



EASTERN CARIBBEAN TELECOMMUNICATIONS AUTHORITY (ECTEL)

Report of the Chairman of the ECTEL Board of Directors to the ECTEL Council of Ministers

Year Ending September 30, 2012

1. Introduction

This Report provides summary information on the operations of the Eastern Caribbean Telecommunications Authority (ECTEL) for the period October 1st, 2011 to September 30th, 2012. The Report is presented in fulfillment of Article 5 (q) of the Treaty establishing ECTEL, which states ECTEL shall “prepare annual reports for submission to the Council on the execution of its functions”.

The work programme for the operations of ECTEL during the period was approved by the ECTEL Council of Ministers at its twenty-fourth meeting held in St. Kitts and Nevis on October 28th, 2011. The Council also approved the annual budget for ECTEL and the National Telecommunications Regulatory Commissions (NTRCs) in the five Member States.

An annual work programme is developed and implemented in pursuit of the main goals of ECTEL which, inter alia, promote market liberalisation, open entry and competition in the telecommunications sector, and ensure that there is universal access to all basic telecommunications services in the Member States. ECTEL was established to promote harmonised regulation among the Member States.

During the past year, critical regulatory and organisational activities which were established as high priorities were undertaken. The regulatory activities included the completion of the revision of the Telecommunications Act

resulting in a new Electronic Communications Bill with an expanded mandate for the NTRCs; training of the regulatory team in preparation for the implementation of number portability, and guidelines on ECTEL's role on consumer matters in the telecommunications and ICT sector.

The critical organisational activities which were completed included the strategic review of ECTEL and the NTRCs; development of the guidelines for working groups on technology and spectrum management; review of the budget process; training in governance and administrative law procedures, and the strengthening of the management structure of the ECTEL Directorate. The Telecommunications and Information and Communications Technology (TICT) Project was completed after four years of activities, which included consultancies on regulatory matters and pilot projects in ICT and Universal Service in the ECTEL Member States.

In addition, the Directorate provided ongoing advice on a wide range of regulatory matters to the NTRCs and the Ministers responsible for Telecommunications in the Member States. Of note here is the extensive engagement of the Directorate on matters related to pricing of basic telecommunications services.

It was an extremely hectic year for the staff of the Directorate, who organised and facilitated thirteen regional meetings and conferences, including meetings of the Board of Directors and Council of Ministers.

Last year, the Directorate continued its efforts at the integration of the ECTEL and NTRC work planning process. The initial recommendations of the strategic review endorsed this approach. The integration of the work planning process will be formalised through the first Joint Strategic Planning Meeting to develop a medium-term work plan and budget for ECTEL and the NTRCs. In addition, organisational priorities for the upcoming year will be the implementation of technical working groups on matters such as emerging technologies, spectrum

management, number portability and data collection for the telecommunications and ICT sector.

The regulatory priorities for the year 2012 – 2013 will focus on enhancing the environment for the rollout of wireless broadband; consultation on mobile retail rates; regulations for improving consumer experiences in the use of telecommunications services, and the promulgation of the Electronic Communications Bill in all the ECTEL Member States.

2. Trends in the Electronic Communications Sector

The period ended March 2011 was a challenging one for the electronic communications sector in the ECTEL Member States. Information provided by telecoms operators suggested that the sector generated revenue of EC\$704 million, 9 per cent less than was generated in 2010. Telecoms operators invested nearly EC\$72 million on fixed and mobile networks, but this was 17 per cent less than was invested in the previous period. Investments were mainly focussed on the upgrade of broadband networks and the maintenance and upgrade of mobile towers. The number of persons employed full-time in the sector was reported at nearly 1,333. This was 50 less employees than was reported in 2010.

Fixed broadband penetration remained flat at 15 per cent, but this was in line with the average penetration for the Americas. Mobile voice penetration has slowed in recent years, and plateaued at 128 per cent. This was well above the 79 per cent penetration for developing countries and the 87 per cent global penetration reported by the International Telecommunications Union (ITU). While the ECTEL Member States have surpassed global penetration rates in mobile voice, they are lagging behind in mobile broadband service. The ITU estimated mobile broadband penetration at 30 per cent in the Americas; however, mobile broadband is not yet available to subscribers in the ECTEL

Member States. This is an area that the Directorate plans to take steps to address in its 2012 - 2013 Work Plan.

Radio and television services are widely available, and at March 31st, 2011, sixty-three free-to-air radio stations were identified across the ECTEL Member States; most also streamed audio live over the Internet. In the ECTEL Member States, television service is largely provided via subscriber cable TV and based on available data, the Directorate estimated that the nine subscriber cable TV operators generated in excess of EC\$60 million in revenue and attracted more than 76,000 subscribers. Some cable TV operators have transitioned to digital cable TV, but mobile TV and IPTV are not yet widely available to television viewers.

The key telecommunications service indicators are presented in the table below.

Table: Key telecommunications service indicators in the ECTEL Member States

Indicator	2007	2008	2009	2010	2011
Revenue (EC\$M)	825	772	728	776	708
Investment (EC\$M)	148	177	150	99	81
Employment	1,361	1,612	1,472	1,379	1,333
Fixed voice service penetration	27.7%	27.7%	27.0%	26.5%	25.4%
Mobile service ¹ penetration	98.7%	116.6%	124.7%	129.4%	129.4%
Fixed internet service penetration	9.3%	11.9%	13.5%	15.1%	15%
Local voice minutes (millions)	966	1,247	1,285	1,376	1,292
International voice minutes (millions)	114	121	125	137	132

Source: ECTEL/operators

3. Regulatory Operations of the Directorate

Licensing, Legislation and Technical Advice to NTRCs

During the review period, the Directorate provided wide-ranging technical advice and legal opinions to the NTRCs in the area of licensing. Following an

¹ Mobile services include voice, messaging and internet services.
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extensive audit and public consultations on licensing rules in use within ECTEL Member States, new licence templates and classification notices have been submitted to the NTRCs. In addition, the applicable revised Regulations and Fees Schedules have been submitted to the Member States for promulgation early in the financial year 2012 - 2013. When promulgated, the new Regulations effectively provide the basis for the harmonised assignment of the 700 MHz spectrum. This spectrum band is critical for the rollout of wireless broadband and enhanced mobile services.

For the second consecutive year, very few applications were submitted for Individual Licences. No new Individual Licences were granted. On the other hand, thirty-three licences were granted for use of spectrum in a wide range of telecommunications services including mobile telephony, broadcasting, private networks, amateur radio, and land mobile communications. An initial set of guidelines on licensing was subjected to limited consultation. The major review of the licence evaluation process continued during the year to enhance the clarity of procedures. Particular attention is being paid to the financial conditions, which have been identified as the weakest components of the applications.

Final drafting instructions were completed for the finalisation of the Electronic Communications Bill. This followed the conclusion of a high level regional consultation on the draft Electronic Communications Bill, which involved participants from all the NTRCs, regional regulatory officials, and representatives of ministries of telecoms of the ECTEL states. The final recommendations were on provisions related to broadcasting, competition rules, licensing and consumer affairs.

In addition to the main areas of regulatory operations, during the year the Directorate provided advice and recommendations to the NTRCs on some other specific issues. In one case, assistance was provided to NTRC Dominica in the area of dispute resolution. This included the convening of a Tribunal Hearing

to determine an outstanding dispute between a local telecommunications provider and a member of the public.

During the year there was a noticeable increase in the number of applications for the approval of new ancillary telecommunications services, some of which required treatment as regulated services. While this matter engaged the resources of the Directorate, it also signalled the intention of service providers to be more innovative in the rapidly changing environment to meet the new expectations of consumers.

These accomplishments have been thwarted by a lag in the promulgation of recommended legislation in some Member States. This situation continues to have negative implications on the revenues of the regulatory system and hinders the efforts at harmonisation.

Price Regulation and Competition

Customers benefitted from an 18 per cent reduction in the rate for fixed-to-mobile calls, as LIME implemented the final cut to fixed-to-mobile rates in accordance with the terms of the new Price Cap Plan. In addition, the Directorate recommended approval of reduced rates for LIME's Dedicated Internet Access Service and the introduction of fixed line and broadband bundles to business customers, providing increased value to consumers.

The terms of reference for the engagement of a consultant to undertake the assignment to review the Enhanced Allocation Model (EAM) and regulatory accounts submitted by LIME was completed and approved by the Board. The consultant was identified and the assignment is expected to be completed in the second quarter of the next financial year. The Enhanced Allocation Model (EAM) and regulatory accounts are new reporting requirements imposed on LIME under the new Price Cap Plan, and are tools to assist the Directorate in monitoring the effectiveness of the Price Cap Plan.

Research was undertaken, and the first draft of the consultation paper to assess mobile retail rates across the ECTEL Member States was prepared. The findings of the consultation process and recommendations from the Directorate are expected in the second quarter of the next financial year.

Access and Interconnection

This fiscal year, the Directorate reviewed and approved the tariff schedules for agreements between Digicel and Marpin 2K4, and between LIME and Digicel Saint Lucia. In all cases, the rates in the agreements were in compliance with the approved cost-based rates. The Directorate also finalised Guidelines for the Pricing of Access to Facilities in the ECTEL Member States, to accompany the Telecommunications (Access to Facilities) Regulations, which have been recommended to the Member States.

One of the challenges faced by the Directorate in relation to Access and Interconnection was the request for access to unbundled local loops. ECTEL has recommended Telecommunications (Wholesale Regulations) to the Member States, but has not yet developed recommendations on the pricing of unbundled local loops. In the next financial year, the Directorate plans to undertake research to determine the best approach to address this issue.

Spectrum Management

An important area of work for the Directorate during the period was in preparing for the use of the 700 MHz band in new ways which will accommodate digital communications. This will result in more efficient telecommunications services and additional revenue required to undertake expanded regulation functions. Following a public consultation, a strategy for the fair and efficient assignment of 700 MHz spectrum was developed. The strategy is intended to ensure an optimal assignment of the 700 MHz spectrum.

With all the preparatory technical, legal and financial activities completed, ECTEL is now prepared to assign spectrum in the 700 MHz band for the delivery of wireless broadband service.

Progress was also made in the area of cross border frequency coordination. The Directorate was able to significantly enhance coordination work with the French Radio Spectrum Assignment Authorities (ANFR), in the resolution of cross border electromagnetic interference between ECTEL States (Dominica and Saint Lucia) and the adjacent French Caribbean territories of Martinique and Guadeloupe. Both ECTEL and the ANFR are presently actively attending to the resolution of specific cases of cross border interference, and key officials in both organisations have expressed an intention to pursue a formal agreement on cross border interference coordination.

Another area of spectrum management that engaged the Directorate's attention during the period was work and consultation (with NTRCs) on a design for the establishment of automated spectrum monitoring networks in the ECTEL States. The design is intended to determine an optimal mix of fixed, mobile and handheld monitoring assets, and the configuration of monitoring systems/networks to be established in the ECTEL Member States. Work is still ongoing in this area, and will be carried into the next work period. It will be facilitated by one of the ECTEL/NTRC working groups.

Numbering and Number Portability

Following the approval of the policy recommendation by the ECTEL Council of Ministers early in the year, the Directorate hosted a two-day workshop on number portability. An international consultant facilitated the training sessions, which provided industry and regulatory stakeholders with a comprehensive understanding of the requirements for number portability implementation in ECTEL Member States, and a status of comparative developments in other jurisdictions throughout the world. The workshop also

shared information on the groundwork for the establishment and actualisation of an industry working group to manage the implementation process.

4. Programmes, Governance and Administration

Telecommunications and Information and Communications Technology Project

The TICT Project was completed during the year, with the final round of Universal Service Pilot projects implemented in all Member States.

The Project supported a number of consultancies directly related to the regulatory functions of ECTEL, and the policy and ICT development programmes of the Member States. These included the development of a Price Cap Plan and retail tariff regime; alternative technologies for spectrum monitoring; extending broadband applications by government and the private sector; revision of the Telecommunications Acts; Capacity Building in Alternative Dispute Resolution, and Pro-Competition Policies and Procedures.

A core element of the Project was the implementation of pilot projects in the ECTEL Member States. These were two Digital Classroom Live Portals, two Community Technology Centres, and one project using LEGO Mindstorms as a tool for ICT education. The Universal Service pilot projects were as follows:

- *Dominica:* The project facilitated the extension of broadband service to underserved communities. In addition, sub projects for Dominica provided ICT facilities for youth and the disabled community.
- *Grenada:* The project facilitated the establishment of Community Access Points (CAPs) for internet and related services in selected rural communities.
- *St. Kitts and Nevis:* The project facilitated the establishment of a wireless network to support an initiative of the Government of St. Kitts and Nevis which involved the provision of laptops to students.

- *Saint Lucia:* The project provided ICT hardware and software to students with special needs to enhance their ICT capabilities.
- *St. Vincent and the Grenadines:* The project provided infrastructure for improved VHF coverage for maritime areas within the state.

In the Implementation Completion and Results report of the Project, the World Bank recorded its satisfaction with the implementation and stated: *“The overall development objective of the project to improve access, quality and use of telecommunications and ICT services to achieve socio-economic development in the OECS was accomplished by the implementing agency ECTEL; reflected in continued advancements in policy and regulatory reforms. Key indicators of success in achieving the project development objective of extended access to advanced ICT infrastructure for community facilities and the reduction in leased line rates, broadband and mobile tariffs were reflected in various project accomplishments.”*

The Project can generally be considered to have been successfully implemented with prudent management of funds and the various components by the ECTEL Directorate. Among the lessons learned from implementation included the need for multi-island projects to be so designed to accommodate the various levels of capabilities and readiness of both public sector institutions and private sector agencies. The project required extensive use of the expertise of ECTEL, but in the process the Directorate gained valuable knowledge and experience related to procurement procedures and project management in general.

Governance

During the review period, the ECTEL Board of Directors held four regular quarterly meetings and one special meeting. The Board and the chairpersons of the NTRCs also participated in a joint meeting which examined the current approaches to the management of the spectrum fund and the allocation of

resources for the operation of the regulatory system. Additional work on resources management will form part of the work plan for the new year. One major training initiative on governance and administrative law principles and procedures was held for the staff of ECTEL and the Commissioners and staff of the NTRCs.

The ECTEL Board of Directors was established to provide management oversight of the Directorate. During the review period, five meetings were held. A special retreat of the Board and staff at the Directorate was also held, which resulted in a number of initiatives designed to enhance human resources development, operational efficiencies, the working environment, and to improve productivity.

The Council of Ministers held its regular meetings in accordance with the provisions of the Treaty, and approved the annual work plan of ECTEL and budget for the operation of ECTEL and the NTRCs. The Council advanced efforts to facilitate the accession of other Members of the Organisation of Eastern Caribbean States to ECTEL. Chairman of the ECTEL Council held discussions with the Government of Antigua and Barbuda and Montserrat on the accession of these two countries to ECTEL, and on greater co-ordination of efforts to establish the OECS region as a single space for telecommunications regulation and development.

These initial discussions did not address some of the detail related to such matters as the obligations of new parties to the ECTEL Treaty and the cost of accession.

The members of the Council were also actively engaged in the consultation process on two major activities during the past year – the revision of Telecommunications Acts, and the strategic review of ECTEL and the NTRCs.

Administration, Finance and Corporate Relations

The Directorate has identified the need for improving its administrative and human resources capabilities to support the regulatory functions. In this regard, a number of outstanding human resources matters were addressed during the past year. They included the strengthening of the Administration and Human Resources Department, an assessment of training and manpower needs, revision of operational procedures, and the review of the salaries, allowances and conditions of service of the staff of the Directorate. Additional measures and programmes, which are designed to ensure that staff development goals are aligned to the organisational priorities of ECTEL, commenced during the year.

Through collaboration with the NTRCs, the Directorate recorded some improvements in the collections of outstanding fees from licensed operators. The first draft of a detailed strategy for the collection of outstanding payments was reviewed and will be completed and implemented during the new work programme year. The Directorate continued its prudent management of the Spectrum Fund in light of the challenges posed by shortfalls in the receipt of Spectrum fees, and the overall global economic conditions which have had a negative impact on the sector as a whole.

Due to the lack of clarity, in some cases, over the treatment of resources other than frequency authorisation fees, use of revenues from spectrum cannot be fully optimized. Also, the budgetary allocations from the spectrum fund remain issues of contention between the ECTEL Directorate and the NTRCs. These matters can only be resolved at the highest level through clear and unambiguous directives of the ECTEL Council of Ministers, supported by the Ministries responsible for telecommunications in the ECTEL Member States. The new provisions in the proposed Electronic Communications Bill are intended to solve some of these problems.

Media products disseminated during the year were mainly press releases and communiqués on the meetings of the Board of Directors and Council of Ministers. The Directorate also received extensive coverage of the special activities held during the year, including the consultation on the Electronic Communications Bill, the training on number portability, and the workshop on the strategic review of ECTEL and the NTRCs.

In general, the media relations and public awareness activities of the ECTEL Directorate and the NTRCs remain inadequate and fragmented. This is one of the continuing challenges within ECTEL, and efforts must be made to achieve harmonisation in this area of operations.

Capacity Building

During the year, the Directorate conducted specialised training for Commissioners in the area of administrative legal principles and the essential elements of corporate governance. The training was aimed at capacity strengthening for Commissioners and staff of the Directorate in basic principles of administrative law and its relevance to regulation. The sessions also attempted to narrow the focus of NTRCs on their core missions, which were to:-

- (i) monitor spectrum;
- (ii) enforce licences and frequency authorisations;
- (iii) manage the universal service funds, and
- (iv) protect consumers and monitor standards of quality.

The sessions were aimed at reinforcing the need for sound regulatory judgment that observed basic principles of administrative law. The sessions on principles and practices of corporate governance addressed the issues of transparency and public accountability, legitimacy and credibility, and the special application of these principles by regulators in general, and Commissioners in particular. The resource personnel for the training included the staff of ECTEL and regional consultants.

A training programme for the administrative staff of ECTEL and the NTRCs was also held during the year, with a special focus on database management. In this instance, the training personnel were drawn from the NTRCs and ECTEL.

At the regional level, a joint delegation from ECTEL and the NTRCs participated in the Annual Conference of the Organisation of Caribbean Utility Regulators (OOCUR), which was held in Barbados. ECTEL staff presented papers on the economic impact of wireless broadband, and the dividends from liberalisation of the sector. ECTEL was also represented at an Executive meeting of the organisation and has been involved throughout the past year in the review of the operations of OOCUR.

Strategic Review

After the first decade of operations, a strategic review of ECTEL and the NTRCs was conducted. The exercise focussed on the regulatory model and governance structure; collaboration arrangement and coordination mechanisms; management frameworks; and financing and resources management. During the review process, all stakeholders of the regulatory system – Council of Ministers, Board of Directors, the ECTEL Directorate, NTRCs and Ministries with responsibility for telecommunications - were consulted on the experiences, challenges and future management of the liberalised telecommunications sector in the ECTEL Member States. The final report will be submitted to the Board and Council during the first quarter of the new financial year.

In the coming year, the recommendations of the final report will form the basis for a major strategic planning exercise, which is intended to produce a three to five-year strategic plan and budget. Recommendations of the Board of Directors on resource management will be incorporated in this new strategic planning process.

Regional Collaboration

Notwithstanding a very hectic period of internal activities, the Directorate continued to collaborate with other regional agencies and initiatives in the areas of telecommunications policy and regulation. Some of the areas of collaboration are listed below -

- The International Telecommunications Union (ITU) through the HIPCAR Project provided support to ECTEL for the final stages of drafting of the new Electronic Communications Bill. The services of two consultants were provided. ECTEL serves on the Project Steering Committee which provided management oversight for this Caribbean-wide HIPCAR Project.
- ECTEL participated in the meetings organised by the World Bank on the framework for the management of the CARCIP project. Provisions have been made for grant funding to enable ECTEL to undertake research and provide advice on regulatory matters related to the expansion of broadband infrastructure in the participating countries. Other regional agencies which are involved in the implementation of the CARCIP project include the Caribbean Knowledge Learning Network (CKLN) and the Caribbean Telecommunications Union (CTU).
- The collaboration with the CTU during the past year focussed on spectrum management and coordination, particularly on matters related to the conversion from analog to digital broadcasting. ECTEL also participated in the ministerial meeting of the CTU which addressed cyber security, spectrum use for mobile broadband and data protection.

5. Conclusions

The implementation of the activities in the 2011 to 2012 work plan must be seen at two levels. Firstly, it represents the realisation of many of the organisational and strategic priorities for the past year. Among these achievements were the recommendations on new licence classifications and

related revised legislation; the policy development and training on number portability; guidelines for pricing access to facilities; implementation of the Price Cap Plan; recommendations on the role of ECTEL in consumer matters, and specialised training for the NTRCs on corporate governance and administrative law principles.

Secondly, the completion of some activities during the year represents the assessment of the regulatory operations and management of the ECTEL system during its first decade. This is manifest in the completion of the draft Electronic Communications Bill and the strategic review of ECTEL and the NTRCs.

These achievements, however, must be set against the backdrop of some of the trends in the telecommunications and ICT sector, which indicate that there are continuing challenges to realising the goals of increasing competition and universal service, among others.

The trends, which have been presented in the annual review of the sector, include the reduction in both investment and revenues from the sector; slow rate of reduction in the retail rates, in spite of the reduction in interconnection charges; and the crawling rate of growth of wireless broadband.

The Board has noted that there are areas of divergence and misalignment of approaches to both regulatory and operational matters between the ECTEL Directorate and the NTRCs. Continuing support from the members of the Council will be required to ensure that ECTEL remains a fully harmonised system, working in the public interest of the citizens of all the ECTEL contracting states.

It is imperative, therefore, that the work of ECTEL and the NTRCs in the future must be evaluated in the context of the current trends in the sector.

Set against its programme plan, ECTEL achieved many of the regulatory targets set for the year. Several of the organisational targets have not been fully realised due to both resource constraints and inherent deficiencies of the regulatory model. The work programme for 2012 to 2013 is therefore designed to implement recommendations from the strategic review of ECTEL and the NTRCs, which will lead to a more sustainable regulatory model and organisational structure for ECTEL.

The Chairman of the ECTEL Board records his gratitude for the sterling contribution of both current and past Directors and for their collective leadership and guidance to ECTEL. The Board of Directors also acknowledges and extends thanks to the members of the ECTEL Council of Ministers, staff of the ECTEL Directorate and the NTRCs for their efforts during the past year.

6. Priorities for 2012 - 2013

The need to provide reliable and affordable broadband services to the citizens of the ECTEL Member States is increasingly urgent, largely because of the impact of broadband rollout on both economic and social sectors. The expansion of wireless broadband must be juxtaposed with the decline in both revenues and investment in the sector during the past year. This situation presents enormous challenges for both policy makers and regulators to continue to provide the environment for development.

ECTEL and the NTRCs must be positioned to ensure that the goal of a harmonised regulatory system is in sync with the obligations of the ECTEL Member States under the revised Treaty of Basseterre.

It is against this backdrop that the ECTEL Council of Ministers has clearly articulated the need for consolidating the expanding work of ECTEL, and in particular, the advance towards the creation of the regulatory framework for a single telecommunications and ICT space in the OECS region. This is one of the key strategic priorities for the next three years.

Other priorities for the upcoming year will be similar to those of the past two years, largely due to the long-term nature of some of the developmental work undertaken by the Directorate. Public consultations on all regulatory matters will continue to be inclusive and therefore take more time for completion.

The Directorate will embark on new priorities related to the establishment of more robust regulatory monitoring and enforcement mechanisms, as well as policies and procedures to respond speedily to consumer concerns.

In the coming year ECTEL will continue with its development of policies, procedures and legislative responses to issues such as roaming, number portability and quality of service. In addition, at the operational level, the upgrading of information management systems and the guidelines for effective resources management will remain as priorities for the new year.

ECTEL's growth as an effective regulator and facilitator of a modern and affordable ICT sector for the eastern Caribbean region will be built on the following three pillars. Firstly, the recommendations from the strategic review of the ECTEL Directorate and the NTRCs for a regulatory system which is responsive to the sector and operates in the public interest; secondly, the new Electronic Communications Bill which will make provisions for extending the benefits of liberalisation to the citizens of the ECTEL Member States, and thirdly, the assignment of spectrum, which will enable the expansion of wireless broadband in the ECTEL Member States.

The coming year will be the commencement of the second decade of operations of the Eastern Caribbean Telecommunications Regulatory Authority (ECTEL).

Chairman

ECTEL Board of Directors

September 2012