

# **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, 2011**

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### **1. Introduction**

The Report covers the operations of the Eastern Caribbean Telecommunications Authority for the period October 1<sup>st</sup>, 2010 to September 30<sup>th</sup>, 2011. The work programme and associated budget for the year was approved by the ECTEL Council of Ministers at its twenty-second meeting held in Dominica on November 18<sup>th</sup>, 2010.

In general, the work programme is designed to fulfill the main goals of the ECTEL Treaty. ECTEL was established to promote competition, open entry and market liberalisation of the telecommunications sector; universal service in all basic telecommunications services; cost-based pricing. Through the work of ECTEL, the Member States were committed to a harmonised regulatory framework, and have realised increasing levels of penetration of the telecommunications services. According to Article 5 (q) of the Treaty, ECTEL shall “prepare annual reports for submissions to the Council on the execution of its functions”.

The priorities for the past year in respect of regulatory matters were Legislative Reform, Universal Service, and Number Portability. The strategic priorities for the past two years for the Directorate have been organisational review and reorganisation of operations, improving information management, revenue generation, and promoting harmonisation. A number of programmes were implemented in pursuit of the strategic regulatory and organisational priorities. These included national consultations on the draft Electronic Communications Bill, the development and recommendation of Regulations, and consultative meetings and training involving the ECTEL Directorate and the national Commissions.

During the year, the Directorate recorded an increase in the range and volume of recommendations and technical advice given to the NTRCs. Many outstanding interconnection agreements were approved; guidance and opinions were provided on the regulatory treatment of new services and

extensive support was provided for the establishment and operations of Universal Service Funds. While the Directorate has completed a number of specific activities and made recommendations in pursuit of the strategic goals and priorities, some of the activities will form part of the work programme for 2011 – 2012.

## **2. Trends in the Electronic Communications Sector**

In the year under review, the electronic communications sector in the ECTEL Member States recorded a year of positive growth, despite the sluggish economic recovery experienced by the Member States as they recover from the impact of the global recession. Revenue generated by the telecommunications sector grew 5 per cent to \$767 million. This followed a 5 per cent decline in 2009 as the sector was somewhat impacted by the global economic recession. Sector investment was \$103 million, down from \$150 million in 2009. Major projects included the installation of the first NGN switch in St. Vincent and the Grenadines, and continued upgrades to the fixed and mobile network infrastructure in the Member States.

In Grenada and Saint Lucia, cable operators that had previously offered cable TV and internet service introduced new fixed voice services to customers. Fixed internet subscriptions increased 12 per cent, outpacing the 5 per cent increase in mobile subscriptions. Mobile subscriptions exceeded 625,000 in the ECTEL Member States at March 2010, and mobile penetration reached 129.4 per cent. There was little change to consumer prices, though consumers continued to benefit from promotions and specials offered by mobile and internet service providers.

### *Key Telecommunications Indicators for the ECTEL Member States*

<b>Indicator</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Revenue (EC\$M)	712	825	770	732	767
Investment (EC\$M)	111	148	177	150	103
Employment	1,360	1,361	1,612	1,435	1,360
Fixed voice service penetration	28.4%	27.7%	27.7%	27.0%	26.5%
Mobile voice service penetration	74.7%	98.7%	116.6%	124.7%	129.4%
Internet service penetration	8.1%	9.3%	11.9%	13.5%	15.1%
International voice minutes (millions)	118	114	121	125	136

Source: ECTEL – Annual Electronic Communications Sector Review – April 2009 – March 2010.

The consumers in the ECTEL Member States are beginning to benefit from the rollout of new technologies, one of the outcomes of the liberalisation of the sector. The Next Generation Network (NGN) infrastructure launched by LIME during the past year is based on the Internet Protocol (IP), and is a convergence of Voice and Data transported over fibre optics and microwave, and include upgrades to existing copper lines to deliver broadband Voice over IP (VoIP), Broadband Data and the ability to provide IP television (IPTV) to every fixed line customer.

Apart from the VoIP services provided by LIME under its fixed licence, there is no widespread provision of VoIP services by licenced operators in ECTEL States. This is due in part to the shortcoming of the current ECTEL licencing arrangements related to interconnection between the VoIP and PSTN licences and number assignments for VoIP services.

Licences have been issued in some ECTEL Member States for the provision of Handheld Digital Video Broadcast services (DVB-h). It is therefore anticipated that mobile television broadcast services will soon be offered for the first time in ECTEL Member States.

### **3. Regulatory Operations of the Directorate**

During the past year, the ECTEL Directorate provided advice to the NTRCs in the interpretation of various aspects of the Telecommunications Act and related Regulations. These included opinions and recommendations on the resolution of issues related to licensing, spectrum management, numbering, universal service and domain name management. The annual consultative forum of the NTRCs and the ECTEL Directorate provided the platform for the exchange of information and discussions on current and emerging issues. During the coming year, this consultative mechanism will be reviewed in order to improve on its effectiveness.

#### *Licensing*

The most significant output of the Directorate in the area of licensing was the list of recommendations to address areas of ambiguity in the classification of existing and new telecommunications services. Following consultations with the NTRCs, the Directorate completed an extensive audit of the licensing arrangements of ECTEL. This audit rationalised the licences for a wide range of existing services, while making

recommendations for the treatment of new services. Among the main recommendations of the audit are the classification of subscriber cable television network as an individual licence; the calculation of broadcast fees as a percentage of revenues, and the obligation of the Minister to publish all classifications of licences on an annual basis. New licences will be created for services such as VoIP, Value Added Services, and Virtual Networks.

In addition to the audit, the Directorate also commenced a review of the licensing process, which included the development of a detailed checklist to guide the evaluation of applications for licences. All these procedures have been shared with the NTRCs.

During the period under review, eight applications for Individual Licences were received by the ECTEL Directorate, but recommendations are yet to be made in any of these cases, as the evaluations have been delayed due to inadequate information from applicants.

The Directorate has noted, as in previous years, the need to monitor the increasing number of unsuccessful applications for individual licences. This is due mainly to the failure of applicants to provide adequate information related to the financing of their projects. In addition, some applicants seek to offer limited services, which is contrary to the existing law and Regulations.

In the course of the work-plan year, the Directorate identified, in consultation with all NTRCs, a number of providers who failed to pay licence fees or who have failed to roll out networks, several years after being granted a licence. In some cases, the Directorate has made recommendations to the Ministers responsible for Telecommunications to revoke certain licences.

However, to date, the Directorate is not aware that any licences have been revoked. The Directorate is working with the Council of Ministers and national authorities to ensure that the necessary legal processes required to revoke unworked and unpaid licences are followed according to the requirements of the Act and the Regulations.

### *Interconnection*

During the year, the Directorate reviewed and recommended approval for several interconnection agreements from the Member States. While no

agreements were rejected by the Directorate, in certain cases prior to final approval, some amendments to Tariffs and Service Schedules were recommended. In all cases of requests for interconnection, providers who were parties to the Agreements complied with the directions. In general, Interconnection in the ECTEL Member States is proceeding along regulatory requirements and there are no major problems requiring regulatory attention.

One exceptional situation, however, has arisen in the case of the Interconnection Agreement between Digicel and LIME in Saint Lucia, due to a disagreement concerning the directions from the Commission on the matter of Access Deficit Charges applicable to an agreement which expired sometime in late 2009. The Directorate is working with the NTRC and the two providers to resolve the matter.

The Directorate completed two public consultations on LIME's Reference Interconnection Offer (RIO) and Confidentiality in Interconnection Agreements. The recommendations on these two interrelated consultations will be submitted to the ECTEL Council of Ministers for consideration in the coming year.

### *Pricing*

The Directorate continued its work in relation to monitoring of the new Price Cap Plan. In compliance with the Plan, LIME reduced fixed-to-mobile rates from \$0.57 at April 2010 to \$0.49 at April 1<sup>st</sup>, 2011. However, the Directorate faced some delay in the engagement of a consultant to review LIME's Enhanced Allocation Model (EAM) due to the late submission of the model by LIME. The EAM is a model which is used to assign revenue and costs to LIME's regulated services, and provides profit and loss and balance sheet statements by product. The Directorate was also engaged with the review of LIME's annual compliance filings, rate change filings and promotions.

The Price Cap Plan requires that the Directorate prepare an imputation test to be used to determine if bundles proposed by LIME are anti-competitive. The imputation test was prepared and an initial version has been provided to LIME; the test will also be subject to public consultation to give other parties an opportunity to comment before the test is finalised.

Since the implementation of cost-based interconnection rates using the LRIC models, the tariff schedules for agreements submitted have largely complied with the new rates.

The Directorate was also engaged in providing advice to NTRCs on how to address disputes in relation to the pricing of shared infrastructure. To this end, the Directorate prepared a consultation paper with guidelines on how the Directorate proposes to address the pricing of shared facilities going forward.

This year, the main challenges faced by the Directorate in relation to price regulation were in the areas of regulation of prices for basic packages for monopoly cable TV operators, and making recommendations on the pricing for pole attachment. In both cases, the Directorate was faced with the issue of not having the jurisdiction over all or some of the parties involved in the action.

### *Spectrum Management*

During the review period the Regional Spectrum Plan was amended to make provision for the inclusion of the new allocation and use of the lower 700 MHz band; however no assignments have been made. The Directorate is completing the amendments to the appropriate regulations in that regard.

Notwithstanding, forty recommendations were made to the NTRCs in the five ECTEL Member States for the use of spectrum for a wide range of telecommunications services, from broadcasting to private networks and land and mobile communications, and amateur radio.

The Directorate commissioned portable handheld spectrum analyzers which have been in use by the NTRCs for over a year now. Based on feedback from the NTRCs, the analyzers have resulted in a significant enhancement of their ability to discharge their spectrum monitoring and management mandate that is very important in the regulation of the telecommunications sector. Since providing the analyzers, ECTEL has received no reports from NTRCs of inability to address interference complaints, but the need to acquire additional spectrum monitoring assets still remains and is being pursued by ECTEL.

One of the issues that the Directorate has faced over several years, but which intensified during the past year, is the general reluctance of

broadcasters to pay licence and spectrum fees associated with their operations. In one of the Member States, several radio broadcasters exploit what they have argued are exclusions from jurisdiction under the Telecommunications Act to attempt to resist payment of the fees. The Directorate has been consistent in its advice to the NTRC that such fees are to be collected, and that failure to pay the requisite fees should be referred by the Commission to the Office of the Director of Public Prosecutions for further action.

Generally, the position of broadcasters in relation to the Telecommunications Act is being reviewed in the context of the ongoing consultations on the Draft Electronic Communications Bill. The objective of the new Bill would be to clarify the rules beyond any doubt so that broadcasters will fall within the ambit of the Telecommunications Act. The Board of Directors continues its appeal to the Council of Ministers to move speedily to promulgate the legislation required to resolve these outstanding issues.

#### *Number Portability*

The Directorate completed extensive discussions and consultations with the NTRCs on Number Portability related to voice and non-voice services. In the process, the Directorate is working towards number portability arrangements that are cost-effective and efficient, which also take into account emerging issues and technologies, and deliver maximum value to consumers. Consequently, a public consultation on number portability was completed during the past year, and recommendations will be considered by the Council of Ministers in the coming year.

## **4. Programmes, Governance and Administration**

### *Telecommunications and Information and Communications Technology Project*

The ICT Pilot Projects were completed in all Member States, except for St. Vincent and the Grenadines where completion of the final project report was being undertaken.

The implementation of Universal Service Pilot Projects in the ECTEL Member States proved to be challenging, and the Directorate continued to

experience delays with the implementation of these projects. The results of activities undertaken in the Member States are as follows -

**Dominica:** Two rounds of bidding were conducted for a project aimed at the establishment of Community Access Points (CAPs) to provide internet and related services to the public in communities where such services are absent or lacking. There was a poor response to the invitations to bid and no acceptable bids were received. An attempt was then made to initiate another project aimed at expanding broadband internet services to certain specified areas in Dominica.

**Grenada:** The bidding process for a CAPs project in Grenada was successfully completed, and this resulted in the award of a contract to Columbus Trinidad (Barbados) Incorporated to undertake the project.

**St. Kitts and Nevis:** The project for St. Kitts and Nevis is aimed at the establishment of a wireless network to support an initiative of the Government of St. Kitts and Nevis which involves the provision of laptops to students. The bidding process was undertaken for this project and the results of that process are pending.

**Saint Lucia:** The project for Saint Lucia is intended to provide ICT hardware and software for persons with special needs. The Directorate worked closely with NTRC Saint Lucia and established organisations responsible for addressing the needs of persons with special needs, and procurement of the required hardware and software is being undertaken.

**St. Vincent and the Grenadines:** The Universal Service project for St. Vincent and the Grenadines is to provide improved VHF coverage for maritime areas within the state. The bidding process for this project is being undertaken and the results of this process are pending.

The schedule of activities for the TICT project ensures that projects are implemented in all the Member States before the end of December 2011, with measures built in for sustainability. These measures include the full integration of the pilot projects into the work programmes of the respective Universal Service Funds, and joint oversight by a related government agency.

## *Governance*

The ECTEL Board of Directors was established to provide management oversight of the Directorate. During the review period six 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 and the working environment, and improve productivity.

The Directorate engaged in regular consultation with the NTRCs on both regulatory and operational matters. During the past year, however, there have been increasing cases of misalignment of the practices and decisions of the NTRCs which have delayed the implementation of ECTEL recommendations and also threaten the harmonisation of regulatory decision-making in the Member States. The Board of Directors will continue to engage the members of the ECTEL Council of Ministers to ensure the principles and practices of harmonisation are promoted and realised within the ECTEL telecommunications and ICT regulatory system. In this regard, regular consultations and information sharing among the NTRCs and the ECTEL Directorate will be pursued in earnest.

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 the budget for the operation of ECTEL and the NTRCs. In addition, the Council approved recommendations from the Board of Directors on regulatory matters including roaming, revised Retail Tariff Regulations and Amateur Radio Regulations. The Council also endorsed ongoing work in the ECTEL Member States on the development of Internet Exchange Points (IXPs) as a means of increasing internet usage.

Following the directive of the Council, the preparatory work for the strategic review of ECTEL and the NTRCs was completed. The tasks and activities related to the exercise will be implemented in the coming year.

## *Administration and Finance*

During the period, the Government of Saint Lucia continued with its phased renovation works at the headquarters of ECTEL, thus enhancing the environmental conditions under which the staff work. In spite of disruptions to operations resulting from occasional severe weather systems and storms during the past year, the ECTEL staff provided critical support

for the organisation of meetings of the Board and the Council, and the management of programmes implemented in collaboration with the NTRCs.

Media products disseminated during the year included a magazine, a video documentary in observance of ECTEL's 10<sup>th</sup> anniversary, and press releases, all of which have been integrated into an enhanced ECTEL website.

The Directorate continues to work assiduously to maximise the collection of revenues from Spectrum fees. Comparatively speaking, revenue collections for this financial year have been relatively sluggish as a number of providers who were granted Frequency Authorisations have not commenced operations, resulting in the non-payment of Spectrum Fees. Although ECTEL was able to collect sufficient funds to meet its budgetary obligations, it is evident that the gap between collections and expenses has narrowed considerably. This tightening of the budgetary situation will pose a serious challenge to the regulatory system, and, as such, there must be an imperative to implement strategies aimed at generating additional revenue from new sources to meet the increasing cost of regulation.

### *Capacity Building*

ECTEL is charged with maintaining the environment of the delivery of telecommunications services in a liberalised sector. The regular upgrading of the skills and knowledge of the staff of the Directorate and the NTRCs is critical to the effective and efficient performance of these functions. During the past year, a number of staff members received training in regulatory matters and telecommunications and ICT issues. The areas in which training was completed were cost modeling, emerging matters in telecommunications regulations, competition and regulation, economic aspects of telecommunications regulation, general utility regulation, telecommunications management, managing the new digital broadcasting environment, and dispute resolution. A special training programme for the Commissioners and staff of the NTRCs, in dispute resolution, was delivered in all the ECTEL Member States.

In addition, ECTEL participated in the Annual Conference of the Caribbean Association of National Telecommunications Operators (CANTO), including the special caucus for Telecommunications and ICT Ministers from the Caribbean region.

At the Annual Conference of the Organization of Caribbean Utility Regulators (OOCUR), members of the ECTEL and NTRC delegation engaged other regulators in the region in discussions on a wide range of issues. ECTEL's presentation focussed on the analysis of mergers in the telecommunications sector in the ECTEL Member States.

### *Collaboration with regional institutions and initiatives*

ECTEL continues to provide advice, support and leadership to a wide range of regional initiatives in telecommunications and ICT, with a focus on regulatory matters. During the year under review the collaboration included:

- HIPCAR. ECTEL serves on the Project Steering Committee and staff members participated in the regional workshops in Saint Lucia and St. Kitts and Nevis, which were convened to develop policies and legislation on telecommunications and ICT issues.
- Caribbean Knowledge Learning Network (CKLN). ECTEL serves on the Board of Directors and the Technical Advisory Committee.
- OECS EGRIP. ECTEL staff reviewed project outputs and provided support and advice on project implementation, particularly in the areas of procurement and compliance with World Bank procedures.
- Caribbean Telecommunications Union. ECTEL participated in regional spectrum management coordination, particularly on matters related to the conversion from analog to digital broadcasting.

## **5. Conclusions**

The delivery of programmes during the past year contributed to the fulfillment of the goals of ECTEL as set out in the Treaty. The Member States all recorded positive growth in all the core indicators of the sector. The growth in mobile voice telephony illustrates the attainment of universal service in one of the basic services, and during the past year in particular there has been a significant growth in broadband subscription.

In addition to the expansion of telecommunications services, the Universal Service Funds became operational in all the ECTEL Member States during the past year, thus advancing the goals of universal service.

It should be noted that while there continues to be a growth in licences for the use of radio spectrum, this has been limited to broadcasting and private networks. Compared to the first three years of liberalization, very few

individual licences have been granted during the past three years. This situation has given rise to the need to continue the re-examination of policies and procedures on individual licences to ensure new entrants continue to enter the market.

The ECTEL Member States are poised to reap further economic and digital dividends from liberalisation with the reallocation of spectrum for more efficient delivery of services. This could not have been possible with liberalisation in general and the establishment of ECTEL in particular.

As the regulatory system moves into the second decade of operations, existing legislation and structures must be reviewed to ensure that harmonisation is strengthened and deepened. The Council of Ministers will be invited to consider recommendations aimed at ensuring financial sustainability of the regulatory system, addressing the issue of misalignments of administrative and regulatory behaviours of the NTRCs, and extending the economic and social benefits of telecommunications liberalisation to consumers.

## **6. Priorities for 2011 - 2012**

The sector is increasingly being dominated by a wide range of new mobile consumer services which rely on reliable increased bandwidth. Service providers are therefore moving towards deployment of services through the most efficient use of spectrum. In the short run, these changes will have some positive results for the regulatory system as existing and new providers roll out new services. In the long run, however, there is a potential for providers to use technologies which facilitate extensive services with minimum spectrum use. This can have negative implications for the revenues of ECTEL.

It is imperative that the Directorate continues to review current regulatory and operational arrangements to respond to the dynamic changes. Primary among these changes is the increasing convergence of technologies and services which presents challenges to the ECTEL regulatory system.

The 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 being undertaken by the Directorate. The review process, for instance, will continue to be inclusive and therefore take more time for completion.

The Directorate will however 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.

Among the new priority issues for the coming year will be the issues related to roaming, the implementation of regulations for fees, and the implementation of new regimes for licensing.

The Directorate will continue to implement programmes and policies aimed at deepening the process of harmonisation which is critical to the effective operations of ECTEL and the NTRCs.

***Chairman  
ECTEL Board of Directors  
September 2011***