14 August 2026

Mr David Cox
Managing Director
Eastern Caribbean Telecommunications Authority (ECTEL)
P. O. Box BW395,
Gros Islet, LC01 601
Saint Lucia

Re: Consultation Paper on Recommendation for Regulatory Impact Analysis (RIA) Framework

Cable & Wireless St Kitts and Nevis Limited, Cable & Wireless Dominica Limited, Cable & Wireless St Lucia Limited, Cable & Wireless St Vincent and the Grenadines Limited and Cable & Wireless Grenada Limited (collectively, "Cable & Wireless" or "C&W"), each trading as FLOW, welcome the opportunity to comment on ECTEL's Consultation Paper on the Recommendation for Regulatory Impact Analysis (RIA) Framework, which was published on 26 June 2026.

FLOW supports the proposed framework and ECTEL's objective of strengthening transparent, evidence-based and proportionate regulatory decision-making across the Contracting States. The framework should reflect the practical realities of small markets, including regulatory capacity, data constraints and the importance of maintaining incentives for investment, network deployment and innovation.

Our response recommends an upfront regulatory baseline and coherence check, so that proposed interventions are assessed against existing laws, obligations and policy measures. We also support structured, proportionate stakeholder engagement throughout the RIA process, particularly for proposals with material implications for competition, consumers, investment or market development.

FLOW further recommends clear screening criteria to determine the appropriate level of assessment. Full RIAs should be reserved for proposals with material economic, consumer or competitive effects, while lower-impact measures should be subject to a streamlined process.

We trust that the attached response will assist ECTEL in refining the framework. FLOW remains available to engage further as the framework is developed.

Yours sincerely,

Kevon Swift
Senior Manager, Regulatory and Government Affairs

1. INTRODUCTION

1.1. Cable & Wireless St Kitts and Nevis Limited, Cable & Wireless Dominica Limited, Cable & Wireless St Lucia Limited, Cable & Wireless St Vincent and the Grenadines Limited, Cable & Wireless Grenada Limited (collectively as "Cable & Wireless" or "C&W"), each doing business as Flow, are pleased to provide its comments on the comments to the Consultation Paper on the Recommendation for Regulatory Impact Analysis (RIA) Framework, ("the Consultation") published by Eastern Caribbean Telecommunications Authority (ECTEL) on 26 June 2026.

1.2. FLOW supports the proposed framework and ECTEL's objective of strengthening transparent, evidence-based and proportionate regulatory decision-making across the Contracting States.

1.3. FLOW's comments correspond exactly to the Consultation's proposed questions.

1.4. Please send all responses to this Consultation and any matters arising to **Kevon.Swift@libertycaribbean.com** and **Neda.Brown@libertycaribbean.com**.

3. **Question 1: Are the steps in the RIA process framework clear and comprehensive or should additional / different components be included in the high-level overview?**

Response

3.1. FLOW broadly agrees that the seven-step process — problem definition, objective setting, option identification, net benefit assessment, consultation, selection of the preferred option, and evaluation — captures the core elements of good regulatory practice. The framework would, however, benefit from an explicit preliminary step requiring regulators to review pending treaty obligations to be domesticated, existing laws, regulations and policies that may overlap with, duplicate or conflict with the proposed intervention. This step may determine whether the intervention is an improvement, which requires a different set of analytical tools, or a new response to an unprecedented situation.

3.2. A baseline review at the outset could identify measures that already address the problem, even if partially, and reduce the risk of inconsistent or overlapping obligations. FLOW recommends introducing a "Regulatory Baseline and Coherence Check" ahead of problem definition, so that proposed interventions are assessed against the existing regulatory landscape rather than in isolation. It should also be clarified that problem definition should benefit from multistakeholder participation to expeditiously determine problem scope, the accuracy of underlying assumptions and hypotheses, possible unintended consequences, and to enrich the pool of policy options considered.

3.3. The framework should recognise stakeholder engagement as a continuous activity, beginning during problem definition and objective setting and continuing through option development, appraisal and implementation planning. Early multistakeholder engagement can validate the evidence base, identify unintended consequences and ensure that feasible regulatory and non-regulatory options are considered.

4. **Question 2: Should a requirement be introduced that all regulatory proposals, with exceptions under defined circumstances, undergo RIAs? What criteria should apply for exemptions?**

Response

4.1. FLOW supports a general requirement for RIAs where proposals are likely to have a material impact on market outcomes, competition, consumers or compliance costs, consistent with the Australian, New Zealand and Ofcom thresholds cited in the consultation paper. FLOW submits that RIAs should be mandatorily applied to significant, cross-cutting digital and ICT issues, such as, *inter alia*, AI, data protection, cybersecurity obligations, digital platform licensing, cloud regulation and digital identity. These examples are cross-sectoral and may suffer from the irreversible effects of regulatory choices if left out of a RIA. Not every regulatory measure warrants the same level of assessment, and FLOW endorses the OECD's Mauritius exemption categories referenced in the paper: emergencies, internal administrative processes, legal drafting updates, direct transposition of binding international obligations, and routine budgetary measures.[1]

4.2. Applying RIAs to every single regulatory action would place an unnecessary administrative burden on regulators with limited resources, contrary to the proportionality principle the consultation paper itself emphasises for small jurisdictions. FLOW therefore recommends adopting these exemption categories directly, with streamlined treatment for measures of minimal market impact and full RIAs reserved for proposals with significant economic, consumer or competitive effects.

4.3. Exemptions from a full RIA should be restricted to select circumstances: emergency measures; internal administrative or drafting changes; measures giving effect to binding international obligations where there is no material regulatory discretion; and minor amendments with no material effect on stakeholders' rights, obligations, compliance costs, competition or market outcomes.

4.4. Where an exemption is granted, the regulator should publish a brief statement of reasons. This would promote transparency and help ensure that exemptions are applied consistently.

[1] OECD, Establishing Regulatory Impact Assessment in Mauritius (OECD Publishing, Paris 2022) 80 <https://www.oecd.org/en/publications/establishing-regulatory-impact-assessment-in-mauritius_2d072a27-en.html> accessed 21 July 2026.

4.5. FLOW further recommends that ECTEL formalise the proposed proportionality test through clear screening criteria for determining whether a light, medium or full RIA is required.

5. **Question 3: Should any additional factors be considered within the proportionality test?**

Response

5.1. FLOW recommends supplementing the proportionality test with a materiality dimension rather than relying on qualitative scoring alone. The consultation paper cites fixed monetary thresholds used in Canada, Denmark and South Korea, but rightly notes these are not readily transferable to ECTEL Member States given the significant variation in market size across the region. This is consistent with the OECD's own guidance that proportionality should be assessed by asking whether the cost of performing the RIA is likely to exceed the expected policy value generated by the additional analysis[2][3], a test that is scalable rather than a fixed figure and is therefore better suited to jurisdictions of markedly different economic size.

5.2. Rather than a single fixed threshold, FLOW proposes that proportionality be assessed against relative measures such as the proportion of subscribers affected, the scale of compliance costs, or the likely impact on sector investment, so that the test scales consistently across markets of differing size while remaining flexible enough to apply case by case. Furthermore, other factors that are key in applying proportionality tests for ECTEL Member States include availability of quality data (current, relevant and reliable), administrative capacity, and regulatory novelty or uncertainty. These factors are unique as they are directly related to the resource and capacity concerns for the regulators of small markets.

5.3. The test should consider the distribution, not only the aggregate size, of impacts. A measure with a modest overall effect may impose substantial costs on smaller operators, new entrants or rural consumers. This assessment would help identify risks to competition, market entry and vulnerable users.

5.4. Finally, the test should consider reversibility. Measures that are difficult or costly to reverse, or that may have lasting effects on market structure, investment incentives or innovation, should receive more rigorous scrutiny than temporary, readily amended or trial-based measures.

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[2] OECD, Regulatory Impact Assessment, OECD Best Practice Principles for Regulatory Policy (OECD Publishing, Paris 2020) <https://www.oecd.org/en/publications/2020/02/regulatory-impact-assessment_0bf78a03.html> accessed 21 July 2026.

[3] OECD, Building an Institutional Framework for Regulatory Impact Analysis (RIA): Guidance for Policy Makers (OECD Publishing, Paris 2008) 18 < https://www.oecd.org/content/dam/oecd/en/publications/reports/2008/07/building-an-institutional-framework-for-regulatory-impact-analysis-ria_g1gh9775/9789264050013-en.pdf> accessed 21 July 2026.

6. **Question 4: Are there any additional factors that should be considered when formulating objectives?**

Response

6.1. FLOW supports the proposed SMART-based approach and recommends that objectives expressly address expected effects on investment incentives and network deployment.

6.2. Digital transformation, universal access and network resilience in Caribbean small island developing states depend on continued private-sector investment. Objectives should therefore state how a proposed measure is expected to affect network expansion, technology upgrades and long-term infrastructure investment.

6.3. Each objective should include clear indicators for post-implementation evaluation. Where trade-offs arise between competition, consumer protection, affordability, innovation and investment, they should be identified at this stage so that the RIA can assess them transparently.

7. **Question 5: Are there any intervention options that would not be appropriate in ECTEL Contracting States?**

Response

7.1. FLOW considers that subsidy schemes or industry funding mechanisms requiring significant new administrative structures should be approached with caution, given the fiscal and institutional constraints facing many ECTEL Member States.

7.2. The effectiveness of such mechanisms depends on strong governance, sustainable funding streams and administrative capacity that may not consistently exist across smaller markets. RIAs should therefore assess the implementation and ongoing administration costs of subsidy or levy-based options explicitly and consider whether less burdensome market-based alternatives could achieve comparable policy outcomes before a subsidy model is adopted.

7.3. RIAs should also scrutinise measures that favour particular technologies, business models or market participants, or impose substantial reporting, monitoring or compliance requirements. Such measures should not discourage investment, limit innovation, create unnecessary barriers to entry or divert scarce resources from network expansion and service improvement.

7.4. Similarly, options that introduce significant reporting, monitoring, or compliance requirements must be evaluated against the practical capacity of both regulators and industry stakeholders to

implement them effectively, avoiding unnecessary burden. In smaller markets, overly complex administrative requirements can place unnecessary demands on resources that could otherwise be directed toward network expansion, service improvements, and innovation. A proportionate approach should therefore focus on solutions that are practical, transparent, and capable of achieving meaningful outcomes.

7.5. The regional effect of major interventions should also be considered. Given the close links among telecommunications markets across the entire region, significant differences in regulatory approaches within ECTEL Contracting States viz the rest of the Caribbean could have unintended effects on cross-border services, regional consistency, and the ability of operators to benefit from economies of scale.

8. **Question 6: What would be an appropriate range for the discount rate for use in ECTEL Contracting States?**

Response

8.1. FLOW recommends that discount rate guidance reflect the economic realities of SIDS rather than the rates the consultation paper cites from Australia, Canada and Denmark, which were calibrated for larger, higher-income economies with different financing costs, inflation and investment risk profiles.

8.2. Rather than prescribing a single uniform rate, ECTEL should provide a recommended range accompanied by sensitivity testing requirements, allowing for differences in fiscal conditions across Contracting States while still giving operators and regulators a workable, predictable starting point for appraisal. This approach is consistent with IMF public investment management guidance, which recommends sensitivity testing of discount rate assumptions rather than reliance on a single rate, particularly where fiscal and financing conditions vary materially between jurisdictions.[4]

8.3. The guidance should reflect the long-term nature of telecommunications infrastructure, reliance on private-sector investment and financing constraints in small island economies. It should allow appropriate flexibility for projects with wider public benefits, resilience objectives or access benefits in underserved areas, while retaining a clear and consistent assessment method.

[4] International Monetary Fund, PIMA Handbook: Public Investment Management Assessment (IMF, Washington DC 2022) 66.

9. **Question 7: Are the processes described in this section for assessment of net benefit/cost sufficiently clear and workable, or is further clarification required? Are there any additional tools which would add value to the appraisal process if included in the RIA framework?**

Response

9.1. FLOW supports the inclusion of multi-criteria analysis, particularly for social, resilience and digital-inclusion benefits that cannot readily be monetised. Further guidance is needed on data quality, relevance and timeliness, which the paper identifies as a constraint in small island states.

9.2. The framework should require use of the most recent available data, prioritise reliable primary sources where available, and require transparent disclosure of material data limitations and assumptions.

9.3. It should also give clearer guidance on uncertainty and risk, including sensitivity and scenario analysis where appropriate. Given the pace of technological and market change, this may help ensure that decisions remain robust under different conditions.

9.4. Appraisals should consider both short-term costs and longer-term benefits, particularly where measures support connectivity, resilience, competition and investment. The level of analysis should remain proportionate to the scale and likely effect of the intervention.

10. **Question 8: At what stages during the RIA process would it be appropriate to conduct stakeholder consultation?**

Response

10.1. FLOW recommends stakeholder consultation at two fixed stages: during the definition of the problem and its objectives and once preferred regulatory options have been identified and assessed.

10.2. This allows stakeholders to shape both the framing of the problem and the evaluation of proposed solutions, without the open-ended consultation burden that case-by-case timing, as currently proposed in the paper, would create. Setting these two points as the default practice gives operators predictability across concurrent proceedings while still preserving flexibility for additional engagement on higher-impact matters.

10.3. FLOW recommends that the framework distinguish formal consultation from information-gathering exercises. Formal consultation should have clear scope, timelines and supporting information sufficient for stakeholders to comment meaningfully.

10.4. For complex or high-impact proposals, regulators may undertake early information-gathering to test assumptions, identify implementation issues and improve the evidence base. Such engagement should be proportionate and should not result in repeated requests for the same information.

10.5. Regulators should publish a summary of submissions and explain how material comments were reflected in the final RIA or decision, including reasons for not adopting significant proposals.

11. **Question 9: Are there any other factors that should be considered as part of the decision-making process?**

Response

11.1. FLOW considers the proposed decision-making criteria comprehensive but recommends adding regulatory stability and cumulative regulatory burden as explicit factors.

11.2. Individual measures may each appear proportionate in isolation, but their combined effect can materially influence investment decisions in small markets. Decision-makers should therefore consider whether a proposed measure supports a stable, predictable regulatory environment and assess its cumulative impact alongside other ongoing or anticipated regulatory initiatives, not just its standalone effect.

11.3. FLOW recommends that the final decision explicitly assess the preferred option's effects on competition, innovation, consumer choice and investment, including any unintended consequences. Decision-makers should also confirm that the option is feasible considering regulatory capacity and industry readiness.

11.4. The final decision should explain why the preferred option was selected and how material trade-offs were weighed.

12. **Question 10: Data requirements involve balancing the need for timely information against the costs and burden of data collection. What would be a realistic schedule for supplying data: monthly, quarterly, annually?**

Response

12.1. FLOW recommends annual reporting as the default schedule for RIA monitoring and evaluation, with more frequent reporting applied only where justified by the significance of the intervention.

12.2. Data collection should be proportionate to the likely impact of the measure under review, and annual reporting may generally provide sufficient information for most RIAs while compliance burdens on regulators and stakeholders alike. Where a measure involves major market intervention or significant competitive concerns, regulators could require temporary quarterly reporting for a defined, time-limited period, subject to periodic review rather than becoming a standing obligation.

12.3. The framework should allow reporting frequency to be adjusted where data availability or reporting capability differs materially across markets or operators. Any adjustment should be proportionate, time-limited where possible, and should not compromise the consistency or reliability of information used to assess whether regulatory objectives are being met.

[END OF RESPONSE]