

**Response to
Terms of Reference on Quality of Service Regulations**

Initial Comments

**Response from
Columbus Communications Limited**

Submitted July 24 015

INTRODUCTION

- 1.1 Columbus Communications Limited “Flow” thanks the Eastern Caribbean Telecommunications Authority (ECTEL) for the opportunity to provide input to the consultation on Terms of Reference on the Quality of Service Regulations (QoS). The views expressed herein are not exhaustive. Failure to address any issue in our response, does not in any way indicate acceptance, agreement or relinquishing of Flow’s rights.

Legal & Regulatory Basis of the Proposal

- 2.1 In establishing the legal basis for this proposal ECTEL makes reference to various sections of the New Electronic Communications Bill “The Bill”. We are aware that this Bill has been under consideration for several years and has not been finalized. In particular, reference is made to proposed changes in the Draft Bill to assign the functions relating to the setting, adjustment and amendment for QoS to the Commission instead of the Minister as currently obtains under current legislation. Flow would not want to comment on subsidiary regulations before the primary legislation is finalized and in place.
- 2.2 Given the significant market changes e.g. technology and market convergence that have occurred since the existing legal framework was put in place, we understand that the revised Bill is expected to be broader in scope to cover electronic communications as opposed to telecommunications as is currently the case. For example subscription television services in out of scope of the existing legal framework, but would likely fall under the new Bill. The Terms of Reference on Quality of Service Regulations contemplates including key performance indicators (KPIs) for subscription television services. We note ECTEL’s proposals, but believe the primary legislation should be finalized before contemplating subsidiary regulations to give effect to the intentions of the revised Bill.
- 2.3 The 2009 Telecommunications (Quality of Service) Regulations for Grenada as well as the 2007 Telecommunications (Quality of Service) Regulations for St Lucia provide for;

“Amendment to Service Criteria and Parameters. The Commission may after consultation with ECTEL and having regard to the market needs and or the regulatory objectives of the Commission make recommendations to the Minister to amend the service criteria and parameters set out in the Schedules” [Section 8].

It is our considered view that market needs and or regulatory objectives for these changes should be established before such changes are made. To be consistent with the intentions of the framework and ensure transparency and accountability we also believe the need for the changes should also be objectively assessed.

- 2.4 ECTEL is proposing to implement quality of service standards covering seven services and four customer related areas. The consultation document does not explicitly address the issue of reporting and the frequency of any reporting requirements. The 2009 Telecommunications (Quality of Service) Regulations for Grenada and the 2007 Telecommunications (Quality of Service) Regulations for St Lucia provide for quarterly reporting.
- 2.6 If operators were required to report quarterly on the KPIs based on the eleven areas proposed, this would be a significant increase in reporting requirements. Given the regulatory principle of proportionality, an important consideration is the overall cost against vs. benefits to the market of such policy interventions.

Quality of Service Indicators

- 3.1 Before setting an extensive set of KPIs it would be useful to conduct a market review to assess current performance standards across the industry and determine the market needs. This is consistent with Section 8 of the existing Regulations.
- 3.2 We question the reasonableness and practicality of some of the proposed standards and KPIs. One indicator is change in subscription packages. It is not clear what which service parameters this is dealing with. We request that ECTEL provide clarifications on this proposed indicator. The proposal to notify the regulator of changes to regulated subscription packages six months

prior to such changes is not practical and or reasonable. In terms of content arrangements the market is very dynamic. Once an agreement has been completed the lead time for acquiring new channels can be as short as a few days. Given the nature of the product it is essential that cable TV operators are able to provide customers with new and relevant content as soon as it is made available to the market. The flexibility to provide our customers with new content is magnified as licensed operators are increasingly faced with unfair competition from unlicensed operators such as over the top (OTT) providers. With respect to price changes, for other regulated services, the standard notification period is 30 days. Further, tying timeframe for change, to customer enrollment date is very impractical.

- 3.3** There is not a standard definition for the term net neutrality, but the principle is generally accepted to mean that internet service providers should not prioritize one form of traffic over the other, or discriminate against different types of content / applications. Internationally the principle continues to be vigorously debated. There are many sides to the issue and the approaches adopted depends on the context and policy priorities of different markets.

In the Caribbean context, investment in infrastructure is needed to expand broadband networks. Net neutrality rules will not promote this needed investment. Given the complexities of the issue, any contemplation of net neutrality rules merits a much fuller treatment. With the increasing presence of OTT operators in our markets there is an urgent need for a holistic debate including not only sector specific regulators, but a wide range of government ministries and agencies responsible for fiscal policy, justice, national security data protection and privacy, consumer affairs and child protection. This is necessary to ensure a level playing field for all market participants, and to ensure symmetric regulation of OTTs and licensed providers.

Questions to Providers

Q1. Do you think NTRCs are best placed to update Quality of Service Regulations?

Article 4(1) (b) of the Treaty establishing the Eastern Caribbean Telecommunications Authority list one of the major proposes of ECTEL as,

“... To promote harmonized policies on a regional level for telecommunications of the contracting states;”

Article 4(1) (d) further provided for the development of “an objective and harmonized regulatory regime in telecommunications in the contracting states.

To meet the stated purposes it seems the ECTEL would have to be involved in the process of updating regulations generally.

Q2. If not please explain why

Refer to response to Q1.

Q3. Do you provide customers with information about the QoS?

We do provide service level agreements to commercial data customers. Quality of service reports are submitted to the respective NTRCs in line with regulatory requirements.

Q4. Will you be able to meet these proposed QoS Standards? If not please explain why.

In addition to the comments provided in Section 3 above, Flow will assess the reasonableness of the proposed standards, and provide more information later in the process.

Concluding Comments:

We fully support any policy or programmes aimed at encouraging service excellence. We believe that in considering such initiatives the right balance needs to be struck to promote overall market efficiency. As such, the system should not be burdensome to service providers and costly to the market. The benefits derived should outweigh the cost. In this regard industry self-regulation should also be encouraged.

Kindly direct any communication in relation to this response to:

Opal Neil

Senior Director Regulatory Affairs Columbus Communications

Phone (1)876.620.3620

Email okneil@columbus.co