

PROTOCOL AMENDING THE TREATY ESTABLISHING THE EASTERN
CARIBBEAN TELECOMMUNICATIONS AUTHORITY

PREAMBLE

The Parties to the Treaty Establishing the Eastern Caribbean Telecommunications Authority (hereinafter referred to as the Contracting States),

CONSIDERING: that there is need to respond to the dynamic and electronic communications market that is characterized by significant changes in the number and type of market players;

CONSIDERING: that the increasing convergence between services, networks and technologies in the telecommunications sector has created a more fluid electronic communications sector encompassing infrastructure and associated networks and services that require a harmonized approach.

HAVE AGREED as follows:

**ARTICLE I
USE OF TERMS**

In this Protocol unless the context otherwise requires:

“Director-General” has the meaning assigned under Article 1 of the Treaty;

“Organisation” has the meaning assigned under Article 1 of the Treaty;

“Treaty” means the Treaty Establishing the Eastern Caribbean Telecommunications Authority signed at St. George’s, Grenada on the 4th day of May, 2000 and includes any amendments which take effect either provisionally or definitively (hereinafter referred to as “the Treaty”).

ARTICLE II

In the Preamble of the Treaty replace “telecommunications” with “electronic communications”.

ARTICLE III

In Article 1 of the Treaty –

Delete the definition of “telecommunications”, “telecommunications licence”, “telecommunications provider” and “telecommunications services”.

Replace the definition of “frequency authorization”, “Organisation”, “universal service” and “Universal Service Fund” as follows:

“frequency authorization” means an authorization to use radio frequencies in connection with the operation of an electronic communications network or the provision of electronic communications services under a licence or otherwise;

“Organisation” means the Organisation of Eastern Caribbean States established by the Treaty of Basseterre on 18 June, 1981, as amended by the Revised Treaty of Basseterre, 18th June 2010;

“universal service and access” means universal service and access as defined by Contracting States;

“Universal Service and Access Fund” means the Fund established by Contracting States under Article 12.

Insert the definition of “electronic communications”, “electronic communications equipment manufacturer”, “electronic communications network”, “electronic communications service” and “licence”, as follows:

“electronic communications”

(a) means a type of transmission, emission or reception and, where applicable switching or routing of -

(i) voice, data, text, sound, audio, video, animation, visual images, moving images, pictures, pulses, signals or other information, or

(ii) a combination of the information under subparagraph (i),

using wire, radio frequency, optical, other electromagnetic means or by way of any other technology, whether with or without the aid of tangible conduct;

(b) includes telecommunications;

(c) does not include content services;

“electronic communications equipment manufacturer” means a person who makes equipment or apparatus for the purpose of or intended to be used for electronic communications as part of or comprising an electronic communications system;

“electronic communications network” means transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, radio, optical signals, electricity distribution systems, high-voltage lines or other electromagnetic means, including networks for radio and television broadcasting and cable television networks;

“electronic communications service” means a service provided wholly or partially by the conveyance of signals on an electronic communications networks;

“licence” means a licence issued to a person for the operation of an electronic communications network or the provision of an electronic communications service.

In the definitions of “class licence” and “terminal equipment” replace “telecommunications network” with “electronic communications network” and “telecommunications service” with “electronic communications service”.

In the definition of “individual licence” replace “telecommunications licence” with “electronic communications licence”.

ARTICLE IV

In Article 3 of the Treaty replace “telecommunications” with “electronic communications” and “a Telecommunications” with “an Electronic Communications”.

ARTICLE V

In Article 4 of the Treaty replace “telecommunications” with “electronic communications”, “telecommunications providers” with “electronic communication providers” and “a universal service” with “universal service and access”.

ARTICLE VI

In Article 5 of the Treaty –

Replace “telecommunications” with “electronic communications”.

Replace paragraphs (d), (g), (h) and (l) as follows:

“(d) recommend to the Contracting States the types of electronic communication networks or electronic communication services subject to a licence and exemption, if any;

- (g) design and operate open tender procedures for licenses related to electronic communication networks and electronic communications services as requested by Contracting States;
- (h) subject to article 11, review an application for a licence;
- (l) recommend to the Contracting States classes and sub-classes of licenses, an appropriate fee structure for licenses or other matters for or in relation to the conduct or regulation of electronic communications”.

ARTICLE VII

In Article 6 of the Treaty replace “telecommunications” with “electronic communications”.

ARTICLE VIII

In Article 7 of the Treaty replace “telecommunications” with “electronic communications”.

ARTICLE IX

In Article 8 of the Treaty replace “telecommunications” with electronic communications in paragraph 3 sub-paragraph (b) and “telecommunications legislation” with “electronic communications legislation” in paragraph 3 sub-paragraphs (h), (m) and (n).

ARTICLE X

In Article 9 of the Treaty replace “telecommunications provider” with “electronic communication provider”, “telecommunications” with “electronic communications”.

ARTICLE XI

Replace Article 11 paragraph 1 of the Treaty as follows:

1. The Contracting States agree that:
 - (a) the classes of licenses are an individual licence, a class licence, or a class or sub-class of a licence as recommended by ECTEL under article 5(l);

- (b) an application made in a Contracting State for an individual licence shall be submitted to ECTEL for its review and recommendation in order to ensure compliance with the technical and financial requirements of ECTEL and this Treaty;
- (c) an application for a class licence in a Contracting State shall be submitted to the National Telecommunications Regulatory Commission in the Contracting State for its review;
- (d) an application for a frequency authorization in a Contracting State shall be submitted to ECTEL;
- (e) in the case of other licenses or sub-classes of licenses recommended by ECTEL under article 5(l), ECTEL shall determine, if an application for that licence is submitted to ECTEL or the National Telecommunications Regulatory Commission for review;
- (f) if an application is reviewed by ECTEL under paragraph (e), ECTEL shall recommend applicants who satisfy the relevant technical and financial requirements to operate an electronic communications network or an electronic communications service;
- (g) if an application is reviewed by the National Telecommunications Regulatory Commission under paragraph (e), the National Telecommunications Regulatory Commission shall review the application;
- (h) ECTEL shall manage the spectrum on behalf of the Contracting States.

In Article 11 paragraph 2 of the Treaty replace “universal service” with “universal service and access” and “telecommunications” with “electronic communications”.

ARTICLE XII

In Article 12 of the Treaty replace “universal service” with “universal service and access” and “telecommunications” with “electronic communications”.

ARTICLE XIII

In Article 13 paragraph 1 of the Treaty –

Replace “may” with “shall”.

In sub-paragraph (b) change “mediation” to “resolution” and replace the full stop with a semi-colon.

Insert a new sub-paragraph (c) as follows:

(c) refer the matter to ECTEL for arbitration.

ARTICLE XIV

In Article 17 of the Treaty delete paragraph 2.

ARTICLE XV

This Protocol shall remain open for signature by the Contracting States to the Treaty and the countries referred to in Article 22 of the Treaty.

This Protocol is subject to ratification by the signatures in accordance with their respective constitutional process.

ARTICLE XVI

This Protocol shall take effect after it is accepted by all the Contracting States, and the instruments of acceptance is deposited with the Secretariat of the Organisation.

ARTICLE XVII

This Protocol shall be deposited with the Secretariat of the Organisation and the Director-General of the Organisation shall notify all signatories of each such deposit.

IN WITNESS WHEREOF the undersigned have signed this Protocol on behalf of their respective Governments and entered into force on the **5th day of December, 2019**.

For the Government of:

Commonwealth of Dominica: Ratified on 9th July, 2019

Grenada: Ratified on 15th March, 2019

Saint Christopher and Nevis: Ratified on 28th January, 2019

Saint Lucia: Ratified on 5th December, 2019

Saint Vincent and The Grenadines: Ratified on 8th January, 2019