

**FLOW'S RESPONSE TO  
REVISED AND UPDATED ELECTRONIC COMMUNICATIONS  
(QUALITY OF SERVICE) REGULATIONS**

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## 1. Introduction

1.1. Cable and Wireless Communications Limited ("FLOW") welcomes the opportunity to respond to the Revised and Updated Electronic Communications (Quality of Service) Regulations ("the Regulations") published by the Eastern Caribbean Telecommunications Authority (ECTEL), in January 2023.

1.2. This response is made on behalf of Cable & Wireless (St. Lucia) Limited and Columbus Communications (St. Lucia) Limited, to the National Telecommunications Regulatory Commission of St. Lucia; Cable & Wireless St. Kitts and Nevis Limited to the National Telecommunications Regulatory Commission of St. Kitts and Nevis; Cable & Wireless Grenada Limited and Columbus Communications (Grenada) Limited, to the National Telecommunications Regulatory Commission of Grenada; Cable and Wireless (St Vincent and the Grenadines) Limited and Columbus Communications (St. Vincent and the Grenadines) Limited to the National Telecommunications Regulatory Commission of St Vincent and the Grenadines; and Cable & Wireless Dominica Limited to the National Telecommunications Regulatory Commission of Dominica.

1.3. FLOW expressly states that failure to address any issue raised in this Consultation Document does not necessarily signify its agreement in whole or in part with any position taken on the matter by the NTRC or respondents. FLOW reserves the right to comment on any issue raised in this Consultation Document at a later date.

1.4. All responses to this document should be sent to Opal Neil at [opal.neil@cwc.com](mailto:opal.neil@cwc.com), and copied to Melesia Sutherland at [melesia.sutherland@cwc.com](mailto:melesia.sutherland@cwc.com) and Juliet Best at [juliet.best@cwc.com](mailto:juliet.best@cwc.com)

## **2. Legal Basis of the Revised and Updated Electronic Communications (Quality of Service) Regulations (“the Regulations)**

2.1. In referring to the umbrella legislation Section 3 “Interpretation” states,

*“ Act” means The Electronic Communication Act [- ] of 202[- ].* The Act is not fully specified here because it is not yet passed into law in all the relevant markets. As far as we are aware , only in St. Kitts and Nevis is the new Act in effect. Until the new Electronic Communications Bill is fully accented and gazetted to take effect in the respective states, a legal lacuna exists. Until such time as the Electronic Communications Bill is enacted, any revised Regulations must fall within the scope of the current Acts.

2.2 In Dominica, St. Lucia, St. Vincent and the Grenadines and Grenada, the existing Telecommunications Act, invests the Minister with the authority to make regulations to give effect to the Act. Regulations that the Minister is authorized to make includes Quality of Service Regulations. The existing Regulations state at section 8 that the Commission may make recommendations to the Minister to amend the service criteria and parameters in the schedule, however it is the Minister who is authorized to amend the schedules by order published in the Gazette

2.3 The new Electronic Communications Bill / Act drafted by ECTEL’s (Revised 3rd July 2020) at Section 10(1)(p) states that one of the functions of the Commission is ;

*“...on the recommendation of ECTEL, specify quality of service indicators for an electronic communications service and the means to enforce a licensee’s compliance with the stated standards for quality of service, including measures by which a licensee compensates users who are adversely affected by a failure to provide electronic communications service in accordance with the standards...”*

2.4 This represents a significant departure from the provisions in the existing Telecommunications Act for the countries that have yet to adopt the new Electronic Communication Bill / Act. Notwithstanding the intention of the new Electronic Communications Bill / Act to invest the Commission with the authority to impose and amend quality of service standards, this authority is not a reality and is without effect until the Electronic Communications Bill is passed into law

2.5 Until such time as the Electronic Communications Bill is enacted, any revised Regulations must fall within the scope of the current Acts.

2.6 There are no guarantees that the Electronic Communications Bill will be enacted as presently drafted, as the review and enactment of legislation is the exclusive prerogative of the national legislatures of each country. Because of the foregoing, we submit that this consultation on quality of service standards maybe premature for the jurisdictions that have not enacted the Bill.

### 3. Market Context for Reviewing the Telecommunications (Quality of Service ) Regulations

3.1 Paragraph 2.4 of the Public Consultation on the Revised and Updated Electronic Communications (Quality of Service) Regulations (“the consultation”), states that the Regulations of 2008 is becoming obsolete and ineffective and there is a need to update the regulations to reflect current markets dynamics and international best practices. We support this view and encourage any policy or programmes aimed at promoting 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.

3.2. FLOW notes that the NTRC cites the context for reviewing the Regulations as (i) *“achieving greater competition in the electronic communications sector, to improve service affordability and quality across the region”*; (ii) *“enhance resilience and emergency response capabilities for critical communications infrastructure”* and (iii) *“... it supports the modernisation of the legal, regulatory, and institutional frameworks governing the electronic communications sector at the regional level...”*. It is our view that the overriding goal is to support the development of the digital economy to drive economic growth through improved service delivery and job creation. As such, the efficient development of the industry must be a key consideration.

3.3 C&W operates in a competitive environment where QoS is a differentiator. Accordingly, this is an area in which the Company is always seeking to improve in order to delight its customers. Better technologies allow for better systems and processes as well as better QoS. Flow keeps these issues under constant review as quality of service is as a competitive differentiator. The Commissions should rely on market forces to the greatest extent possible, and to seek to regulate only when necessary. , i.e. when there is objective evidence that regulation is required. The regulatory principle of proportionality must be a key consideration in ensuring the benefits to the market of such policy interventions outweigh the cost.

#### 4. C&W's Responses to ECTEL's Questions

**Question 1:** *Do you consider it reasonable to define a national level reporting area, comprising the entirety of each individual state, in the draft revised and updated regulations? Should the reports also cover any sub-national areas? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.1. Notwithstanding the fact that three of the five states, Grenada, St. Vincent and the Grenadines and St Kitts and Nevis are multi island states, given the overall size of these countries, FLOW considers it reasonable to have QoS reporting at the national level. Given the critical nature of information and communication services to the socio economic develop, as far as is possible we believe that the uniform development of the national ICT sector should be encouraged.

4.2 Regulations 6 provides that the NTRC may require licensee to report measurements in specific areas subject to public consultation and recommendation by ECTEL. This provision allows for some flexibility for reporting to cover sub regional areas if there is a specific need for this.

**Question 2:** *Do you find it useful that NTRCs monitor the licensees' QoS parameters? Do you agree with the provisions set out in the Regulations regarding QoS monitoring by the NTRCs? Would you propose any modifications to those provisions? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.3 The monitoring of quality of service is a new provision in the revised Regulations. The proposal is for these measurements are to be done by the NTRC or a third party, however service providers are strongly encouraged to monitor these metrics to validate the NTRC's measurements. The five parameters defined as monitoring parameters are voice quality, overall satisfaction, satisfaction with enquiry services, for all service categories, satisfaction with billing performance for leased line service, and signal strength for mobile telephony services and wireless internet service.

4.4 The document does not address how the NTRCs will conduct the measurement of these parameters. Where a licensee is required to comply with QOS targets, the basis of measuring such targets should be made clear. This is necessary for transparency, otherwise it would be impossible to validate the NTRC's measurements. Flow recommends that the basis of such measurements should be clearly established and agreed.

4.5 ECTEL views monitoring parameters as useful in reducing the burden on licensees. However, service providers are encouraged to monitor these parameters so as to be able to validate the measurements from the NTRC, the burden on service providers would therefore not be reduced. In fact, in duplicating the activity the industry will incur additional cost. Duplicating this activity seem to go against the

objective of cost efficiency. To ensure efficiency, the cost of monitoring has to be considered against the benefits to the market.

**Question 3:** *Do you find the definition of monitoring parameters reasonable?*

*Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.6 Monitoring parameters are defined as results that are not required to be reported by licensees, but are meant to be monitored by the NTRC, to verify compliance with the standards and regulations by licensees. As set out in question 2, we do not consider this definition adequate. The definition should include information on how each of the parameters would be measured. This should be subject to consultation.

**Question 4:** *Do you find the publication process of results to be reasonable?*

*Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.7 Regulation 8(1) provides for licensee to publish QOS information to its customers, where the Commission makes such a decision after consultation with ECTEL. We do not believe that a requirement for a licensee to publish QOS reports to customers is necessary.

4.8 With respect to the publication of quality of service information by the Commission, the timeframe for publication and the means of publication are reasonable.

4.9 FLOW has concerns with the NTRC publishing results based on its own measurements following a monitoring campaign. Our concerns are set out in out in response to Question 2. Further where monitoring results are done by the NTRC, such results should be validated by the service provider.

4.10 Additionally, before results are published, service providers should have the opportunity to review reports to be published, to ensure consistency with information submitted and to allow for the airing of concerns. This is important as in a competitive market such reports could have an impact on competition. The actions of the Commission should not unfairly influence market competition.

**Question 5:** *Do you find the process outlined in this regulation reasonable?*

*Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.11 The amendment to Regulation 9 provides that before making changes to the requirements to provide service level agreements to wholesale customers, ECTEL must conduct a public consultation with licensees and other stakeholders to get their views, before providing advice and recommendations to the NTRCs. FLOW considers this necessary, to ensure transparency and accountability in the decision-making process.

**Question 6:** *Do you find the proposed record keeping period reasonable? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.12 Regulation 10 proposes a record keeping timeframe of eighteen months after the end of the reporting period. This maintains the timeframe established in the 2008 regulations. FLOW considers this reasonable.

**Question 7:** *Do you find a period of three (3) months reasonable for reporting QoS parameters? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.13 The three-month reporting period is reasonable. It is in line with the current regulations. Ten of the twelve countries in the benchmark sample have a three-month reporting period.

**Question 8:** *Do you find it reasonable to require that the report on QoS performance should be submitted within a month from the end of the reporting period? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.14 Flow considers that this requirement is reasonable. The requirement in the current Regulations is for the reports to be published a month following the quarter to which the report relates. In the benchmark sample presented, 7 of the 12 jurisdictions studies stipulate publication requirements a month following the reporting period.

**Question 9:** *Do you find the information required in the QoS reports reasonable? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.15 The name of the service, the geographic scope and the value of the parameter are reasonable. Details on the method of calculations should form part of the definition of the standard. This needs to be specified to ensure consistency of approach by all providers. The basis of such calculations should be the same, especially given the proposal to publish results for various providers, and comparisons made across providers. Once this is appropriately defined, we do not see the need for this to be included in the reports.

4.16 Where QoS targets are not achieved, the requirements to provide reasons, corrective actions taken or planned, time period in which target will be achieved and preventive action to avoid similar issues in the future, we consider that this level of reporting is likely to be resource and there cost intensive. In the context of a competitive market we do not consider these additional layers of reporting reasonable. Here one has to consider the cost against the benefits to the industry.

4.17 In situations of persistent noncompliance there may be some merit to providing this additional information. Maybe some threshold should be set for requiring such additional reporting. It should not be part of the standard reporting requirement.

**Question 10:** *Do you consider the obligation imposed on licensees to assign a senior accountable officer as a contact person reasonable? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.18 This new regulation requires a licensee to assign a “senior accountable officer” as a single point of contact to communicate with the NTRC in relation to QoS matters. In practice we consider it reasonable and practical to establish a key point of contact with the Commission on regulatory matters relating to QoS. The current practice is for the leader of the business to be the main point of contact with the Commission. It is the prerogative of the business to delegate selected roles to members of his or her staff.

4.19 Standards cover various business functions, e.g. technology, billing and customer experience, and the licensee may decide to have the staff member who has responsibility for a specific function engage the Commission on an issue that falls within their area of responsibility.

4.20 We note that this was not a parameter that was addressed in the benchmark analysis.

While a single point of contact is practical in managing the relationship with the Commission, we believe it is overreaching and unnecessary to seek to impose an obligation in regulations to assign a senior accountable officer to communicate with the Commission on QoS matters.

**Question 11:** *Do you find the process to verify the QoS report useful and complete? Would you propose any modifications to the process or the associated provisions? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.21 The verification of QoS reports is a new provision in the updated Regulations . Flow is requesting the Commission provides the justification for including this process in these Regulations. The parameters and target levels are largely informed by the benchmark study, except for very vague references to verifying and audit of results in some markets, no information is presented on a verification process on the scale of what is being proposed.

4.22 The process seems to be intended to verify the results of monitored parameters to include reporting methodology, as well as verifying compliance with reported targets. As mentioned in paragraph 4.4 , the basis of measuring monitoring parameters should be made clear to ensure transparency and ease in readily validating the NTRC's measurements with that of the service provider.

4.23 It is also not clear what condition would trigger the process, it appears to be at the discretion of the Commission and ECTEL. We await feedback on the justification for including the process. Our initial view is that this process may prove to be resource intensive and costly.

**Question 12:** *Do you find the definition of Force Majeure in regulation 3 reasonable? Do you agree with the proposed provisions and the procedure required for licensees to obtain a Force Majeure exemption as stipulated in regulation 14? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.24 FLOW considers the definition of Force Majeure reasonable. The expanded provisions put some structure around the process to get exemption from obligations to comply with QoS regulations based on the occurrence of a force majeure event.

**Question 13:** *Do you find the advance notice of planned interruptions reasonable? Please support your answer and any suggestions with relevant information and internal or best practice references.*

4.25 The proposal is for provide customers 48 hours advanced notice where service interruptions are planned. FLOW currently aims to provide 48 hours advanced notice to customers where service interruptions are planned. The primary means of communicating the information is via text messaging to customers in affected areas. This is to ensure that customers receive the information. This target is reasonable and desirable.

**Question 14:** *Do you consider the proposed regulation reasonable? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.26 The proposed Regulation 16 is grant NTRCs the power to issue guidelines or directives on any aspects of the QoS Regulations, after consultation with ECTEL, and to publish such guidelines or directives on their website. Flow seeks clarification as to whether the consultation would include all stakeholders, or at least key stakeholders such as the licensees who would be impacted by such decisions. Best practice regulations would require such stakeholder consultations, for this approach to be considered reasonable.

**Question 15:** *Do have any suggestions on the Force Majeure Certificate and Force Majeure Non-Certificate prescribed forms? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.27 FLOW has no comments on the Force Majeure Certificates at this time and reserves the right to comments later in the process.

**Question 16:** *Do you agree with the exclusion of the above-mentioned parameters from the QoS Regulations? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.28 Flow agrees with the exclusion of all parameters that do not relate to quality of service.

**Question 17:** *Should any other parameter be excluded from the QoS Regulations? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.29 Advanced notice of rate changes for mobile services with the proposed target level specified as “notice to be publicized in two weekly newspapers, over a two-week period using a quarter page Ad.” should be excluded from the QoS Regulations. The parameter does not relate to QoS. Notification for rate changes are covered in the terms and conditions of service. Also, proposing that newspapers be used to inform mobile customers of rate changes is sub-optimal when direct and economical means like SMS are far more effective in reaching customers.

**Question 18:** *Do you have any other comments on the proposed revised and updated draft Electronic Communications (Quality of Service) Regulations, which have not been discussed previously? Please support your answer and any suggestions with relevant information and internal or best-practice references.*

4.30 Our additional comments are focused on some of the target levels set of specific parameters.

4.31 Response time for enquiries is defined as “The time elapsed between the end of dialling to the customer service and reaching an IVR or a human operator”. The target is set at 95%. FLOW does not currently use the measure as defined by the Commission. Internally what is currently measured is the time between hand off from the IVR to an agent. We would need more time to assess the potential for using the measure defined by the Commission, and where this is possible, test / study the measure over a period of time to determine whether the proposed target is reasonable.

4.32 Answered Customer Service Call Ratio target is set at 95% for the relevant services. This target appears high relative to existing internal targets. It is probable that this target could be achieved. We will assess and provide further information as the process continues.

4.33 There is a lack of clarity around the measurement criteria for the parameters overall satisfaction, satisfaction with enquiry services and satisfaction with billing performance. Each is defined vaguely as the degree of satisfaction. In order to make an informed assessment of the targets set, more precise information on measurement criteria is needed. With respect to billing accuracy, given our objective to issue accurate bills to customers, the target of 99.5% is probable.

4.34 Time for reconnection of service, defined as “The duration from the instant of a cause of suspension of a service is removed by the affected licensee to the instant a working service is reactivated for use.”. The definition does not differentiate between reconnection for a temporary suspension of

service for nonpayment of bills and reconnection after a more permanent disconnection where facilities are removed from the customer's premises. The targets vary between 85% within 3 working hours to 95% within 3 working hours. These timelines would clearly not be reasonable in the case of permanent disconnections

4.35 The document also defines "reconnection of service" as *"the restoration of an electronic communications service by the licensee after the licensee receives overdue payment from the customer"*. While the names of parameters are basically the same, the definitions are different. We are requesting that the Commission clarifies the seeming inconsistency.

4.36 We further note that in the table Part A – Public Fixed Electronic Communications refers to a QoS KPI “

Reconnection of service after payment of overdue amounts within period (Business Hours)” with a target 85% within 3 hours. This also obtains for fixed broadband service. A similar measure is included in Part B Public Mobile Electronic Communications, with a target of 95% within 3 hours. We question the basis for the separate target for fixed vs mobile services, and request clarification on this. The various clarifications are necessary for us to address the reasonableness of the targets.

4.37 Signal strength for mobile telephony, is a new QoS parameter. Before establishing the targets, we propose that a trial period is defined, during which measurements are done. Based on the information gleaned during the trial period the targets can be established. While we support the wider objective of setting standards to drive improved service quality, targets should not be established in an arbitrary manner to the detriment of the service provider and the sustained development of the industry.

4.38 With respect to signal strength for wireless internet, we propose a similar approach of a testing period before setting the target. In general Flow recommends that where the Commission has proposed new service standards particularly for relatively new categories of service, as in the case of Wireless Broadband Service; that the Commission allows a trial period of at least two (2) quarters so that the Company can assess its performance against the proposed standard. At the end of the period the Company would report to the Commission on the extent of the attainability of the standards.

4.39 The targets for fault repair time for fixed voice, fixed internet, leased line, wireless broadband and STV are already high based on current levels. These have all been increased from current levels. It is probable that the company would have challenges meeting this standard.

4.40 Supply time for connection defined as *"The time elapsed from receipt of a valid service order being placed by a customer to the instant a working service is made available for use, excluding orders cancelled by the user during the provisioning process."* The increase to 100% in 7 working days up from 90% in seven working days. It is probable that the company would have challenges meeting this standard.

4.41 Network availability and broadband availability are not included in the existing regulations. The target levels of 99% availability does not seem reasonable.

4.42 Compared to the existing 2008 Regulations the compliance and enforcement provisions in these proposed Regulations have been significantly strengthened to include fines and summary conviction as remedies. We consider the inclusion of such criminal sanctions unreasonable, especially within the context of competition. Flow is also very concerned that such sanctions are included in parallel with increasing the targets for compliance when even some of the existing targets are proving challenging to comply with.

## **5. CONCLUSION**

5.1 We understands the Commission's intent to have continuously improving service standards and as a company that provides service in a competitive environment, we are committed to improving the quality of service offered to our customers.

5.2 Flow thanks the Commission for providing the t opportunity to participate in this consultation. We look forward to continued engagement in the process and working with the Commission in the best interest of our customers.