

Response to the
EASTERN CARIBBEAN TELECOMMUNICATIONS AUTHORITY (“ECTEL”)

Consultation Document

on

Market Assessment of Regulated and Unregulated Retail Services and
Proposed Recommended Regulatory Measures

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2.2 Reviewable Unregulated Services

This is ECTEL's first market assessment of retail mobile services and retail pay TV services. As noted above, no operator in those markets has been deemed or found to be dominant and hence these services are not subject to ex ante price regulation

The NTRC believes that ECTEL needs to consider the fact that there might be joint Significant Market Power in the mobile market and looking for a single dominant operator might not address the market failures. The fact that ECTEL needs to implement market safeguards is an indication that some sort of failure does exist. In order to treat with this matter holistically the NTRC believes some mechanisms or guidelines need to be developed to assess joint Significant Market Power in the ECTEL states.

See clause 3.1.2 Collective Dominance of the *Commission guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications networks and services*

[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52002XC0711\(02\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52002XC0711(02)&from=EN)

3.2.2 Relevant Market Definition Issues

- *There is little reason to expect the price gap between fixed and mobile broadband services will disappear in the coming months or, for that matter, years. Therefore, ECTEL considers that mobile and fixed broadband services fall into separate relevant markets.*

The NTRC has seen recent offers from the Telecommunications providers where data over mobile networks is comparably priced with data of fixed networks. The commission believes the real question to be asked is why is the cost of a bit so much more expensive over the cheaper mobile network, especially since the cell sites are increasingly being backhauled through fixed network infrastructure.

Further we have seen pricing within plans as low as 1c per Megabyte and out of plan as high as \$1.00 a Megabyte. This just seems to strengthen the point that mobile data pricing seems arbitrary, not cost based and highly inflated. A market review of mobile data pricing would be exceedingly beneficial to consumers in our market.

3.6 Significant Recent Market Developments

Under the terms of the Contracts between Digicel and the CARCIP Beneficiary MS, Digicel is not required to provide access to third parties to these networks.

This clause seems to violate SRO 36 of 2010, TELECOMMUNICATIONS (ACCESS TO FACILITIES) REGULATIONS 2010, OF THE LAWS OF the Commonwealth of Dominica. While Dominica is not a part of CARCIP wouldn't this affect similar legislation in the affected ECS. SRO 36 of 2010 states,

“5 . (1) Every public network operator shall offer to provide and provide access to facilities that it owns or controls, on a nondiscriminatory and equitable basis, including with respect to charges, location, and other commercial matters.”

3.7.2 Relevant Market #5

Under the circumstances, ECTEL considers that light-handed regulatory measures are required in this Market #5 that, on one hand, do not dampen incentives for continued significant investments in broadband infrastructure in the MS while, on the other, also serve to promote increased broadband penetration and help ensure the affordability of “basic” broadband services. To this end, ECTEL proposes that C&W be required to provide a “basic” broadband service at a reasonably affordable price in each MS impacted by CWC’s acquisition of Columbus: Grenada, Saint Lucia and St. Vincent and the Grenadines. The details of the proposed obligations in this case are set out below.

This requirement by ECTEL seems to be at odds with the arguments put forward to introduce a retail rate regulatory regime for markets #1, #2, #3 and #4. Markets #1, #2, #3 and #4 may also result in erosion of C&W's dominant position if Digicel launches its Fibre-Based Retail service and ECTEL made provisions for this by introducing an Automatic Adjustment Mechanism. Since we have no idea how long Digicel will take to launch its service and since the potential is so great to severely curtail consumer welfare NTRC Dominica holds the view that all Dominant Markets should be subject to the Retail Rate Regulatory Regime and the arbitrary decision to address this market failure with a basic broadband service at a reasonably affordable price is too open for manipulation and lacks the rigor and control necessary to protect the consumer.

Carrier Services

3.7.3 Relevant Markets #6 to #8

That said, ECTEL is aware of complaints relating to difficulties faced by third-party operators who wish to purchase these services on a wholesale basis from C&W and Digicel (especially international connectivity services). While ECTEL is not proposing any specific measures in this proposal to address such concerns, it may consider introducing other regulatory measures to ensure that third-party operators are provided with timely and reasonably priced wholesale access and to domestic and international connectivity services.

The direct integration of subsea cables to internet service providers is the largest hindrance to competition in markets #5, #6, and #8. This has forced Digicel to acquire major subsea operations just so that they could participate in this space. Small ISPs do not have the capital or financing mechanisms to do the same and as a result are subjected to grossly unfair wholesale internet prices.

NTRC Dominica is of the view that the internet market needs to be disaggregated. ISPs should not own or operate subsea cables. Submarine cable operators or internet backhaul operators should operate as a distinct independent market. ECTEL should spend some time and resources looking towards divestiture of the internet services companies into separate entities responsible for subsea or backhaul services

(wholesale) and retail services (ISP). In fact, the companies already operate in this fashion as local ISPs are told that they have to contact carrier services in order to arrange for backhaul services to the internet.

3.7.4 Summary of Preliminary Conclusions for Regulated Services

#3	<i>Domestic Calling from a Fixed Location</i>	<p><i>C&W is currently dominant in the provision of residential and business fixed access services in all MS and, consequently, the same applies to domestic FTF and FTM calling from a fixed location. To the limited extent direct competition exists (e.g., via Digicel), it is focused on the business segment of the market. There is some indirect competition from mobile and OTT VoIP services, but it is not sufficient to significantly constrain C&W's market power in this market.</i></p> <p><i>Therefore, ECTEL proposes that C&W's domestic FTF and FTM call services should continue to be subject to ex ante price regulation; however, the proposed AAM should also apply in the case of this relevant market.</i></p>
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NTRC Dominica fails to comprehend the distinction whereby for Domestic Calling from a Fixed Location there is not sufficient competition from mobile and OTT services to constrain C&W's market power but there is sufficient to competition in the International Calling from a fixed location segment. Both segments are subjected to Mobile and OTT VoIP services. We fail to comprehend that the impact of mobile international calling services and international calling cards would create such an increased effect on competition where it would provide such competitive constraints on international calling rates.

4.1.3 Automatic Adjustment Mechanism

The AAM would be applied on an MS-specific basis. The AAM would be triggered if (i) Digicel's fixed voice access customer base surpassed a pre-established threshold amount and/or (ii) if C&W's fixed voice access customer base decreased by more than

a pre-established threshold amount and there is also evidence of Digicel's entry in the market (e.g., via marketing or advertising materials). The specific proposed AAM trigger thresholds for each MS are provided in Annex 2.

The Automatic Adjustment Mechanism seems to trigger in only in the direction where Digicel's subscribers increase to a certain threshold. The AAM should also work in the opposite direction as well, that is if Digicel's subscriber base drops below a certain threshold. In such a case ex Ante regulation should automatically fire. Alternatively, if C&W's fixed voice access customer base increases by more than the established threshold and there is evidence that Digicel has exited the market, ex Ante regulations should automatically be triggered.

4.2.2 Additional Regulatory Obligations

Harmonization: As under the existing PCPs, ECTEL proposes that the existing price harmonization obligations for these two services remain in place:

Domestic FTF Calls: The lowest FTF weekday/evening/weekend rate must be equal to or more than 65% of the corresponding highest FTF weekday/evening/weekend rate in any other MS.

Domestic FTM Calls: The lowest FTM weekday/evening/weekend rate must be equal to or more than 65% of the corresponding highest FTM weekday/evening/weekend rate in any other MS. • IDD Call Prices: Each fixed IDD price must be equal to or less than the corresponding mobile IDD price charged by C&W.

International Call Price Ceiling: Also, as under the previous PCPs, ECTEL proposes that the existing price harmonization obligation for IDD call services remain in place:

IDD Call Prices: Each fixed IDD price must be equal to or less than the corresponding mobile IDD price charged by C&W.

The NTRC fails to see the need to maintain the harmonization for FTF Calls and FTM Calls artificially within the ECTEL states. The NTRC is of the view that if market forces are driving these prices downward the consumers should be allowed to benefit from such movement. In addition, the rationale that fixed

IDD prices must be equal to or less than corresponding mobile IDD prices again seems arbitrary. The mobile network is much more economical than the fixed network to construct. Further the mobile network has more than three times the number of fixed customers. Accepting that Fixed Network calls should be less expensive than mobile calls in our view is based on a false premise.

4.3.1 Basic Broadband Offer Obligation

The proposed C&W/Columbus BBO would be made available in the three CARCIP Beneficiary MS and would consist of the following service characteristics:

The NTRC believes that the BBO should extend to all member states and not only the three member states involved in CARCIP. In Dominica currently the minimum broadband offer has increased from \$89.00 per month to now \$95.00 per month. The \$95.00 per month price also comes with the requirement that you must subscribe to a fixed line service of \$24.00 in order to receive broadband service. The total price for the minimum broadband package is therefore \$136.85 inclusive of VAT. Public safeguards are therefore required for this essential utilitarian service.

Markets such as Dominica are in need of the safeguards ECTEL is espousing for the CARCIP states.

- Monthly service should not exceed \$99.00 VAT inclusive
- Minimum download and upload speeds of 10 Mbps and 3 Mbps respectively. Note the 3:1 ratio required for acceptable broadband and not 10:1 as ECTEL required. The use of the internet is evolving and if you intend to use the internet for video chatting and online learning higher upload speeds are required.

<https://www.ispreview.co.uk/index.php/2014/08/forgotten-importance-broadband-internet-upload-speeds.html/2>

“In the 100 countries measured, the average cost for 1GB data as a percentage of average monthly income declined from 5.76% to 4.69% — a

drop of 11.24%. This fall in costs brings internet access within reach for millions more people and marks welcome progress in the effort to make internet access affordable for everyone”

<https://a4ai.org/mobile-data-prices-fall-across-low-and-middle-income-countries/>

In Dominica the cost for access to the internet is actually rising. While the cost of Data is decreasing globally. ECTEL needs to be cognizant of this trend in our markets.

Further NTRC Dominica believes that it is disastrous to look at the whole island as a single market for broadband as historically we have seen situations where only one provider is available in certain geographic locations in Dominica. If the service provider in these villages were to be assessed for dominance the likelihood would be that they would meet the bar and be declared dominant. While both providers have universal service obligations, this basically reduces to them having to contribute 1% of their gross revenue to the Universal Service Fund. This does not necessarily mean that they need to ensure 100% coverage of the island within a specified time. Basically, their buildout obligations may not have been clearly defined hence the gaps in coverage.

4.4 DPLC, IPLC and Data Services (Markets #6 to #8)

However, as noted, ECTEL is aware of complaints relating to difficulties faced by third-party operators wishing to purchase these services not just from C&W, but also Digicel. ECTEL considers that denial of reasonable service requests or excessive pricing of services in these relevant markets, especially when requested by a competing operator, could be viewed as potential anti-competitive conduct. ECTEL considers that any such complaints can and should be addressed under the relevant anti-competitive conduct provisions of the applicable Telecommunications Act and regulations. ECTEL in conjunction with the applicable NTRC(s) will strive to ensure that any such complaints are addressed in a timely manner. ECTEL further notes that it may also undertake a further review of these relevant markets in the future to determine whether there is a need to establish wholesale service obligations to ensure that alternative sources of competition are not hampered or blocked.

Alternative sources of competition have been hampered and or blocked. Wikibuli and later Epic communications suffered considerably under the current regulatory regime. Their situation manifestly shows there is a need to establish wholesale service obligations. Currently ECTEL hopes that these small operators submit a complaint in a particular form based on interconnection

agreements they may have been able to negotiate. If the competing operator fails to file the necessary complaint ECTEL does nothing to correct this market failure. The Competing operator may choose not to complain for a number of reasons. The sheer dominance of the incumbent is one deterrent as the competing provider understands fully the ineptitude of the current regulatory framework and hopes he might be able to negotiate a favorable response with the incumbent. Most times they are wrong but they fear upsetting the Dominant provider as they are aware they may simply be denied service and the regulator under the current framework is powerless to intervene.

5.1 Defined Relevant Markets

In the first case, mobile wireless service, which includes voice and data services,¹⁴ is designated as Market #9 for the purposes of this consultation. Since the mobile voice and data services are generally sold together and, moreover, are in many respects substitutable, they can be considered as a single rather than two separate relevant markets for market assessment purposes

The NTRC fails to understand how mobile voice and mobile data are substitutes. In fact, due to the high cost of mobile data subscribers in our Market have requested that they be provided with only mobile voice. However, if that is the case, they are immediately put into an out of plan service where the mobile phone rates are excessive. Further in the Dominican market it is impossible to get a mobile service with only voice or only data or only SMS. You are forced to take some sort of bundle of these services.

5.2 Preliminary Market Assessment and Conclusions

In the case of mobile services (Market #9), the market is duopolistic in structure in most MS, served by C&W and Digicel. The one exception is Grenada, where a third service provider operates, AisleCom. Despite the largely duopoly market structure, the degree of competitive rivalry appears to be relatively strong in all MS – e.g., in terms of high volume of promotional activities to attract new and retain existing customers and fluctuating market shares on a year-over-year basis.¹⁶ Therefore, ECTEL is of the preliminary view that there appears to be no need to regulate prices on an ex ante basis in this market at this time.

NTRC Dominica believes ECTEL should consider the fact that prices pursuant to the retail tariff regulations should be fair and reasonable and priced above cost. If that is the case how does

ECTEL justify mobile data rates as low as 1cent per MegaByte when the subscriber is within plan and as high as \$1.00 per MegaByte when the subscriber is out of plan. Either one price is way below market cost or one price is grossly unfair and extortionate. Either way this market anomaly should be corrected to safeguard the consumer.

Further the manner in which mobile plans are issued seem to be grossly unfair to the consumer. The consumer is constrained in both time and value. In other words the consumer must use x amount of data within y time to obtain the full value of the package. Should the consumer use more than X MB of data within y time the consumer will be charged a highly inflated rate. Further if the consumer uses (X minus some amount) data but y time elapses he does not realize the full value of his plan and the cost for Data during that period rises. The only time the customer receives the value for which he has paid for is if he consumes X amount of data in exactly y amount of time. A feat that is humanly impossible. Every plan period the consumer is thus robbed of value.

More generally, ECTEL also recognizes that video consumers have an increasing range of competitive alternatives available. These include a growing number of free and subscription-based online video-on-demand services available (such as Netflix, Amazon Prime, Apple TV, Disney+ and YouTube). As well, other traditional TV options exist such as over-the-air and satellite TV. Moreover, pay TV services can be considered as more discretionary rather than essential in nature. Therefore, as in the case of mobile services, there appears to be no need to regulate prices on an ex ante basis in the pay TV market at this time. That said, ECTEL intends to monitor pricing and marketing practices in the pay TV market to determine whether ex ante price regulation and/or consumer protection safeguards may be necessary in the future.

All the video on demand services ECTEL mentions runs on IP services provided by the operators' broadband service. There is a real possibility that the provider may choose to regulate data required for IPTV services. They may even deem it as necessary traffic management. ECTEL needs to put measures in place that would curtail such practices and also ensure that sufficient penalties are included should it be determined that the providers are engaged in throttling, blocking or traffic

shaping of competing IPTV services traffic. At a minimum ECTEL should consider these consumer safeguards.

5.3.1 In-Bundle National Usage

ECTEL proposes that a Mobile Consumer Safeguard be implemented that would make such notifications mandatory. ECTEL considers that if implemented, C&W and Digicel should have no difficulty complying with such an obligation given that they have indicated that they already provide such notifications. This measure is included as part of the draft NTRC Guidelines in Annex 4.

This measure depends on real time billing and the consumer being notified at the instant they consume data. The high data rates present now makes this practically useless. At the current speeds for 4G, 35 Mbps one could deplete a 2 GB plan in about 8 minutes. 2GB plans are still being offered. While the information is good to have SMS may not necessarily reach the recipient in real time and maybe delayed for a variety of reasons including network issues. The billing platform may not calculate the billing in real-time either and the delay would be detrimental to the subscriber as the subscriber could continue to consume data believing that they are still in plan when in fact they are out of plan. The billing is either delayed or the notice to the consumer is delayed. The safeguards you hope to derive from this may be misplaced.

NTRC Dominica feels more focus should be placed on determining a reasonable price for a bit on a given network and whether the existing price structure is fair. Do these price structures reflect the market conditions and the cost of the associated networks in the MS or are they simply imported to the detriment of the local consumers.

5.3.3 Out-of-Bundle National Usage

As stated earlier it appears that ECTEL doesn't seem to concern itself with the out of bundle charges for mobile data. In bundle charges can be as low as 1c per Mega Byte (MB) and out of plan charges can be as high as \$1.00 per MB. This is a 999,900% increase in price. The logic used to come up

with this increase is bewildering and the fact that ECTEL doesn't consider this insanely unfair to the consumer is even more perplexing.

Providers are supposed to provide cost-based pricing. On the face of it either 1 cent per MB is grossly underpriced or \$1.00 per MB is insanely exorbitant. Either way ECTEL would serve the consumers well to ascertain what the cost of bit should be and why there is such a colossal discrepancy between in plan prices and out of plan prices.

Further both providers price out of plan data at this incredulous cost. This shows some level of tacit collusion and drives the point further that joint dominance should be considered for the mobile market. ECTEL should review the guidelines around joint Dominance for the US, Canada and EU market and make a determination on how best we can implement such safeguards for our market.

ECTEL proposes that a mobile consumer safeguard be established that would require mobile consumers to formally "opt-in" for OOB national usage before they are able to use and, consequently, be charged for OOB national usage.

The NTRC fully supports this proposal by ECTEL. However the NTRC believes ECTEL needs to make a distinction between prepaid and postpaid service. In the former, a consumer prepays for the service they intend to use. On the face of it such a consumer should never go out of plan. Once the service prepaid for is consumed the customer is not allowed to use the service. 85% of prepaid consumers from one operator and 69% of prepaid consumers from the other indicated through our 2018 survey that they feel they are unfairly billed for the service. There are also several reports in the market that consumers suffer from the unusual phenomenon of their topup simply evaporating. In other words, they topup at a certain time and within a matter of seconds their topup credit is all consumed, sometimes as much as 20 dollars of credit. This sort of toxic billing can only occur if the prepaid subscriber incurred charges out of their plan before they were able to subscribe for a new plan and the billing platform was delayed in identifying that subscriber should not continue to be provided with the service. The unfortunate reality is once the subscriber has exceeded his plan even

if he has sufficient credit on his phone to renew that plan and he has not selected a plan he will be put on the most unfavorable plan which is the default plan. This I believe should be stopped immediately. The customer should be required to choose the default plan just like any other plan.

NTRC does not hold the view that consumer safeguard #3 and #4 would provide adequate safeguards to consumers to warrant ECTEL not considering implement an OOB Cap through element #6. The rate at which Data can be consumed is significant on a 4G Network. Subscribers may experience download speeds of up to 35Mbps (4.375 MBps). Based on the current rates, in one second OOB charges could be 4 dollars. The risk is too high not to set a cap on OOB usage for data. Based on surveys we've conducted no consumer would opt in for out of bundle data rates. Consumers unwittingly enter into out of bundle data usage. While the opt in mechanism in Element #4 will help it relies on real time billing and NTRC has serious doubts that this is the case for consumers in the Dominican market.

5.3.4 Out-of-Bundle Roaming Usage

As with Element #4 (Mobile Consumer Safeguard #3), ECTEL considers that OOB roaming usage raises significant bill-shock concerns for mobile consumers and, therefore, on a preliminary basis, ECTEL considers a mobile consumer safeguard is necessary and appropriate and, therefore, proposes that a mobile consumer safeguard be established that would require mobile consumers to formally "opt-in" for OOB roaming usage before they are able to use and, consequently, be charged for OOB roaming usage

While this may offer some safeguards, it does not capture the high markups put on roaming data charges. Once again fairness or reasonableness is not considered. Most people artificially address this by choosing not to roam with mobile data period. However, in the event that an issue arises or they are in an emergency or unwittingly forget to turn off their data or turn on their data too soon may before they re-enter their home market the level of bill shock that ensues is unimaginable. The issue is not that all the stored updates or new messages are being downloaded. The issues is the high

markup being charged for roaming data services. ECTEL needs to investigate the level of markup being charged for roaming data.

Further the safeguards being espoused will require the collaboration of two network operators. One which is likely ECTEL has no jurisdiction over. It is our view that a threshold be set on the markup associated with roaming charges as this would be easier to police and determine whether it is being implemented fairly.

5.3.5 Rollover of unused National allotments

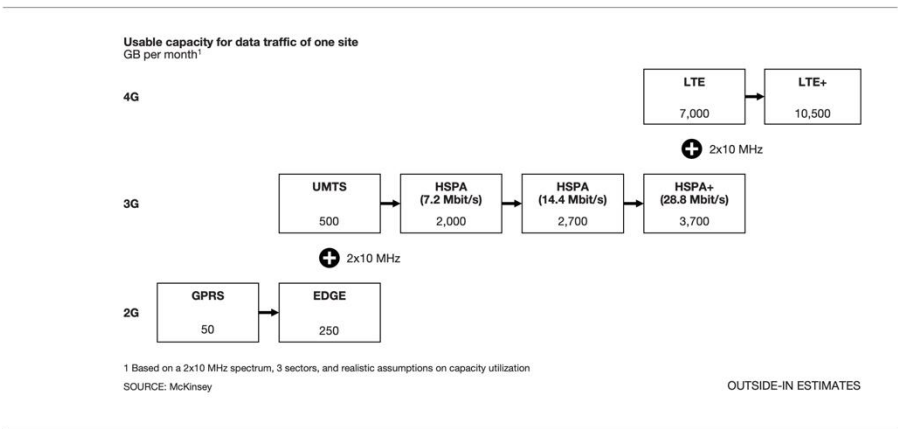
ECTEL is not proposing a rollover-related mobile consumer safeguard at this time.

This does not protect the consumer and forces the consumer to use just the right amount of service to optimize his spend. The consumers are billed both on a temporal basis and usage based criteria. This in and of itself is manifestly unfair. It should be either the consumer is billed on time of use or on quantity of use not on both. The premise under which this is allowed in this market needs to be examined. NTRC understands why that would hold in certain markets like the UK as the GSMA has shown that the cost of running a mobile network is greater than the cost of running a fixed network amortized over a year. The arguments are based on the fact that BT has about 4 times the number of subscribers as Vodafone. Further the high cost of spectrum makes operating a mobile network more costly. In addition the traffic generated on the mobile network directly affects billing where as on the fixed network increased traffic does not correlate to increasing the capacity of the access network to handle the calls. Further the fixed network expected use is about 20 years whereas the mobile network expected use is about 5 years.

While these arguments may hold in Europe and the developed world, NTRC Dominica contends on the face of it that the situation is quite different in the small island developing states. First off Fixed line consumers are a fraction of the mobile consumer numbers in any of the MS. Sometimes this number is as low as 25%. Therefore the cost of the mobile network is apportioned over a much larger customer base than the fixed line network in MS as opposed to the UK. The cost of spectrum

in MS states is very low compared to the UK. In Member states the operational cost to manage mobile networks is a fraction of the cost need to manage fixed networks.

A study done by Mckinsey shows that as technology improves more usable traffic is available at a site. See the chart below. The increase in capacity from Edge to LTE is about 28-fold. The pricing structure on the mobile Network in Dominica does not take this huge increase in capacity into account. Mobile Data is still priced as a scarce resource.



https://www.mckinsey.com/~media/mckinsey/dotcom/client_service/telecoms/pdfs/recall_no17_cost_per_mb.ashx

ECTEL should spend some time performing the analysis to determine what exactly is the true cost of traffic on the fixed network compared to traffic on the mobile network. Maybe then we will fully be able to understand whether consumers in our markets are being treated fairly.

<https://www.gsma.com/publicpolicy/wp-content/uploads/2012/09/Tax-Comparison-of-fixed-and-mobile-cost-structures.pdf>

As noted previously ECTEL is of the preliminary view that the terms and conditions (including eligibility) for any available rollover plans should be clearly specified and easily understandable and is not proposing a mobile customer safeguard for rollover eligibility at this time.

Mobile customer safeguards are absolutely necessary for rollover eligibility. ECTEL appears not to understand why customers complain that their data evaporates or their topup disappears. It is mainly for that very reason compounded with prepaid customers being billed OOB before a new plan is introduced. There needs to be safeguards for this. Customers have to jump through hoops just to avoid this toxic billing practice. They should not have to. 9 out of 10 customers would never want the default plan. Customers end up on the default plan after consuming the plan they want. The default plan is the most egregious plan and still ECTEL is proposing there should be no safeguards to ensure that customers remain in plan and their value is maintained from plan to plan. Mobile customer safeguards for rollover minutes is absolutely required. This is real value that can be lost simply because a customer doesn't enter the right key strokes or jump through the right number of hoops before a plan expires. We have had situations where a customer had rollover minutes amount to thousands of dollars and lost of this value in one period. Further she was told that she should not have acquired such value to begin with and that it was mistake. This happened over a two year period and the customer had a real expectation that this would have continued. This position needs to be reexamined.

Response to the

EASTERN CARIBBEAN TELECOMMUNICATIONS AUTHORITY (“ECTEL”)

Consultation Document

on

Proposed changes to Regulation 17(c) of the draft Electronic Communications (Consumer Protection) Regulations (Specific Rules on Consumer Protection in the Electronic Communications Sector)

2. CHARGES FOR PRE-PAID SERVICE

In the event that usage charges or Service Fees are not applied in real time and We subsequently become aware of such use of the Service We shall subtract the usage charges from Your Account at such later time.

This clause in FLOW's terms and conditions is particularly problematic. If the billing of prepaid customer is not real time or the customer is not alerted in near real time, the customer has no way of knowing when he is in operating within the bundle or operating out of bundle. This inherently leads to a most detrimental situation for the consumer. All the safeguards, ECTEL are advocating for including alerting the consumer at 60% consumption and 80% consumption will be meaningless. It is absolutely critical that the billing for mobile services be real time or near real time. If the providers cannot guarantee that then the structure of the bundles being offered needs to be reevaluated.

Further erroneous billing is also a real and present problem and currently. We have seen evidence of Flow unfairly billing a post paid consumer. We have requested data from FLOW to ascertain the extent of the erroneous billing but to date FLOW has not supplied the required information. At least the post paid customer had a record of this error and scrutinized his bill. Consider the case of a prepaid consumer where no bill is presented and CDR records may not be made available to them on requests. This is a serious concern that isn't addressed by ECTEL's proposals and should be.

Part V

LIFE CYCLE OF A PREPAID SUBSCRIPTION

If a licensee has a special promotion, a prepaid subscription may expire within 3 months from the date on which the electronic communications service is first used by a retail customer.

The NTRC is unclear as to what happens in the case where the licensee does not have a special promotion. Note if the service is never used, then the service will not expire. The NTRC would like to know why must the service expire and why 3 months is deemed suitable and not 1 year.

20. Expiration of Prepaid Subscription

7. A retail customer is required to purchase credit before its prepaid subscription is reactivated by a licensee.

Why must a retail customer purchase credit before its prepaid subscription is reactivated. If a retail customer has \$100 dollars credit on the prepaid service why is it necessary to buy more credit in order to reactivate his service. Why can't he simply dial a short code and have his service reactivated. The provider has had his money for 3 months without rendering any service. Why must he be penalized for providing free capital for 3 months.

21. Criteria for Termination of Prepaid Subscription

A licensee shall not terminate a prepaid subscription, if—

a. a retail customer has at least \$10.00 on his or her account;

The NTRC would like to be clear that this provision states as long as there is \$10.00 or more on the subscriber's account, that account cannot be terminated. This Further suggests that such a customer would never be subject to clause 20 (7) and would not need to purchase credit as his subscription would never be terminated.