancies in support of USF projects.*
- (xii) *ECTEL recommends a change in the maximum proportion of the USF that can be used for fund administration from 10% to 15% of USF contributions to allow for the additional activities to be funded by the administrative budget.*
- (xiii) *ECTEL recommends the use of the USF for the provision of grant funds for ICT entrepreneurial start-ups. Total grant funds not to exceed 10 per cent of annual USF project budget.*
- (xiv) *ECTEL recommends funding of content projects and educational projects (development of course content, etc).*
- (xv) *ECTEL recommends that the process for determining the scope and nature of projects that may be eligible for USF support in any given financial year be included in the USF Regulations rather than in Guidelines.*
- (xvi) *ECTEL recommends changing bidding eligibility to -*
 - (a) *include in the definition a person as opposed to limiting to telecoms service provider;*
 - (b) *identify components of project that would be open to persons who were not telecoms service providers;*
 - (c) *divide project into lots – telecoms service providers could bid on all lots and non-providers would be restricted to bid only on some lots.*

(xvii) ECTEL recommends a change in the USF contribution to allow for the funding of additional USF eligible projects and to provide an incentive for increased USF implementation rates.

(xviii) ECTEL recommends an amendment to the USF Contribution Order. ECTEL proposes a minimum contribution of 1% for telecom service providers with a mechanism to increase annual contributions by providers to up to 2% over a four-year period based on the utilization of the funds for eligible USF projects.

4 Issues for Consultation

Chapter 1: Universal Service Issues

1.1 Universal service is described in the USF Regulations as the inclusion of the provision of –

- (a) public voice telephony;
- (b) internet access;
- (c) telecommunications service to schools, hospitals and similar institutions, and the physically challenged; or
- (d) other service by which people access efficient, affordable and modern telecommunications.

Essentially the USF Regulations recognizes as universal service telephones, internet access and telecommunications service provided to educational and health care facilities to persons with physical disabilities. It also covers additional services through which citizens has access to efficient, reasonably priced and new telecommunications.

1.2 The International Telecommunications Union (ITU) has defined universal service to denote that all homes or persons in a country have the chance for receiving telephone service. The three central issues applicable to universal service are

availability, accessibility and affordability. The requirement for availability is that the service is obtainable in an entire geographic area and particularly in occupied parts of a country through unrestricted, community, common or personal devices. Accessibility requires that all residents are capable of using the service, despite location, sex, disability or additional characteristics. In relation to affordability the service has to be reasonably priced for all citizens as it relates to incomes, general cost levels that sequentially rely on prices, profits and other features, such as value arrangement and packaging, payment schemes and credit management.

- 1.3 In addition, ITU has recommended that the focus should shift from universal service to universal access because universal service today is not a single concept but a multiple theory consisting of national exposure, unbiased access and extensive affordability. Consideration of universal access would mean that every person in an area can get access to electronic communications services, although not necessarily in their homes.
- 1.4 An efficient and successful USF is achieved through a legal and regulatory framework that is technology neutral in that it should include elements of the new information communication technologies. Especially since new services are being offered, such as data and internet oriented services that no longer concentrates primarily on voice services.
 - (ii) *ECTEL recommends that the definition or scope of universal service is redefined to include the provision of access devices to users, and the provision of ancillary services (security, training), infrastructure equipment (a/c, generator, electricity, UPS) that is relevant to the USF project.*
 - (iii) *ECTEL recommends a change of philosophy and mandate of Universal Service to include promotion and adoption of service.*
 - (iv) *ECTEL recommends that the scope of the USF is to ensure that all citizens and public institutions are afforded opportunity to provide and receive information knowledge and services via ICTs that will improve efficiency, productivity and safety of our economies via publicly tendered projects.*

Chapter 2: Universal Service Fund Issues

- 2.1 An extension in the scope of universal service to cover universal access would have the effect of extending the purpose of the USF. No longer would the USF focus entirely on universal service. As such, there would be a need to change the name of the USF to include universal access.
- 2.2 The Telecommunications Act of each ECTEL Member State establishes the USF. It provides a pecuniary incentive for telecommunications providers to offer universal service. One of the purposes of the Fund according to the USF Regulations is to –

“encourage efficient access to and use of telecommunication networks and services throughout [ECTEL Member State], with special focus on rural, under-served and maritime areas, with a goal to help promote social, educational and economic development”.

However, the USF Regulations does not define the word under-served.
- 2.3 The necessity for defining under-served was emphasized by a panel of experts who informed the United States Congressional Committee in 2009 relating to the Broadband Technology Opportunities Program at the time. In response, it was suggested that under-served should take into account areas with low available broadband speed as well as availability to the rich, poor, rural or urban areas, disabled, small business, senior citizen and high school student.
- 2.4 In an effort to receive public opinion on the definition of under-served, the United States National Telecommunications and Information Administration (NITA) held a public session. The views presented to the Congressional Committee where echoed with an additional observation that under-served should not only be about geography but is also about access to the technology and the service. In reply, the Iowa Telecommunications Association stated that under-served should be defined as an area lacking access to broadband at or above a downstream transmission speed threshold and an upstream transmission speed threshold. The Association further suggested that the definition should be driven by future services and applications.
- 2.5 The task of defining under-served was also attempted in Malaysia where a leading telecommunication company, Digi, employed the definition created by the Suruhanjaya Komikasi dan Multimedia Malaysia as follows:

“Underserved area means any area –

- (a) where the penetration rate for broadband subscribers in Malaysia is below the national broadband penetration rate or where broadband access is insufficient;
- (b) where a population density of 80 persons per square kilometer or less, and where public cellular services are not sufficiently available.”

- 2.6 Another issue which arises is the persons who contribute to the USF. Under the USF Regulations, telecommunication providers are mandated to contribute to the USF. However, the move to expand the aims of the Fund to deal with the facilitation and coordination of ICTs will increase the players in the ICT financing space. As such, infrastructure will consist of wholesale transmission and broadband networks.
- 2.7 This new regime will require additional requirements in relation to the collection of the USF contributions. In Trinidad and Tobago the following general guidelines exist for the collection of USF contributions:
- (a) Service providers are required to submit an audited financial statement within six months after the end of their financial year;
 - (b) Within twenty-eight days of receipt of the audited financial statement an invoice is issued to the service provider setting out the amount of the contribution to be paid to the USF;
 - (c) Service providers should be required to make the necessary contribution within twenty-eight days upon submission of the invoice.
- 2.8 For a USF to work effectively legal requirements must be in place to allow easy adjustments of contributions and to reprimand telecommunication providers who fail to pay such contribution. This can be further achieved by periodical review of the USF Regulations. The Telecommunications Act and the USF Regulations have no such provision.
- 2.9 It has been recognized that different methods of accomplishing universal service objectives can be more useful than USFs. One option which has increased availability of telecommunications services is the imposition of licence conditions on telecommunication providers.

- 2.10 The establishment of new funds separate from the existing USF, or private/public partnerships also achieves the aims of universal service. This may take the form of a reserve fund or a regional fund.
- 2.11 A reserve fund is basically a contingency fund in which money is saved to provide for unanticipated debts which are outside the range of the normal working budget. The setting up of a reserve fund requires definition of the terms of use for the reserve money placed into the fund.
- 2.12 At the 4th Global Symposium for Regulations in 2003, it was stated that if there is political support at the highest level which acknowledges the need for ICTs as an instrument of advancement, universal service could be strengthened. The setting up of a regional Fund would make it easier to focus on cross border issues in the ECTEL Member States. However, the tasks, objectives and the organization of the Fund have to be developed under a regional structure under the Treaty establishing the Eastern Caribbean Telecommunications Authority.
- (v) *ECTEL recommends a change name to Universal Service and Access Fund in accordance with the proposed increase in scope.*
- (vi) *ECTEL recommends the following definition of under-served –*
- “under-served” means any area –*
- (a) *where the penetration rate for broadband subscribers in [ECTEL Member State] is below the national broadband penetration rate;*
- (b) *with a population density of eighty persons per square kilometer or less, and where public cellular services are not available.”*
- (vii) *ECTEL recommends the use of licensing or regulatory provisions to encourage uptake of broadband services.*
- (viii) *ECTEL recommends that audited financial statements are submitted by providers or contributors to the Fund to the USF.*

- (ix) *ECTEL recommends the imposition of a penalty for non-contribution to the USF.*
- (x) *ECTEL recommends the establishment of a reserve fund for contingencies and if agreed the making of rules for use of the reserve fund.*
- (xi) *ECTEL recommends the establishment of regional USF to cover cross-border activities.*

Chapter 3: Accounting Requirements Issues

- 3.1 The NTRCs of ECTEL Member States is mandated to prepare and keep separate budgets for Fund Projects and Operations through accounting allocations under the USF Regulations of ECTEL Member States.
- 3.2 The USF Regulations of ECTEL Member States also provide for the operating budget of the USF to be used for operating the fund and the administrative expenses to be charged to the Fund but not in excess of 10% of the annual budget of the USF.
- 3.3 According to the USF Regulations the Fund Project Budget must be allocated to Fund Projects that have been selected and approved for in financing under the Regulations.

- (xii) *ECTEL recommends that the administrative budget could be used for market surveys, studies or consultancies in support of USF projects.*
- (xiii) *ECTEL recommends a change in the maximum proportion of the USF that can be used for fund administration from 10% to 15% of USF contributions to allow for the additional activities to be funded by the administrative budget.*
- (xiv) *ECTEL recommends the use of the USF for the provision of grant funds for ICT entrepreneurial start-ups. Total grant funds not to exceed 10 per cent of annual USF project budget.*

Chapter 4: Fund Projects Issues

- 4.1 The definition of fund projects is stipulated in the USF Regulations. Therefore, the NTRC must establish the criteria in accordance with Guidelines for determining the scope and nature of projects that may be eligible for USF support in any given financial year. The NTRC is also empowered under the USF Regulations to determine using clear and transparent procedures, including public consultation, which proposed projects will receive financial support from the Fund in any given financial year.
- 4.2 The provisions in the USF Regulations as it relates to fund project is not transparent. The provisions depend on the making of guidelines by the NTRC. In order to make the USF more efficient it is important that the projects eligible for USF support be specified in the USF Regulations.

(xv) ECTEL recommends funding of content projects and educational projects (development of course content, etc).

(xvi) ECTEL recommends that the process for determining the scope and nature of projects that may be eligible for USF support in any given financial year be included in the USF Regulations rather than in Guidelines.

Chapter 5: Procurement Issues

- 5.1 According to the USF Regulations only a telecommunications provider is eligible to bid for any Fund Project. However, globally, the state owned entities, new entrants and non-licensed companies are eligible bidders. Including persons other than providers to bid will allow for a more competitive bidding process and will also allow for the proper execution of projects where current providers do not have the capacity or necessary skilled personnel to execute all components of a project.

(xvii) ECTEL recommends changing bidding eligibility to -

(d) include in the definition a person as opposed to limiting to telecoms service provider;

(e) identify components of project that would be open to persons who were not telecoms service providers;

- (f) *divide project into lots – telecoms service providers could bid on all lots and non-providers would be restricted to bid only on some lots.*

Chapter 6: USF Contribution

6.1 For the USF to be effective and successful, it should at least have the following basic elements and characteristics:

- Allow use of funds for targeted ancillary/complementary ICT related activities understanding that the government's digital agenda should be a priority;
- Clearly specified and measurable objectives including coverage and service delivery targets;
- And importantly, the ability to adjust contributions to match the funding required to meet assessed needs.

6.2 It is therefore being proposed that the USF contribution rate be increased from 1% to 2% of gross revenue on a tiered basis. The proposed increase will be implemented in a manner to ensure the efficient use of the USF, and to provide additional funding to the USF where the current contribution level is insufficient to meet the needs of the USF. A brief review of USFs in ECTEL Member States and a table from the GSMA USF Final Report 2003 indicating the contribution rate in Africa, Asia Pacific and Latin America in Annex 1 and Annex 2, respectively, present more details on the reasons for increasing the contribution.

6.3 The proposed contribution to the USF is as follows:

- All eligible licensed telecoms operators will be required to contribute a minimum of 1% of annual revenue to the USF
- If in any year the USF implementation rate is greater than or equal to 85% in the next year the USF may increase the contribution rate by 25 basis points up to a maximum contribution rate of 2%.

- The USF must publish the calculation of its implementation rate providing the justification on a proposed increase in the annual contribution rate.
- If the contribution rate is at 2% and the implementation rate is greater than or equal to 85% a public consultation review of the USF contributions in the ECTEL Member States must be undertaken.

6.4 This proposal is expected to reward USFs that make effective use of funds, to provide eligible telecoms and ICT and related services, and act as an incentive for other USFs to speed up their implementation. A detailed example of how the implementation rate that could trigger an increase in the USF contribution rate is to be determined is presented in Annex 1.

(xvii) ECTEL recommends a change in the USF contribution to allow for the funding of additional USF eligible projects and to provide an incentive for increased USF implementation rates.

(xviii) ECTEL recommends an amendment to the USF Contribution Order. ECTEL proposes a minimum contribution of 1% for telecom service providers with a mechanism to increase annual contributions by providers to up to 2% over a four-year period based on the utilization of the funds for eligible USF projects.

Chapter 7: Review of Universal Service Regulations

7.1 It is proposed that the Universal Service Regulations include a clause indicating that the Regulations should be reviewed at least ever 5 years and sooner if there is a significant change in the market.

Request for Comments

ECTEL invites comments from interested parties on any aspect of the proposals in this Consultation Paper.

Annex 1**Universal Service Fund (USF) in the ECTEL Member States****1.0 Introduction**

The underlying concept of Universal Service is to ensure that telecommunications services are accessible to the widest number of persons (and communities) at affordable prices. This concept is underpinned by the three following principles: availability, affordability and accessibility. As an incentive to encourage operators to assist the administrations in achieving their universal service goals, a specific universal service funding mechanism was designed.

USFs are funded in the ECTEL Member States via a contribution mechanism from telecommunications service providers/operators. The operator contributions are in the form of a levy based on a percentage of annual operating revenues (0.25% in first year, 0.5% in second year, and 1% of Gross Revenues from third year throughout the duration of the licence).

The Fund is then used to compensate any telecommunication provider who has been successful in winning a contract to deliver a universal service project. USF projects aim to:

1. Encourage efficient access to and use of telecommunications networks and services, with special focus on rural, under served and maritime areas.
2. Ensure the reasonable availability and affordability of basic and advance telecommunication services to areas that may not be financially viable on market terms as well as to the physically challenged, elderly, and indigent communities.
3. Provide support for the introduction and expansion of telecommunication services to schools, health facilities and other organizations serving public needs.
4. And to promote technological innovation in the telecommunications sector.

2.0 Implementation Rate for USF's in the ECTEL Member States

The table 1 below is used for **illustrative purposes** and estimates the implementation rates for the USFs for the 2014 fiscal year.

Table 1: Implementation rates for fiscal year 2014

	DOM	GND	SKN	SLU	SVG
(1) Total Funds collected	\$4,109,000	\$8,019,872	\$4,199,577	\$9,143,460	\$7,620,502
(2) Total Funds Disbursed on projects	\$616,000	\$41,300	\$651,111	\$385,432	\$5,835,176
(3) Total Funds Committed on current or new projects	\$1,700,000	\$1,319,465	\$1,585,677	\$2,365,244	\$1,780,710
(4) Total Funds Available for future projects	\$1,793,000	\$6,659,107	\$1,962,789	\$6,392,784	\$4,616
Implementation Rate	56%	17%	53%	30%	100%

Source: ECTEL/NTRCs

Notes and Definitions

Total Funds collected – funds collected by the USF up to fiscal year 2014

Total Funds Disbursed on projects – funds paid out to telecommunications providers to execute universal service projects up to fiscal year 2014

Total Funds Committed on current or new projects – funds committed for universal service projects with future or recurrent payments and funds for projects where the procurement process is substantively completed but the award or disbursements have not yet been made.

Note: In the case of USF St. Vincent and the Grenadines there are a number of projects with recurrent future payments, the USF estimates future commitments for 2015 -2019 of \$7, 122, 838 or approximately \$1,780,710 annually.

Total Funds Available for future projects – this is equal to funds collected less funds disbursed and funds committed.

Implementation rate = (Total Funds Disbursed on projects + Total Funds Committed on current or new projects) / Total Funds collected

3.0 Rational for Increase in USF Contribution

The table above highlights varied activity and implementation rates in the Member States. Using the criteria proposed, only the USF St. Vincent and the Grenadines would be eligible to request an increase in the USF contribution from telecommunications providers. The USF in St. Vincent and the Grenadines has implemented a number of projects to address the connectivity gaps at the community level, with installation of free wireless internet at numerous public institutions and community centres. However gaps at the household and individual level still exist. According to 2012 Census data, 33 per cent of households in St. Vincent and the Grenadines had an internet connection and 31 per cent of individuals had access to the internet. Two years on, ECTEL's 2014 ICT survey put the household number at 37 per cent and individual access to the internet at 47 per cent; advances attributable in part to the work of the USF. In addition, the majority of the ICT content used in St. Vincent and the Grenadines is imported and as such there may be an urgent need for increase scope of the Fund to target more local content development and ICT training initiatives. The current disbursement plans for the USF St. Vincent and the Grenadines indicates that the implementation of new projects and other aspirations, essential for the development of ICT, would be significantly hampered without an increase in the current rate of contribution to the USF by telecommunications providers. Hence the recommendation from ECTEL that the current contribution Order be amended to be more responsive to the needs of USFs.

Gap analyses conducted through surveys in Commonwealth of Dominica, Grenada and Saint Lucia also highlighted gaps in the ICT sector, especially in the area of broadband internet accessibility. Fund administrators will always have the task of determining which and how many projects to give priority to in terms of commitment, cognizant of their obvious constraints. Presently, some Fund administrators are of the opinion that the contributions are inadequate, because the needs in 2015 are far greater and different from the needs during the period 2000 – 2005. Technological changes dictate new conditions and requirements and failure to respond would severely hamper the usefulness of the Funds with regards to serving the needs of the un-served and underserved.

The benefits of broadband are immense and cannot be overstated because of the social and economical benefits it brings to any society. We are mindful that the beneficiaries of USF are persons who live in often remote and difficult to serve areas. Many of these persons are the poor and disadvantaged. A broadband project cannot be just to bring adequate communications to that area, but should also include other basic necessities that are often lacking, together with training and education. One example often cited by the Fund administrators is what good is a Tele-centre if it cannot be housed in a suitable building with proper access roads and a reliable power source. To ensure the efficient use of USF, all these factors must be considered in project design. The proposed changes to the USF are aimed at addressing the changing face of ICT in the Member States and to provide flexibility to the USF in funding ICT projects aimed at reducing the digital divide within the ECTEL Member States.

Annex 2

Contribution rate for the Universal Service Funds in a number of Countries

Country	Contribution Rate	Year Established
Africa		
Burkina Faso	2% of annual revenue net of interconnection payments	2000
Cote d'Ivoire	2% of gross annual revenues from mobile only	1998
Democratic Republic of Congo	2% of Gross Annual Revenue	2002
Gabon	2% of net revenue per year from fixed and mobile operators	2001
Ghana	1% of their annual revenue less certain taxes	2004
Lesotho	1% of net operating income on annual basis	2009
Madagascar	2% of gross revenue earned	1999
Mauritius	5% of gross revenue generated from the provisions of international roaming service for that month and USD 0.025 on every minute of international calls terminated in that month	2008
Morocco	2% of annual revenue net of interconnection cost	2005
Mozambique	1% of net operating income of the previous year	2006
Niger	After 2003, 4% of annual net revenue from all licensed operators	1999
South Africa	0.2% of annual turnover	
Rwanda	2% of gross revenue net of interconnections	2004
Sudan	2% of total gross revenues	2001

Tanzania	.03% of yearly gross operating revenues from all operators	2009
Togo	2% of annual gross revenues net of interconnection payments	2002
Uganda	1% of gross annual revenues net of interconnection payments	2003
Zimbabwe	2% of Gross Annual revenues	2001
Asia Pacific		
Afghanistan	2.5% of net revenues of all licensed service providers	2003
Bangladesh	1% of audited gross revenues	
India	5% of Adjusted gross revenues of all telecoms service providers	1999
Indonesia	1.25% of gross profit on all telecoms providers	
Malaysia	6% of weighted revenues from designated services	1998
Mongolia	2% of net taxable income	2006
Nepal	2% levy on the revenues of incumbent operator, ISPs & mobile	2006
Pakistan	1.5% levy on all revenues of all operators	2006
Vietnam	3% of fixed line operators revenues, 4% of international telephone service 5% of mobile operator's revenue	2006
Latin America		
Argentina	1% of operators gross revenue	2009
Bolivia	2% of all gross income of operators and industry suppliers	
Brazil	1% of service providers gross revenue	2000

Columbia	5% of gross revenues of national and international long distance and mobile service A percentage of net revenues from fixed telephony, VAS and trunking	2009
Dominican Republic	2% of gross income	1998
Ecuador	1% operator levy on fixed line operator	2001
Nicaragua	2% operator levy	2003
Peru	1% of all telecom and CATV operators gross revenue	1993
Venezuela	1% on all operators revenue	2000

Source: GSMA Universal Service Fund Study, April 2013

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ANNEX 2

Universal Service Fund**Consultation Response Document – DRAFT July, 2017**

This document summarizes and responds to comments provided by stakeholders prior to the Written Comment deadline of December 10, 2015 to January 8, 2016 and Comments on Comments deadline of January 13, 2016 to January 28, 2016. For clarity, ECTEL has summarized and/or paraphrased some comments, or grouped together comments addressing similar issues, or corrected grammar. Where comments were unclear, ECTEL has made its best effort to respond to its understanding of the intended meaning.

Consultation Recommendation	Comments	Source Document	ECTEL's Response
<i>General Comments on Recommendations</i>	<p>C&W supports the USF in principle given that it can promote the development of and use of ICT across the region. There is however a concern that the proposals in the Consultation Document appear to facilitate a lack of transparency, accountability and waste and there is a fundamental disconnect between the approaches to the USF Regulations and the new draft ICT Bill. The USF proposals seek to mandate that providers forego more of their revenue while the draft ICT Bill seeks to introduce heavy handed and intrusive regulations. For example, its proposals make it a right for a competing provider to have access to the infrastructure of its competitor, while restricting how much of its invested network capacity it can reserve for its own future network needs. In this regard, the USF and EC Bill proposals are likely to have a chilling effect on investments, leading to a decline in revenues and ultimately to reduced contributions to the USF.</p> <p>A greater focus on the ICT needs of the ECTEL Member States and the programs and initiatives that governments and other partners can implement would highlight what is required and how best to achieve it.</p>	Cable & Wireless December 4, 2015	<p>Revisions have been made to the Draft Electronic Communications Bill to reflect the new approaches to Universal Service and Access. For example, the Minister is now empowered under Section 76 (2) to make an order to specify the electronic communications service, equipment, geographic area, population group or institution to which universal service and access applies.</p> <p>Section 76 (3) also specifies that the Universal Service Fund may consist of any funds that may be directly appropriated by Parliament for the purposes of the Fund</p>

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	A careful look must be taken of the issues and needs that have risen over the last seven years with USFs within the sub region and see what innovative solutions have been developed already or can be developed to address them.	SVG NTRC January 7, 2016	and official grants, donations, bequests or other contributions, or other transfers granted by an individual or a legal entity.
	A more holistic view which looks to broaden the contributor base and which also focuses on increasing the activity in the ICT sector would mean that the benefits of the USF could be delivered to citizens without the need to impose what is essentially an additional tax on an already hard-pressed sector.	Digicel February 22, 2016	In addition, the objectives of the Fund have been broadened to support the development of locally relevant information, content or applications to be delivered over an electronic communications network and the provision of grant funds for information and communications technology entrepreneurial start-ups.
	ECTEL to engage with stakeholders such as CANTO to develop strategies which ensure that the existing USF is managed to maximize the benefits of the contribution that licensed operators already make. It is unfair that ECTEL seeks to address dwindling USF through increased contributions from providers without due consideration to the effect that unlicensed OTTs have on operators' revenues.	CANTO February 22, 2016	
	It is questioned whether the general direction would deliver results that are consistent with the aims and objectives of universal service policy as well as ensure the robust and efficient development of the industry.	Columbus Communications Limited February 22, 2016	
	NTRC supports the periodic review of the USF regulations in accordance with developments in the market. The review period should be set at 3 years.	NTRC Grenada December 4, 2015	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
<p><i>The definition or scope of universal service is redefined to include the provision of access devices to users, and the provision of ancillary services (devices, security, training), infrastructure equipment (a/c, generator, electricity, UPS) that is relevant to the USF project.</i></p> <p>(Recommendation i)</p>	<p>C&W does not agree with this proposal. The current definition and scope of USF are clear and adequate. The redefinition of Universal Service seeks to entrench provisions to enable the funding of activities that are so indirectly related to required service or access, that waste and inefficiency would be encouraged. It seems unreasonable to require telecommunications companies in ECTEL Member States to bear the brunt of a subsidy to Electricity Companies, Security Firms and the like. Further, in a market where convergence is occurring at a rapid rate, the reference to access devices is too expensive. With access to the internet via a phone, tablet, computer, users can avoid using tariff based services by using free apps and Wi-Fi to achieve the same outcome. In such an ever-changing environment, where telecommunications providers face an ever-increasing risk of revenue loss, simply expanding the scope of Universal Service and increasing the percentage of the tax applied is short sighted and unsustainable. This approach in effect penalizes competitive entry and investment in the region.</p>	<p>Cable & Wireless December 4, 2015</p>	<p>In the age of convergence, access devices are essential in ensuring and promoting access to ICT services. Similarly, where service is provided at the community level, it is essential to secure the equipment and provide supporting services. In essence, USAF projects should be complete and all-encompassing to ensure that the objectives of ensuring efficient access to and use of an electronic communications network or service and to ensure reasonable availability and affordability of a basic and advanced electronic communications service at the community, household and individual levels are met. That notwithstanding, ECTEL recognizes that opportunities exist for future collaboration with other agencies in executing USAF projects.</p> <p>In response to the concerns raised by CANTO, it should</p>
	<p>The view that provision of access devices to users to be given first priority is questionable and appears to be without qualification. Can the USF assist in getting the disadvantaged value for money? Can the USF promote sharing of infrastructure and good quality interconnection between providers? Is Universal Service only about broadband?</p>	<p>Deirdre Williams January 8, 2016</p>	
	<p>Over time the definition of universal service will evolve. Even within this evolution, the focus of universal service and funding must always be to connect the unconnected to the network and this objective should never become secondary to incidental ancillary services and infrastructure equipment. A public/private partnership is proposed in the paper written and circulated to governments in the region titled "Incentivising Investment in Broadband in the Caribbean" to advance the roll-out of broadband services in the region.</p>	<p>CANTO February 22, 2016</p>	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	<p>Columbus Communications Limited understands the need to extend provisions to include universal access in addition to universal service. However, this would first have to be set in enabling legislation. While the proposal seeks to define Universal Service to cover access to devices, power equipment and ancillary services such as security and training, CCL believes that there is no need to explicitly define these items as part of universal service. The current definition is well aligned to the broad policy objectives and in line with definitions used in other jurisdictions. Columbus Communications believes that it is adequate and does not support the change.</p>	<p>Columbus Communications Limited February 22, 2016</p>	<p>be noted that the provision of ancillary support is critical to ensuring that the objectives of the USAF (to ensure efficient access to and use of an electronic communications network or service and to ensure reasonable availability and affordability of a basic and advanced electronic communications service at the community, household and individual levels) are realized.</p>
	<p>The underlying objective of any efficient universal service or universal access regime is to increase access to services where it would otherwise be uneconomical for licensed operators to do so. A Universal Service/Access regime is necessarily comprised of regulatory imposed measures which force licenced operators to make contributions (whether by direct monetary contributions or by service obligations) to provide services to persons or in areas where an efficient business plan would have dictated otherwise. It is imperative that this principle should guide the implementation of regional UFs. Therefore, before ECTEL attempts to increase the scope of the current universal regime or to increase contributions to the USFs, it must first demonstrate the extent to which it can reasonably considered that, even with robust competition, levels of access to ICTs will necessarily be lower than that required to meet national objectives.</p> <p>There is also substantial risk that the broadening of the USF objectives would result in fund being used to underwrite public sector services and facilities which in the normal course would have been provided out of the public exchequer or contributions from other sectors such as electricity.</p>	<p>Digicel February 22, 2016</p>	<p>In response to Columbus Communications Limited's comments, it should be noted that it was necessary to revise the definition of USF to address concerns raised by the NTRCs.</p> <p>ECTEL notes Digicel's comments and reiterates that the overall objectives of the USF as defined in the current regulations have remained unchanged which include inter-alia to encourage efficient access and use of</p>

Consultation Recommendation	Comments	Source Document	ECTEL's Response
			telecoms networks and services with special focus on the rural/underserved/maritime areas, ensure the reasonable availability and affordability of basic and advanced telecommunications services, provide support for the introduction and expansion of telecoms services to schools/health facilities and other organizations serving public needs and promote technological innovation in the telecoms sector.
	The definition should also be extended to include “specialized devices” for the differently abled. Ancillary services should include Management Information Systems (MIS) as data collection and analysis is crucial in mapping the reach and effectiveness of the USF.	NTRC Saint Lucia December 4, 2015	ECTEL believes that the updated definition provides for inclusion of specialized devices for the differently abled and for inclusion of ancillary services such as management information systems (MIS).
	C&W supports Digicel's argument that a multi-stakeholder approach is required to address the ICT needs of the region and that it would be unfair for telecoms providers who operate in a competitive environment to have to subsidize the largely monopoly electricity sector.	Cable & Wireless (Comments on Comments) March, 2016	The objectives of the USAF remain the same i.e. the need for complete projects to promote access to and use of electronic communications

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	<p>C&W notes also the comments from NTRC Grenada supporting this proposal. However, it wishes to emphasize its position that all USF expenditures must be directly related to a legitimately approved USF project.</p> <p>C&W agrees with NTRC Grenada's statement that where the competitive market forces have failed, then regulations should be utilized as a last resort to address the market gaps which exist. However, C&W believes that the ICT needs of the region will be largely addressed when companies are encouraged by an appropriate regulatory framework to invest in ICT sector. According to C&W, the use of the USF is but one measure to help provide ICT service and access where it is economically infeasible to do so and is not an end in itself. Other areas of the regulatory framework need to be addressed to ensure the provision of service and access to all citizens.</p>		<p>services. ECTEL however agrees that there is need to explore options for collaborations in addressing the needs of the under-served.</p>
	<p>According to NTRC Grenada, an expansion of the scope of USF is prudent to remove ambiguity in identification of fund projects. Hence, the clause should emphasize that supporting elements must complement the USF project and is mandatory to enable provision of the network/services to achieve the USF mandate, while these supporting elements may not be telecommunications in nature, it serves to complement and enable the delivery of services to USF area.</p> <p>NTRC Grenada also recommends that the persons with disabilities should be included as a distinct element in the USF regulations and the annual allocations should be considered. Further, disabilities should be defined in the USF regulations.</p>	NTRC Grenada	<p>ECTEL agrees with this position. This expansion and clarification of the scope of USF is addressed in the new Universal Service and Access Order. In addition the new Regulations limit the amount of USAF funds that can be allocated to project components that are not and electronic communications service.</p> <p>In terms of persons with disabilities, this is addressed in the revised definition for Universal Service and</p>

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			Access. However, ECTEL does not believe that it is necessary to define disabilities in the USAF Regulations but that the nationally used and accepted definition should also apply to the USAF.
	Columbus Communications Limited notes the concerns expressed by NTRC Grenada regarding making provisions for persons with disabilities under the USF. Columbus Communications Limited however notes that Section 3(1) of the existing regulations provide for the provision of telecoms services to the differently abled.	Columbus Communications Limited (Comments on Comments) March 8, 2016	
<p><i>A change of philosophy and mandate of Universal Service to include promotion and adoption of service.</i></p> <p>(Recommendation ii)</p>	C&W does not agree that the mandate of US should include promotion and adoption of service(s). Inherent in the concept of USF is that the demand for such service or access exists and that the problem to be remedied is making it available to the citizens who cannot afford. The promotion and adoption of service are properly within the remit of the commercial players in the market and government funded agencies which seek to promote ICT development within the ECTEL Member States, not within the remit of the USF.	Cable & Wireless December 4, 2015	ECTEL has withdrawn this recommendation due to limited support from the industry.
	Argued for during HIPCAR consultation and to be given first priority in this list. Can the USF help to ensure the poor get value for money? Can the USF promote the sharing of infrastructure/good quality interconnection?	Deidre Williams January 8, 2016	

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	<p>Section item 1.4 (i) calls for the definition of universal service to cover access devices, power equipment, and ancillary services such as security and training. We do not see the need to explicitly define these items as part of universal service. The existing definition covers the provision of (a) public voice telephony; (b) internet access; (c) provision of telecommunication services to schools, hospitals, & other similar institutions and the disabled as well as (d) other services that provide access to efficient and modern telecommunications services. This definition is well aligned to the broad policy objectives and in line with definitions used in other jurisdictions. We believe this is adequate and do not support the proposed change.</p> <p>Item 1.4(ii), advocates for the inclusion of programmes related to the promotion and adoption of services. Promotion and adoption of services is certainly key to ensuring that the society maximizes the benefits of the technology for social inclusion and economic advancement. Universal service policies and programmes are about ensuring that citizens have access to information and communication technology services (ICTs), but such programmes do not exist or</p>	<p>Columbus Communications Limited February 22, 2016</p>	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	<p>operate in isolation. They operate alongside other inter-related government policies aimed at social and economic development.</p> <p>On the supply side, the service provider through expanding infrastructure and providing new services promote service adoption.</p> <p>On the demand side, economy wide government policies and programmes e.g. E-government and E-commerce should be developed to promote adoption of service. Improved efficiency, productivity and the general wellbeing of the country is expected to flow from appropriate and well implemented national ICT policies.</p>		
	<p>In response to the comments made by NTRC Grenada on promotion and adoption of service, Columbus Communications Limited notes that to achieve the desired service adoption goals demand pull factors e.g. E-government and E-commerce programmes should be developed to promote adoption of service.</p>	<p>Columbus Communications Limited (Comments on Comments) March 8, 2016</p>	
	<p>The USF should include an element of sustainability geared towards the beneficiaries of the services provided by USF. Also, there should be greater focus to ensure that facilities are available for future access/consumption.</p>	<p>NTRC Saint Lucia December 4, 2015</p>	
	<p>USF regulations should be utilized in the competitive market to supplement the market to address the challenges overlooked/not feasible for commercial market/entrepreneurs. Where there are</p>	<p>NTRC Grenada December 4, 2015</p>	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	challenges, the USF should be used to encourage the uptake of services in rural areas/urban areas to incentivize the purchase of devices. These will support projects where USF were used to establish broadband infrastructure, promotion of adoption will enable residents in the USF areas to acquire services which were made accessible through the use of USF.		
	Columbus Communications Limited supports the views expressed by NTRC Grenada that USF should target intervention in areas where it is uneconomical to do so on a commercial basis. However, Columbus Communications Limited notes that USF do not exist in isolation and can be supported by e-government or e-commerce programmes.	Columbus Communications Limited (Comments on Comments) March 8, 2016	
<i>The scope of the USF is to ensure that all citizens and public institutions are afforded opportunity to provide and receive information knowledge and services via ICTs that will improve efficiency, productivity and safety of our economies via publicly tendered projects.</i> (Recommendation iii)	C&W believes that this scope is not new and is already captured in current Fund arrangements.	Cable & Wireless December 4, 2015	While the overall objective of USAF remains the same, ECTEL is seeking to clarify the definition to ensure that USAF funds can be used to support telecoms services to public institutions including those dealing with safety.
	A qualified yes since this provision seems to carry too many things. Raises a further question: Is the USF only about the economy? Can knowledge be provided and received? Can USF promote things for the community/society or only for the economy?	Deirdre Williams January 8, 2016	
	This means the diversion of USF from improving access to electronic communications into activities that should ideally be funded by central government. Rather than adding additional regulatory burdens on licensed operators, we believe that ECTEL must seek to promote competition by the provision of incentives to lower costs to operators and by the creation of a level playing field where all persons providing services to the public in the Contracting States will be regulated and charged similar obligations to pay licence fees and taxes and to make USF contributions. Digicel does not support this proposal due to the absence of proper	Digicel February 22, 2016	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	<p>justification on why increasing access requires regulatory intervention in the manner proposed.</p> <p>The value of telecommunications to public safety, especially in the event of a disaster to be noted. According to ECLAC, USFs have the potential to assist in funding for the deployment of telecommunications infrastructure that can be used to provide early warnings to the public in the event of an impending disaster, such as a hurricane or tsunami'.</p> <p>Recommendation iii to be amended to read “. . . and receive information knowledge and services via ICT's that will improve efficiency, productivity and public safety of our economies via publicly tendered projects.”</p> <p>Sec 8(3) is not clear, with grammatical errors.</p>	<p>Economic Commission for Latin America and the Caribbean Sub-Regional Headquarters for the Caribbean February 22, 2016</p> <p>SVG NTRC April 16, 2016</p>	
	<p>C&W agrees with Digicel's comments that this would mean that the USF would be diverted away from improving the availability of access to electronic communications into activities which are more properly funded by central government and that such a diversion of USF resources would result in lower levels of USF investment in improving access availability and would turn the USF into a sector specific tax used to fund general exchequer expenditure.</p> <p>C&W also supports ELAC's concern for public safety. However, C&W notes its wariness of any language that seeks to give the USF a Public Safety Mandate above else. This matter can best be addressed by central government.</p>	<p>Cable & Wireless (Comments on Comments) March, 2016</p>	
	<p>NTRC Grenada notes that the intention and expansion of the scope of USF should be redefined and that the scope should reference everyone having the opportunity to have access to affordable ICTs.</p>	<p>NTRC Grenada December 4, 2015</p>	
<i>A name change to Universal</i>	<p>Proposed name change is consistent with current scope of the Fund.</p>	<p>Cable & Wireless</p>	

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<p><i>Service and Access Fund in accordance with the proposed increase in scope.</i> (Recommendation iv)</p>	Can support a name change but not an increase in scope of USF.	December 4, 2015	<p>The name has been changed to Universal Service and Access Fund (USAF) in the Draft Electronic Communications Bill, the USAF Regulations and the USAF Contribution Order and USAF Guidelines. This definition will allow the Minister greater flexibility to exercise the power granted under the Draft Electronic Communications Bill to amend by Order the electronic communications services, equipment, geographic area, population group or institution to which Universal Service and Access would apply.</p>
	In line with general concepts of universal service and universal access, it is desired to extend the provisions to include universal access in addition to universal service. However, this would first have to be set in enabling legislation.	Columbus Communications Limited February 22, 2016	
	Yes, except that the scope in recommendation iii does not speak to access.	Deirdre Williams January 8, 2016	
	Supports name change to Universal Service and Access Fund (USAF). Agrees with the recommendation for the change of name to Universal Service and Access Fund (USAF). USF should be broadened to encompass availability of telecoms at the community levels and to support ICTs at public institutions.	NTRC Grenada December 4, 2015	
<p><i>Under-served to be defined as follows –</i> <i>“under-served” means any area –</i> <i>(a) where the penetration rate for broadband subscribers in [ECTEL Member State] is below the national</i></p>	No objection to the definition of under-served (a) (b).	Cable & Wireless December 4, 2015	<p>The definition of universal service and access has been revised to mean the widespread provision of an electronic communication service or equipment that allows access to an electronic communications service under section 76(2)(a) of the Draft Electronic Communications Bill. Under</p>
	To be clarified whether the USF to be only about broadband. Does this represent a change away from and not including the former provision for telephone? No response until the above questions are clarified. Would it be possible to create a standard with an obligation that it be reached for everyone-if you fall below that standard you are by definition underserved’?	Deirdre Williams January 8, 2016	
	Columbus Communications Limited supports the proposal to redefine underserved. Such a definition should however be informed by studies/data from individual markets. Such efforts could leverage	Columbus Communications Limited	

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<p><i>penetration rate;</i></p>	<p>work done in other national and regional projects such as Caribbean Communications Infrastructure Project (CARCIP) & Broadband Infrastructure Inventory and Public Awareness in the Caribbean (BIIPAC).</p>	<p>February 22, 2016</p>	<p>section 76 (2), the Minister is also empowered to amend by order the electronic communications service, equipment, geographic area, population group or institution to which Universal Service and Access would apply.</p>
	<p>NTRC SVG questions the exclusion of the USA from the list of countries in Annex 2 of the consultation paper.</p>	<p>NTRC SVG April 16, 2016</p>	
	<p>While the current regulations identify the efficient access, and use of telecoms network and services by the underserved as one of the main goals of Universal Service, Digicel notes that under-served is not defined. ECTEL seeks to ascribe a definition of underserved to include not only geography but also access. Digicel also concedes that there are clear geographical limitations in adopting an unmodified version of the definition of underserved used in Malaysian. There is a fundamental difference in how underserved is defined in these two cases. In the Malaysian example, it means insufficient coverage whereas ECTEL seems to define underserved as “any area which does not have cellular coverage”.</p> <p>In addition, the definition appears to confuse the concept of availability and uptake. Penetration refers to the uptake of the while underserved (based on the Malaysian model) refers to insufficient coverage.</p> <p>The definition of underserved areas should be redefined to encompass telecoms services. The definition is not consistent with clause which states that USF should also be about technology hence the definition should not be biased toward services but should be open to include technology and other telecoms and ICTs.</p>	<p>Digicel February 22, 2016</p>	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	<p>The definition appears to focus predominantly on broadband. However, undeserved should be defined to include areas where telecommunication services and access are still deficient. Therefore, there should be a focus on public voice telephony, telecommunications services and access (including devices) as well improved broadband internet.</p>	<p>NTRC Saint Lucia December 4, 2015</p>	
<p><i>(b) with a population density of eighty persons per square kilometer or less, and where public cellular services are not available</i> (Recommendation v)</p>	<p>The definition appears to focus predominantly on broadband. However, undeserved should be defined to include areas where telecommunication services and access are still deficient. Therefore, there should be a focus on public voice telephony, telecommunications services and access (including devices) as well improved broadband internet. Response covers both (a) and (b).</p>	<p>NTRC Saint Lucia December 4, 2015</p>	

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	C&W concluded that Digicel's concerns regarding the proposed definition are not without merit. The definition should be clear and not open to varying interpretations. C&W recommends that ECTEL select an absolute penetration threshold for example 30%, below which a given area will be considered under-served. ECTEL can then consult with the industry on the target threshold.	Cable & Wireless (Comments on Comments) March, 2016	
	The definition should be redefined to include telecommunication services. This definition is not consistent with clause 2.4. Section 2.4 states that USF should also encompass access to technology hence the definition should not be bias towards services but should be open to include technology and other telecoms and ICTs.	NTRC Grenada December 4, 2015	
<i>The use of licensing or regulatory provisions to encourage uptake of broadband services.</i> (Recommendation vi)	C&W is concerned that this provision appears to be vague and inconsistent with ECTEL's overall proposal. While this proposal seeks to increase broadband uptake, ECTEL is also proposing to simultaneously apply a year-on-year increase to the tax on licensee's annual revenue. On the other hand, unlicensed OTTs domiciled overseas who make no contribution to the USF will be encouraged to provide applications that the taxed service provider has funded. As a result, C&W does not support this proposal.	Cable & Wireless December 4, 2015	ECTEL has withdrawn this recommendation due to lack of support from the industry.

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	<p>Providers of OTT VoIP services and handset vendors must be regulated in Contracting States to make contributions to the USFs.</p> <p>Rather than attempting to introduce new measures to unduly and unnecessarily over regulate the implementation of universal service in the region, ECTEL should place greater emphasis on implementing the measures that are already in place.</p> <p>To be clarified whether USF to be only about broadband.</p> <p>Support the position put forward by Digicel that instead of introducing new administrative measures, the focus should be on satisfying the administrative measures already provided for in the current framework.</p>	<p>Digicel February 22, 2016</p> <p>Deirdre Williams January 8, 2016</p> <p>Columbus Communications Limited (Comments on Comments) March 8, 2016</p>	
	<p>The rationale for this provision is not clear. The USF can be viewed as an option that complements regulatory reform and developed as a mechanism within a broader market to achieve universal access and service.</p>	<p>NTRC Grenada</p>	
<p><i>Audited financial statements to be submitted by providers or contributors to the Fund.</i> (Recommendation vii)</p>	<p>C&W has no objection to this proposal.</p> <p>Agreed but providers/contributors to be defined.</p> <p>NTRC SVG questions the need for this provision. Is this an area where regulatory institutions are having difficulties with currently? Are there issues related to the collection of fees? Current regulatory framework makes provision for submission of audited financial statements by providers. Therefore, NTRC SVG does not support</p>	<p>Cable & Wireless December 4, 2015</p> <p>Deirdre Williams January 8, 2016</p> <p>SVG NTRC January 7, 2016</p>	<p>The Draft Electronic Communications Bill provides for the submission of audited financial statements by providers on an annual basis. As result, ECTEL has withdrawn this recommendation.</p>

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	the development of new regulatory provisions that are not necessary.		
	<p>Rather than attempting to introduce new measures to unduly and unnecessarily over regulate the implementation of universal service in the region, ECTEL should place greater emphasis on implementing the measures that are already in place.</p> <p>NTRC of St. Vincent and the Grenadines makes the point that these audited statements are required as part of the general licence conditions.</p>	<p>Digicel February 22, 2016</p> <p>Columbus Communications Limited (Comments on Comments) March 8, 2016</p>	
	A penalty should be imposed on providers who fail to submit audited financial statements since this the only means of verifying that providers are submitting the required contribution based on profits.	NTRC Saint Lucia December 4, 2015	Provisions for penalties are included in the Draft Electronic Communications Bill.
	Agreed. However, timeframe for submission must be established. The content for interconnection charges and revenue should be itemized according to their services as awarded in the licence.	NTRC Grenada	This is addressed in the Draft Electronic Communications Bill.
<p><i>Imposition of a penalty for non-contribution to the USF.</i> (Recommendation viii)</p>	C&W is of the view that allowing only providers who contribute to USF to bid on projects will serve as a strong incentive for them to contribute and failure to contribute should limit the ability to bid on projects. There is also a need to establish prescribed penalty for non-contribution which can be addressed under ECTEL's existing powers and due process.	Cable & Wireless December 4, 2015	<p>Provisions for penalties are included in the Draft Electronic Communications Bill.</p> <p>The comments by Digicel on the need to ensure that the administration and management of the USF is in line with the existing legal provisions are noted.</p>
	Rather than attempting to introduce new measures to unduly and unnecessarily over regulate the implementation of universal service in the region, ECTEL should place greater emphasis on implementing the measures that are already in place. Digicel notes the absence of recommendations for effective administrative	Digicel February 22, 2016	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	measures that can be applied to optimize the use of USFs. In this regard, the failure of the NTRCs to submit budgeted forecasts, audited financial statements and details of award of contract is duly noted. Therefore, Digicel proposes that any proposal to expand the scope of USF must be accompanied by measures to improve the administration of same by the NTRCs.		
	The Guidelines [Section 3.2] already provides for sanctions for non-payment of contribution.	Columbus Communications Limited February 22, 2016	
	Yes, but providers/contributors to be defined. Need to address the need to encourage new entrants/small businesses.	Deirdre Williams January 8, 2016	
	The penalty is necessary. However, the timeframe and deadline for penalties should be indicated to encourage more timely payments.	NTRC Saint Lucia December 4, 2015	
	Supports the penalty but the penalty for non-contributors should be stipulated and the timeframe after the deadline for submission of contributions should be clearly stated as well as the penalty to be applied to non-contributors.	NTRC Grenada	
<i>Establishment of a reserve fund for contingencies and if agreed the making of rules for use of the reserve fund. (Recommendation ix)</i>	C&W does not agree to the establishment of a reserve fund as it will introduce additional bureaucratic and administrative pressures on NTRCs and providers. The Fund should be used to benefit the underserved each year and not saved up for future years.	Cable & Wireless December 4, 2015	ECTEL has withdrawn this recommendation due to lack of support from the industry.
	Yes. Must the fund be established as a separate fund? What will be the payment obligations on the companies in setting up these funds?	Deirdre Williams January 8, 2016	
	NTRC SVG is not clear on the purpose of the Fund. The NTRC notes that in its seven years of operations, there has never been a need for contingencies for Fund Projects.	SVG NTRC January 7, 2016	
	This is contrary to the spirit, aims and objectives of universal service. Further, this could potentially have negative implications for the efficiencies achieved in the industry, as funds that could otherwise	Columbus Communications Limited	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	<p>have been available to the private sector to reinvest is sitting in some kind of fund. Require further clarification on this as the company is not willing to support measures that would support funds being collected for US being set aside or accumulated for future use.</p>	February 22, 2016	
	<p>In the absence of proper accounting and reporting requirements which demonstrate the need for a reserve fund, such a proposition is totally unjustifiable.</p>	Digicel February 22, 2016	
	<p>C&W supports Digicel's comment that the proposal lacks the proper accounting and reporting requirements which justifies the need for a reserve fund and the comments noting that the proper management of USF projects would not result in the need for additional funding.</p> <p>C&W also noted NTRC SVG's (as an operator of a USF) comments questioning the need for a reserve fund.</p>	Cable & Wireless (Comments on Comments) March, 2016	
	<p>The emphasis should be on projects that fulfill the mandate of the USF. The establishment of a reserve fund reduces funds available for telecoms infrastructure and services. Any increase in USF to accumulate funds is not encouraged particularly where the scope and requirements of that fund are not detailed.</p>	NTRC Grenada	
	<p>There is need for ECTEL/NTRCs to examine the effect of the operations of OTTs on licensed operators' revenue and ultimately on their ability to contribute to USFs. And since it is not ECTEL's intention to regulate the operations of OTTs, it is unacceptable for ECTEL to seek to recoup reduction in USF from licensed operators through increased contribution or the addition of a reserve fund.</p>	CANTO February 22, 2016	
<p><i>The establishment of regional USF to cover cross-border activities.</i> (Recommendation x)</p>	<p>C&W does not support the establishment of a regional USF as it will only add a level of complexity, unnecessary bureaucracy, administrative expenses and increase the financial burden on USF contributors. ECTEL has failed to describe in detail the cross-border activities to be funded and how these would benefit the unserved and underserved consumers. There is no need for this fund since no</p>	Cable & Wireless December 4, 2015	ECTEL has withdrawn this recommendation due to lack of support from the industry

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	credible arguments have been made to justify it. Moreover, each Member State can address Universal Service needs through its Fund.		
	A good idea but needs more detail. For example, will it require a separate local and regional contribution or will a single contribution be split?	Deirdre Williams January 8, 2016	
	NTRC supports the establishment of a Regional Fund. However, there is need to clarify the following: What percentage of the contribution goes into this fund? Why is the fund needed? What is meant by cross border activities and how does it differ from normal activities?	SVG NTRC January 7, 2016	
	Unclear this is legally allowable given the current regime.	Columbus Communications Limited February 22, 2016	
	No proper justification. However, cross-border initiatives would increase access to ICTs on a regional basis. It is not clear however how contributions to such a regional fund would be calculated and how grants would be disbursed to ensure equity between contracting states.	Digicel February 22, 2016	
	C&W supports Digicel's view that this proposal is poorly justified and lacks details on the nature of the cross-border initiatives. Similar views were also expressed by NTRC SVG.	Cable & Wireless (Comments on Comments) March, 2016	
	There is need to outline and present the management, administration and means of contribution for consideration. There is also the need to determine whether this fund is meeting the USF's (original scope/purpose of the USF) original scope and purpose across Member States.	NTRC Saint Lucia December 4, 2015	
	While cross border projects can increase economies of scale, the management and scope should be clearly stated.	NTRC Grenada	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
<p><i>The administrative budget could be used for market surveys, studies or consultancies in support of USF projects.</i> (Recommendation xi)</p>	<p>It is important to manage USF in a fiscally responsible manner by inter alia reducing waste and inefficiencies in the use of funds. Market surveys, studies and consultancies are proven areas of wastage and it would be more beneficial to apply the USF to expand the network(s) to or reduce the number of under-served consumers, and not to undertake market research.</p>	<p>Cable & Wireless December 4, 2015</p>	<p>ECTEL notes that Section 4.1 of the USF Guidelines-Operating Plan Summary market assessment- already provides for the use of the USF to conduct market surveys, studies and consultancies in support of USF projects. ECTEL is therefore proposing that this section of the USF Guidelines be codified in the USAF Regulations.</p>
	<p>Market surveys, studies or consultancies are outside the scope of what one would consider integral to providing universal service. For purposes of transparency, information on the current levels of expenditure for administrative expenses should be disclosed.</p>	<p>Columbus Communications Limited February 22, 2016</p>	
	<p>As long as the proportion of the fund so spent is strictly regulated.</p>	<p>Deirdre Williams January 8, 2016</p>	
	<p>This provision already exists in the guidelines and should also be included in USF Regulations.</p>	<p>NTRC Grenada December 4, 2015</p>	
<p><i>A change in the maximum proportion of the USF that can be used for fund administration from 10% to 15% of USF contributions to allow for the additional activities to be funded by the administrative budget.</i> (Recommendation xii)</p>	<p>C&W strongly disagrees with this proposal. In fact, ECTEL's proposals appear to be focused on funding the bureaucracy instead of ensuring the funds are used to reach the underserved.</p>	<p>Cable & Wireless December 4, 2015</p>	<p>ECTEL has withdrawn this recommendation due to lack of support from the industry. This recommendation was also withdrawn due to the approval of a 2% increase in the USAF Contribution over a three-year period by the Council of Ministers which will ultimately result in an increased allocation for administrative spending as per Telecommunications</p>
	<p>Not until the advantage of switching the additional percentage of funds from the "open pool" to a limited function is clarified. Concerned that additional funding will be spent on "management". Argues for allocation of 5% specifically for research instead of raising the management tranche to 15%.</p>	<p>Deirdre Williams January 8, 2016</p>	
	<p>No justification to increase the proportion of the funds allocated to support administrative expenses.</p>	<p>Columbus Communications Limited February 22, 2016</p>	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	<p>Given limited reporting on the administration of the Fund, there is little confidence that USFs are being implemented in accordance with the Regulations. Therefore, the request for an increase is not supported. Not satisfied that the effective administration of the Fund requires that there should be an increase in the allocation for administrative expenses.</p>	<p>Digicel February 22, 2016</p>	<p>(Universal Service Fund Contribution) Order.</p>
	<p>Agrees with Digicel's comments to the effect that the consultation document sets out no justification for the proposed increase and the failure of the NTRCs to effectively utilize these funds and to report on and to provide proper and transparent account of the administration of the Fund.</p>	<p>Cable & Wireless (Comments on Comments) March, 2016</p>	
	<p>Should also include a detailed definition and outline of what the administrative budget should cover and a percentage for each category of expenditure, if possible. The idea of increasing the allocation is acceptable given the call for increased project implementation rate. Consideration should however be given to the feasibility of assigning a fixed increase in the administrative budget as increased project rollout would mean a need for additional manpower, resources and additional expense.</p>	<p>NTRC Saint Lucia December 4, 2015</p>	
	<p>Supports this recommendation in light of increasing administrative expenses of USF. However, there is a need to properly define the administrative budget to remove ambiguity regarding what it constitutes.</p>	<p>NTRC Grenada December 4, 2015</p>	
<p><i>The use of the USF for the provision of grant funds for ICT entrepreneurial start-ups. Total grant funds not to exceed 10% of annual USF project budget.</i> (Recommendation xiii)</p>	<p>Whereas C&W understands the need for business incubators and venture capital in the ECTEL Member States, it strongly opposes the provision of support to ICT start-ups as this appears to exceed the primary purpose of the Fund. C&W is of the view that the following key questions needed to have been addressed in the Consultation Document –</p> <ol style="list-style-type: none"> 1. How will this impact the sustainability of the Fund? 	<p>Cable & Wireless December 4, 2015</p>	<p>The Draft Electronic Communications Bill has been amended to include the provision of grant funds for information and communication technology entrepreneurial start-ups</p>

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	<p>2. What are the implications for fair competition within the market?</p> <p>3. Will the USF have a stake in these start-ups to ensure that the public interest objective (given its investment) is protected?</p>		under section 77(g) as one of the objectives of the Universal Service and Access Fund. However, the amount to be allocated for this purpose is capped.
	Yes, percentage in (xii) to be added here to provide background research for the grants provided for start-ups.	Deirdre Williams January 8, 2016	The Draft Electronic Communications Bill provides for support of development of locally relevant information, content and applications to be delivered over an electronic communications network under 77(f) as one of the objectives of the Universal Service and Access Fund.
	In relation to the use of USF for provision of entrepreneur start-ups, will these be considered as projects carried out by the USF or will the USF be a silent partner without benefits i.e. will the USF contributors receive any returns from their future profits?’	SVG NTRC January 7, 2016	
	The use of USFs to fund ICT entrepreneurial start-ups can only be supported if there is consensus among stakeholders that the specific businesses to be funded are required to boost the level of access to ICTs and if the initiatives are such that they can easily complement the businesses of licensed operators, service providers and contributors to the fund e.g. local content generation. Issues of the sustainability and commercial viability of the start-ups need to be considered. Digicel does not agree to the use of funds for start-ups that would necessarily compete with licensed operators and service providers as this would create an uneven playing field in the market for ICT services.	Digicel February 22, 2016	
	NTRCs should not get involved in projects which require specialised capabilities unless systems are established to support them. On the other hand, NTRCs can create the supporting and enabling environment for these projects (in keeping with the scope of USF).	NTRC Saint Lucia December 4, 2015	
	The objective of USF is to create the enabling environment for expansion of access and service. The NTRC should therefore not assume the role of micro financing enterprise or venture capitalists but leave this to the financial sector.	NTRC Grenada December 4, 2015	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	C&W supports the comments by Digicel that opposes the use of contributors' funds to finance start-ups that would compete with service operators and providers. C&W also agreed with Digicel's comments that this would create an uneven playing field in the market for ICT services and that these are typically funded from the public purse rather than by a levy on one sector of economic activity. Comments regarding the sustainability and commercial viability of these start-ups are also supported.	Cable & Wireless (Comments on Comments) March 2016	
<i>Funding of content projects and educational projects (development of course content, etc.)</i> (Recommendation xiv)	C&W noted that this proposal is beyond the scope and appropriate use of the USAF. This proposal seeks to generate demand for the use of ICT instead of facilitating affordable service and access to the under-served. In addition, the private sector is best incentivized to invest in the provision of content demanded by the market.	Cable & Wireless December 4, 2015	The Draft Electronic Communications Bill now provides for support for the development of locally relevant information, content or applications to be delivered over an electronic communications network as one of the objectives of the USAF under section 77 (f). It should however be noted that this proposal is not new as it is already embedded in Section 2.2 (v)(vi) of the USAF Guidelines on the Development of Local Information Content and Applications. ECTEL is only seeking to encode these provisions in law and to stipulate the percentage of the USAF which should be allocated to these activities.
	Content is not covered by the telecommunications legislation under which universal service falls and so the basis on which these funds could be legitimately used to support content related projects is questioned.	Columbus Communications Limited February 22, 2016	
	Needs more detail. Are these start-ups and if not, who will be doing them?	Deirdre Williams January 8, 2016	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
	NTRC SLU supports this recommendation. However, there is need to assess the capacity of ECTEL/NTRCs to facilitate the development of content.	NTRC Saint Lucia December 4, 2015	
	The development of content as a component of USF is as important as the availability of infrastructure and services and should be stated in both the regulations and guidelines. However, there is need to ensure that this change is in keeping with goal of promoting universal access and services, broadband adoption and telecoms/ICTs service and uptake and hence ensure that the appropriate regulatory framework is established.	NTRC Grenada December 4, 2015	
<p><i>The process for determining the scope and nature of projects that may be eligible for USF support in any given financial year be included in the USF Regulations rather than in Guidelines.</i></p> <p>(Recommendation xv)</p>	The scope and nature of projects that are eligible for USF support should be outlined in the Regulations. Criteria for assessment and procedures to make a selection should however be outlined in Guidelines.	Cable & Wireless December 4, 2015	This recommendation was widely supported by the industry and have been included in the USAF Regulations.
	Guidelines are more flexible and eligible for a possibly annual change.	Deirdre Williams January 8, 2016	
	The process for determining the scope and nature of projects that may be eligible for funding to be included in Regulations as opposed to the Guidelines.	Columbus Communications Limited February 22, 2016	
	In the interest of transparency, the process for determining the scope and nature of the projects that are eligible for USF support to be specified in Regulations rather than Guidelines.	Digicel February 22, 2016	
	Scope and nature of the projects that are eligible for USF support to be included in USF Regulations as it is the legal document governing the USF management, administration and project implementation. It should also be included in the Guidelines as this serves as the supporting framework for the Regulations.	NTRC Grenada December 4, 2015	

Consultation Recommendation	Comments	Source Document	ECTEL's Response
<p><i>Change bidding eligibility to –</i></p> <p>(a) <i>include in the definition a person as opposed to limiting to telecommunications service provider;</i></p>	<p>C&W does not agree to this proposal. Telecoms service providers are best placed to implement the infrastructure and service required by the under-served. It is also equitable, economically prudent and fair to allow the primary contributors to bid on USF projects. It is reasonable to allow ALL contributors to the Fund to bid on projects.</p>	<p>Cable & Wireless December 4, 2015</p>	<p>Bidding eligibility has been amended to include in the definition a person as opposed to a telecommunications service provider and provisions have been included in the Regulations to govern the participation of non-service providers in USAF projects.</p>
	<p>Yes.</p>	<p>Deidre Williams January 8, 2016</p>	
	<p>Statement to be substantiated.</p> <p>Such provision could reduce the level of resources needed to fund expansion of network infrastructure hence, proposal is not supported.</p>	<p>Columbus Communications Limited February 22, 2016</p>	
	<p>It would only be appropriate to change the bidding eligibility if the Regulations were amended to impose the obligation to contribute to the USFs on persons other than telecommunications service providers as there will be little incentive for such persons to execute USF funded projects other than for profits.</p> <p>An alternative approach might be to limit bidding on projects funded by levies on licensees to service providers while opening bidding to projects funded by public sector contributors to the fund to a wider range of bidders.</p>	<p>Digicel February 22, 2016</p>	
	<p>NTRC Saint Lucia supports this recommendation.</p>	<p>NTRC Saint Lucia December 4, 2015</p>	

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	Comment from Digicel agreeable and consistent with the position that only contributors to the USF should be eligible to bid on USF projects.	Cable & Wireless (Comments on Comments) March, 2016	
	The USF bidders should be expanded beyond the licensed operators to include local entrepreneurs and persons who can legally bid and possess skills in ICT and other areas that are lacking by telecoms operators.	NTRC Grenada December 4, 2015	
<i>(b) identify components of project that would be open to persons who were not telecommunications service providers;</i>	See comments on (a) above. There is no benefit of fragmenting a project to facilitate the participation of disparate individuals, for the mere sake of doing so.	Cable & Wireless December 4, 2015	Regulations 26 (Lots) of the Revised USAF Regulations provides for persons who are not telecommunications service providers to bid on USAF projects.
	The USF should be expanded to include persons (s) who meet the criteria set by the Commission to bid on USF projects as these projects are no longer restricted to telecommunications infrastructure but also incorporate ICTs projects.	NTRC Grenada	
	Yes.	Deidre Williams January 8, 2016	
	NTRC Saint Lucia supports this recommendation.	NTRC Saint Lucia December 4, 2015	
<i>(c) divide project into lots – telecommunications service providers</i>	Unnecessary and will provide little or no additional benefits.	Cable & Wireless December 4, 2015	As noted above, under Regulations 26 of the Revised USAF Regulations, provision has been made to allow

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<p><i>could bid only on some lots.</i> (Recommendation xvi)</p>	Needs more detail. Would there be lots in both categories? Would there be any proportionality in what is proposed?	Deirdre Williams January 8, 2016	projects to be divided into lots with telecommunications services providers (contributors to USAF) being allowed to bid on all lots while non-contributors will only be allowed to bid on projects for provision of ancillary services.
	NTRC SLU supports this recommendation.	NTRC Saint Lucia December 4, 2015	
	This will provide the opportunity for persons skilled in the area to bid on the phase/component which applies to their scope of service.	NTRC Grenada December 4, 2015	
<p><i>Change in the USF contribution to allow for the funding of additional USF eligible projects and to provide an incentive for increased USF implementation rates.</i> (Recommendation xvii)</p>	The case for the expansion of the use of the Fund has not been justified. ECTEL should better account for the current use of the funds in comparison to predetermined metrics and targets.	Cable & Wireless December 4, 2015	This recommendation has been withdrawn due to lack of support from the industry.
	<p>USF funds should only be applied to fund ancillary activities if the specific ancillary activities:</p> <ul style="list-style-type: none"> i. are clearly identified; and ii. are demonstrably required to attain government policy targets (although Digicel notes that consultation document does not give an indication of the ICT policy objectives of the government) to promote access to ICTs and; iii. the government policy targets must be attained by a multi stakeholder approach which would include but not be limited to NTRCs and telecoms providers. iv. do not fall within the purview of any other government agency or private organization; and 	Digicel February 22, 2016	

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	<ul style="list-style-type: none"> v. are properly budgeted for in the USF; and vi. are managed by [general oversight] the NTRCs and reported on in accordance with the Regulations. 		
	<p>ECTEL has failed to justify the need for additional funding for Universal Service. The track record of the NTRCs, with the exception of NTRC St. Vincent, in disbursing funds and implementing projects for universal service projects is dismal. With the exception noted, none has over the past seven years disbursed as much as 20% of funds available. Clearly there is no need for additional funding, based on historical implementation, and there is no reason to believe that additional funding will cause NTRCs to be more effective. Operators provide a reliable, predictable source of funding so all NTRC must budget for projects in accordance with the 1% funding that they know will be available. As in the case of St Vincent, the basis for seeking additional funding for USF contributions should not be because NTRCs have over extended themselves or over budgeted.</p>	<p>CANTO February 22, 2016</p>	
	<p>Columbus Communications Limited finds it difficult to support an increase in contribution given that the current rates of USF project implementation ranges from 17% to 56%. In the alternative, where funds collected for the year is not used providers should be refunded, or percentage contribution for the following year is decreased. Such an allowance is provided for in Trinidad and Tobago where allowance is made for contributors to be provided relief where the funds collected in a year exceeds the cost of funding universal service initiatives for that year.</p>	<p>Columbus Communications Limited February 22, 2016</p>	

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	Qualified yes. Can providers be persuaded that the proposed changes in the use of funds can be used to create greater demand for their services and hence a higher revenue to contribute from? Collection of statistical data at (xii) to provide evidence for persuasion?	Deirdre Williams January 8, 2016	
	Recommendation is ambiguous and requires further justification for the increase. With regard to providing an incentive for increased USF implementation, consideration must be given to other factors that affect project implementation other than increasing contribution such as institutional capacity, available resources and stakeholder involvement. Caution must be exercised in ensuring that NTRCs do not overextend by undertaking projects for which the capacity does not exist.	NTRC Saint Lucia	
<p><i>An amendment to the USF Contribution Order to provide a minimum contribution of 1% for telecommunications service providers with a mechanism to increase annual contributions by providers to up to 2% over a four-year period based on the utilization of the funds for eligible USF projects.</i> (Recommendation xviii)</p>	C&W does not agree to the proposed increase. The monies currently being contributed to the Fund are adequate. The Fund needs to be more effectively and efficiently managed and more transparency and accountability is required of the manager(s) of Fund assets.	Cable & Wireless December 4, 2015	<p>The ECTEL Council of Ministers has approved an increase in contribution to 2% over a three-year period as per Amended Telecommunications (Universal Service and Access Fund Contribution) Order 20xx.</p>
	NTRC SVG does not support a threshold of 2%. The contribution rates which are listed in the annex to the consultation paper shows that rates can exceed 2% and that there are different rates on different services. Need clarification on how the maximum 2% was arrived at? NTRC SVG has a preference for a tiered structure as outlined in "Proposed Increases to the Universal Service Fund Contribution Paper" (2014). With regard to the cap on the increase in USF contribution to 0.25% in any one year, NTRC SVG is of the view that any increase should not be less than 0.5% in the first year of any new contribution rate system.	SVG NTRC January 7, 2016	
	Qualified yes. Collection of statistical data at (xii) to provide evidence for persuasion?	Deidre Williams January 8, 2016	

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	<p>The proposal to increase the contribution of operators to the USF from 1% to 2% is in effect seeking to create an unlimited envelope. This is unrealistic. However, ECTEL and the NTRC's plan to go forward with USF it must operate in the context of 1% contribution of annual gross revenue.</p> <p>The reward for effective utilization of funds should not be additional funding but the achievement of the stated objectives of Universal Service. There is need for the NTRCs (except St Vincent) to be more transparent by publishing the audited financial statements of the fund, details of activities supported by the fund and the awards of contract in line with current regulations.</p> <p>Despite the request for an increase in contribution, ECTEL has failed to (1) show how effectively available funds are being managed, demonstrate the need for additional funding and the problem which the current consultant intends to address. ECTEL needs to recognize the inability to invest due to capacity constraints hinders contribution to USF project funding.</p>	<p>CANTO February 22, 2016</p>	
	<p>NTRCs should not be allowed to unilaterally raise the contributions to 2% in any given year. This proposal is premature in a circumstance where there is no clarity that the existing funding levels are being efficiently applied. This would divert funds required for investment and be counter-productive.</p> <p>Given the current low levels of project implementation, sufficient funding exists to accommodate a broadened scope for each USF. ECTEL needs to undertake a Value-for-Money assessment to determine whether the deliverables have been met. A cost benefit analysis of the use of USF will also help. If there is a focus on projects and initiatives that results in increased telecoms expenditure,</p>	<p>Digicel February 22, 2016</p>	

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	<p>levels of contributions will increase even at current percentage levels.</p> <p>Any proposal for an increase in the contribution must be properly consulted on and supported through reporting and accounting of expenditure for the period in which it is to take effect. The specific work plan must also be subject of consultation.</p>		
	<p>Do these new rates replace the existing USF contribution of 0.25%, 0.5% and 1%?</p> <p>The imposition of 1% on a new provider should be reviewed.</p> <p>The contribution order should be amended to refer to the year of operation and not the year of licence.</p> <p>The proposed increase in contributions seems onerous as Clause 6.3 provides a mechanism for the contribution to be increased beyond 2%.</p> <p>Will there a mechanism to lower the contribution in cases where the rates were increased beyond a threshold which will be established by the regulators e.g. 1% of 1.5% in years where the implementation rates are low for consecutive period e.g. 2 years.</p>	NTRC Grenada	