

ANNUAL REPORT

NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

for the period

October 2003 to September 2004

March 21st. 2005

Bois d' Orange, Saint Lucia

ABBREVIATIONS & ACRONYMS

Commission	National Telecommunications Regulatory Commission
ECTEL	Eastern Caribbean Telecommunications Authority
ECTEL Member States	St. Kitts & Nevis, Dominica, St. Lucia, St. Vincent & the Grenadines, Grenada
MMS	Mobile Monitoring Station
NCC/SMC	National Control Centre/Spectrum Monitoring Station
NTRC	National Telecommunications Regulatory Commission
NTRCs	The National Telecommunications Regulatory Commission in the ECTEL States
SMMS	Spectrum Monitoring and Management System
Treaty	Treaty Establishing the Eastern Caribbean Telecommunications Authority

EXECUTIVE SUMMARY

The period, October 1st, 2003 to September 30th, 2004, has been one of quiet progression for the National Telecommunications Regulatory Commission, as it continues to complete programmes that were initiated during 2002/2003. Its focus thus continues to be on institutional strengthening and fully operationalising the telecommunications legislation, which is reflected in its Work Plan.

A new three-year term for the Commission began on October 22nd, 2003, and larger accommodations have been secured in the Global Tile Building, Bois d'Orange. There has been the appointment of a Technical Officer and the Spectrum Monitoring and Management System procured through the Eastern Caribbean Telecommunications Authority (ECTEL) has been received.

Within the sector, there has been very little growth in the number of licences awarded under the Telecommunications Act, for the provision of telecommunications services to the public. There are also worrying observations about possible factors that might be impeding market entry and the launch of new services.

Overall, there was a marked improvement in the quantum of licence and spectrum fees collected within the reporting period. However, there have been teething problems, such as inaccurate data entry and invoicing, which resulted in delays in collection whilst those matters were being addressed.

Within the 3rd quarter of 2004, an *Implementation Agreement for a Price Cap Regime* was signed by ECTEL, its Member States and Cable & Wireless. The document identified a number of precursor activities that would have to be achieved before implementation of price caps, which could then begin early in 2005.

The case between Cable & Wireless and the Commission is still ongoing. However, in light of the recent Implementation Agreement there have been questions as to whether it is desirable or necessary to continue with the appeal.

Finally, great attention has been given to the factors that affect the work of the Commission, in an effort to identify critical issues that directly affect the regulation and continued development the telecommunications sector. Concern has also been expressed with respect to what appears to be the absence of a coherent approach to utilising telecommunications as a vehicle for national development, and reference has been made to sister jurisdictions that appear to have implemented programmes that could be studied.

NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

1.1 CONSTITUTION OF THE COMMISSION

Pursuant to section 8 of the Telecommunications Act [No. 27 of 2000], the Minister of Communications, Works, Transport & Public Utilities appointed the following persons as Commissioners to the National Telecommunications Regulatory Commission for the period October 22, 2003 to October 21, 2006:

- Mr. Eldon Mathurin (Chairman)
- Mr. J. Wendell Skeete
- Mr. Victor Eudoxie
- Mr. Victor Ellis
- Mr. Thaddeus Antoine

A summary on each Commissioner has been provided in Appendix A.

1.2 DIARY OF KEY EVENTS

Generally, the period October 2003 to September 2004, has been about progressing activities that had begun within the last reporting period. Of note, however, there has been work done on a proposed Price Cap Plan, which will likely take effect from 2005 and will influence the sector for years to come.

A Diary of Key Events for the period under review has been presented in Appendix B.

HUMAN RESOURCE CAPACITY

With the relocation of the Commission's offices and the availability of much needed space, the organisation has become more proactive with respect to meeting its human resource needs. In that regard, attention is being paid to the technical requirements of the Commission, which include spectrum management, spectrum monitoring, numbering and type approval, and accordingly, securing the necessary expertise to satisfy those activities.

2.1 NEW & FUTURE APPOINTMENTS

On July 21st, 2004, Mr. Garvin Girard, was appointed to the position of Technical Officer, which increased the staff complement at the Commission's offices to five. His key duties include:

- (a) Reviewing all technical issues associated with evaluations that the Commission is required to conduct;
- (b) Scheduling and undertaking all spectrum monitoring and management activities;
- (c) Advising the Commission on all technical issues, such as those related to management of the radio frequency spectrum and numbering;
- (d) Assisting in the administration of numbers allocations and assignments in St. Lucia;
- (e) Investigating, reporting and advising on complaints or conduct concerning allegations of breaches of the law, as it pertains to telecommunications;
- (f) Conducting inspections to ensure compliance with prescribed technical standards;
- (g) Assisting in the formulation of policies and strategies for carrying out the responsibilities of the Commission under its enabling main and subsidiary legislation; and
- (h) Performing such other related duties as may be assigned from time to time.

In light of the extensive duties that the Technical Officer will be required to undertake, and the need to ensure that in his absence that some level of technical support is still available, it has been proposed that an assistant be recruited. The proposed Technical Assistant would work closely with the Technical Officer and would be under his direct supervision. It is likely that the position will be advertised in early 2005, and would be filled soon thereafter.

2.2 ORGANISATIONAL CHART

The Organisational Chart for the Commission has been modified to take into account recent and proposed appointments and also the impact of office relocation. The services of a part time Office Attendant, which was reflected in our 2002/2003 Annual Report, was shared with the Eastern Caribbean Telecommunications Authority. However, with the relocation, that arrangement could no longer continue, as the needs of the organisation could not support the full time employment of an Office Attendant.

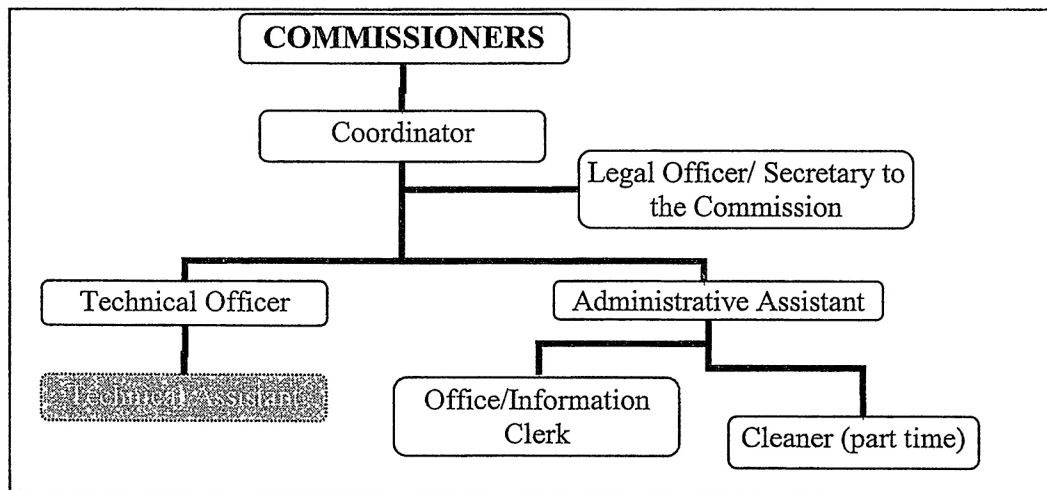


Figure 2.1: Organisational Chart for the National Telecommunications Regulatory Commission

PLANT & EQUIPMENT

3.1 RELOCATION OF NTRC OFFICES

On February 26th, 2004, the offices of the National Telecommunications Regulatory Commission were relocated to the second floor of the Global Tile Building, Bois d'Orange, from its initial location in the ECTEL Building, Vide Bouteille. At the new premises, the office space available to the Commission has almost tripled, which has allowed for more effective accommodation of its support staff members and the activities that the organisation is required to undertake, most notably its spectrum monitoring and management functions.

Apart from the office address, the organisation's contact information has remained the same as shown below.

National Telecommunications Regulatory Commission
Global Tile Building (Bois d' Orange)
P. O. Box GM 690
Castries
St. Lucia (West Indies)

Tel: (758) 458 2035
Fax: (758) 453 2558
Email: ntrc_slu@candw.lc

3.2 THE SPECTRUM MANAGEMENT & MONITORING SYSTEM (SMMS)

The Commission has finally received the Spectrum Management & Monitoring System (SMMS), which was acquired by ECTEL, through a contract with Tadiran Electronic Systems Ltd. of Israel. The contract required the procurement and deployment of spectrum management and monitoring systems in the five (5) ECTEL Member States, with the hub/control centre located at the ECTEL premises.

The project specifications document indicated that the monitoring and management operations in each country would be coordinated from its National Spectrum Control Centre/Spectrum Management Centre (NCC/SMC), with most of the spectrum monitoring activities to be carried out by a Mobile Monitoring Station (MMS). To

establish a regional spectrum monitoring and management system, in keeping with the spirit of the Treaty, a Main Spectrum Management Centre (SMC), has been established at the ECTEL Headquarters to coordinate activities in Member States. Figures 3.1 and 3.2 illustrate the local and regional configurations, respectively, of the spectrum management and monitoring systems.

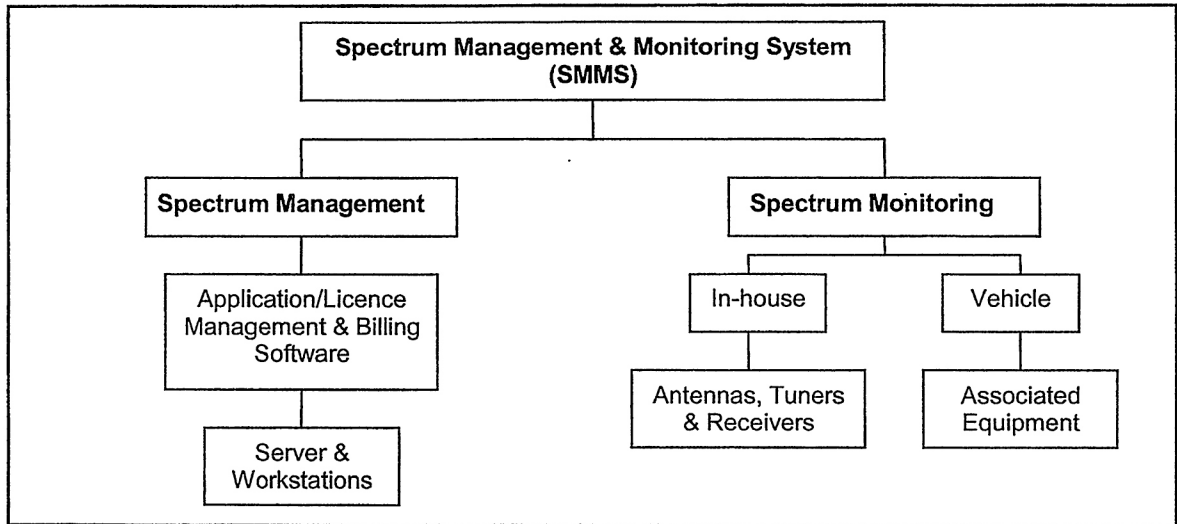


Figure 3.1: Schematic of the Spectrum Management & Monitoring System at each NTRC (NCC/MCC)

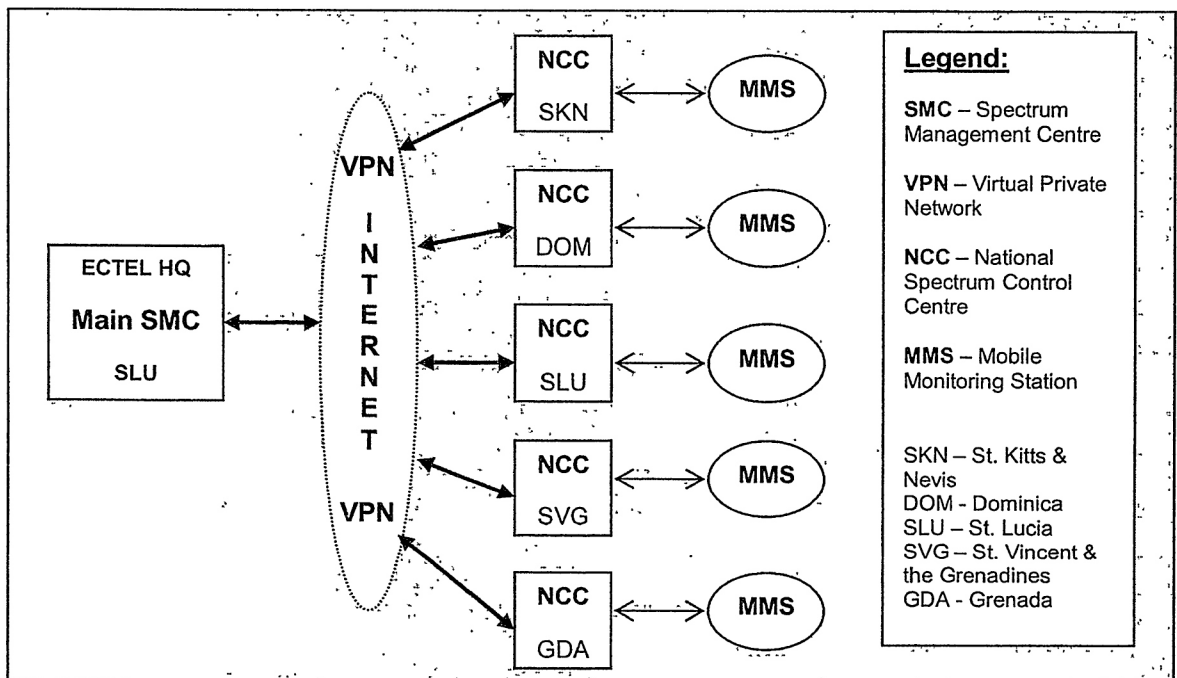


Figure 3.2: Schematic of the Regional Spectrum Management & Monitoring System

3.2.1 Training

Within the period since the last report, the contractors, Tadiran, have offered training on the three key components of the SMMS,

- (i) the licensing and billing software,
- (ii) the spectrum monitoring software, that will be used in-house, and
- (iii) the MMS, comprising the vehicle and its equipment.

It has been communicated that as of May 2004, the licensing and billing software would begin its trial use by the NTRCs and ECTEL, for the period of one year. Within that time, Member States are encouraged to use the software and report any faults or errors that have been discovered, for immediate correction. Arrangements have also been made for a representative from Tadiran to be available within the ECTEL sub-region, also for a period of one year, to assist the NTRCs and ECTEL in using all of the equipment that has been delivered.

With the recent appointment of the Technical Officer, the Commission has been moving assiduously to utilise the SMMS. The Work Plan, presented in Chapter 13, further describes some of the key activities that will be undertaken in that regard.

3.2.2 Assignment of the SMMS to the NTRCs

As a result of contractual obligations associated with procuring the SMMS, it has been agreed that the system will remain the property of ECTEL. Since the NTRCs are required to use the parts of the systems that have been deployed to their individual territories, it has been proposed that a Memorandum of Understanding (MoU) be signed between each NTRC and ECTEL, stating the conditions and obligations of each party, as regard the SMMS.

In preliminary discussions so far, the Commission is responsible for the upkeep of the vehicle and for insuring the equipment that is being housed on its premises. These obligations have resulted in increases in the organisation's proposed budget for the upcoming fiscal year, 2004-5, especially as it pertains to the projected expenditure for fuel, since island-wide monitoring with the vehicle will be initially required in order to establish a reference record for future activities.

SYSTEMS DEVELOPMENT

4.1 POLICIES DEVELOPMENT

The Minister for Communications, Works, Transport & Public Utilities has made efforts to provide policy guidance to the Commission on most of the issues identified in the last report. Since that time, he has sought to secure the assistance of officers in his Ministry who would better advise him and follow up on telecommunications matters requiring his attention. This arrangement was put in place during the third quarter of 2004, and so it is expected that the Commission shall soon be receiving improved communication from the Minister's Office.

4.2 SECTOR PROCEDURES MANUAL

In keeping with last year's Work Plan and the promised action, work began in-house to prepare the Sector Procedures Manual (SPM). Towards the end of May, the Commission was able to secure technical assistance from the Canadian International Development Agency (CIDA), for the preparation of the Manual. Mr. Stuart MacPherson, a CIDA consultant and former Executive Director for Telecommunications of the Canadian Radio-television and Telecommunications Commission (CRTC), was recruited.

In an introductory visit to St. Lucia in July, the Terms of Reference for the assistance and timelines for completing the Manual were agreed. These timelines have been captured in the Work Plan, presented in Chapter 13.

It should be noted that upon finalisation of a full draft of the Manual, it will be submitted for Public Consultation. The consultation process would be two-tiered, in keeping with the Commission's guidelines¹, with a time frame from publication of the Consultation Document to finalisation of Manual, lasting no more than 84 days (12 weeks).

As has been done in the past, notices of the publication of the Consultation Document will be circulated through the various news media. Copies of the Document will be made

¹ 'Guidelines for Conducting Public Consultations' [LCP/AP03.001], was published in April of 2003 and is available on the Commission's website.

available on the Commission's website, www.ntrc.org.lc and from its offices. Additionally, arrangements will be made for it to be published in the Official Gazette.

4.3 OFFICE PROCEDURES MANUAL

Substantive work on the Office Procedures Manual (OPM) has been deferred until the full draft of the Sector Procedures Manual (SPM) has been prepared. That position was taken because the contents of the SPM would dictate some of the activities that the OPM would need to address. It would be required to not only address general procedures for the day-to-day management of the office, but also develop procedures that the secretariat ought to use in providing direct support to the Commission when executing its duties.

In the meantime, the existing procedures that are being utilised are being documented. It is thus expected that work on the OPM, with the assistance of external expertise, will begin during the last quarter of 2004.

4.4 WEBSITE

The Commission's website, www.ntrc.org.lc, which has been in operation since March 2003, has been a key medium through which the public is kept informed of its activities. As presently designed, notices of recent developments, such as public consultations, press releases and reports, are presented on the home page, with links made to the substantive documents, as might be relevant.

The design of the website is presently being reviewed to determine whether it could be made more user-friendly and whether the information could be even more accessible, with the necessary remedial works to be effected. In order to minimise costs, this activity will be done in-house, with external assistance secured as required.

OTHER INSTITUTIONAL STRENGTHENING MEASURES

5.1 REGIONAL NTRC DISCUSSION FORUM

The creation of a regional internet-driven Discussion Forum among the NTRCs was first proposed at an informal meeting of NTRC representatives held in March 2004. The Discussion Forum was seen as a cost effective mechanism through which the NTRCs could maintain constant communication, ventilate issues, and share expertise on technical and administrative matters of interest.

As was agreed at the meeting, a proposal was made to ECTEL to host the discussion forum on its website. The consensus was that since this initiative supported regional harmonisation, the ECTEL website would be the most fitting location, since the organisation was also the hub of the telecommunications regulatory machinery. As of September 30th, a response to our request had not been provided. However, as part of any remedial works to revamp its website, NTRC St. Lucia is prepared to establish a basic discussion forum, which could be used by all NTRCs.

5.2 IMPROVED LINKS WITH OTHER AGENCIES

In order to better perform its responsibilities, the Commission will occasionally require the co-operation of other agencies and/or government departments. Although in many instances there has been previous interaction, the opportunity is now being taken to put those relationships on a firmer footing, and where appropriate, to agree on areas for collaboration and the procedures to be followed in invoking that collaboration. Details on some of the agencies that the Commission will approach have been provided in the Work Plan (Chapter 13).

6

FINANCIAL REVIEW

This section of the report will highlight the developmental changes which challenged the financial position of the Commission. The areas that will be discussed are as follows: -

- Update on Financial Autonomy of the Commission;
- Overview of the Income Inflows and Usage;
- Auditor's Financial Report

6.1 UPDATE ON THE FINANCIAL AUTONOMY OF THE COMMISSION

In October 2003, operating accounts which had initially been registered in the name of the Accountant General, Treasury Department, were registered in the name of the Commission.

However, as was last reported, the Commission had sought the transfer of application fees that had been deposited in a Government sundry account during the period September 10th 2001 to January 31st 2002, totalling EC\$ 65,506.17. It was also reported that a discrepancy in the assignment of EC\$ 6,000.00 to the sundry account had been discovered and was being investigated. In November 2003, the Commission received EC\$ 59,506.17 of the total collected, but the recovery and transfer of the EC\$ 6,000.00 still remains outstanding.

6.2 INCOME INFLOWS AND USAGE

For the period October 1st, 2003 to September 30th, 2004, a total of EC\$ 500,000 was received from the Eastern Caribbean Telecommunications Authority (ECTEL), which was its committed contribution towards the Commission's budget. The amount received was not sufficient to finance the Commission's proposed budget, which had been projected at EC\$ 734,201.

In the absence of additional sources of funding, the Commission was forced to postpone some of its planned activities and give priority to

- Relocation of the NTRC's offices,
- Increase in utilities and the introduction of rent,
- Infrastructural improvements to serve the needs of the organisation,
- Additional staff recruitments,

and deferred, among other things,

- The construction of a garage to accommodate the Spectrum Monitoring Vehicle,
- The development of an Office Procedures Manual, and
- The preparation and implementation of a comprehensive Public Education Campaign.

A revised budget, as at July 2004, revealed that the Commission would have expended approximately EC\$ 597,750, by the end of the financial year: EC\$97,750 over the total contributions received from ECTEL. It was evident that the Commission would not be able to meet its day-to-day operations and accomplish certain critical activities, until the end of the financial period.

In August 2004, based on the revised budget, a request for supplementary funds was made to ECTEL to finance committed expenses for July to September 2004 quarter, which by that time also included the urgent construction of the garage. As of September 30th, ECTEL indicated that it would approve an additional disbursement, but the funds have not yet been received.

6.3 FINANCIAL AUDIT REPORT

The report of the independent auditors, G. Llewellyn Gill and Company, has been provided as Appendix C to this report. Figure 6.1 illustrates the distribution of the Commission's expenditures during the fiscal year, which is based on the figures presented in the auditor's report. It should be noted that due to the increase in the line items, some expenses have been grouped to simplify the pie chart.

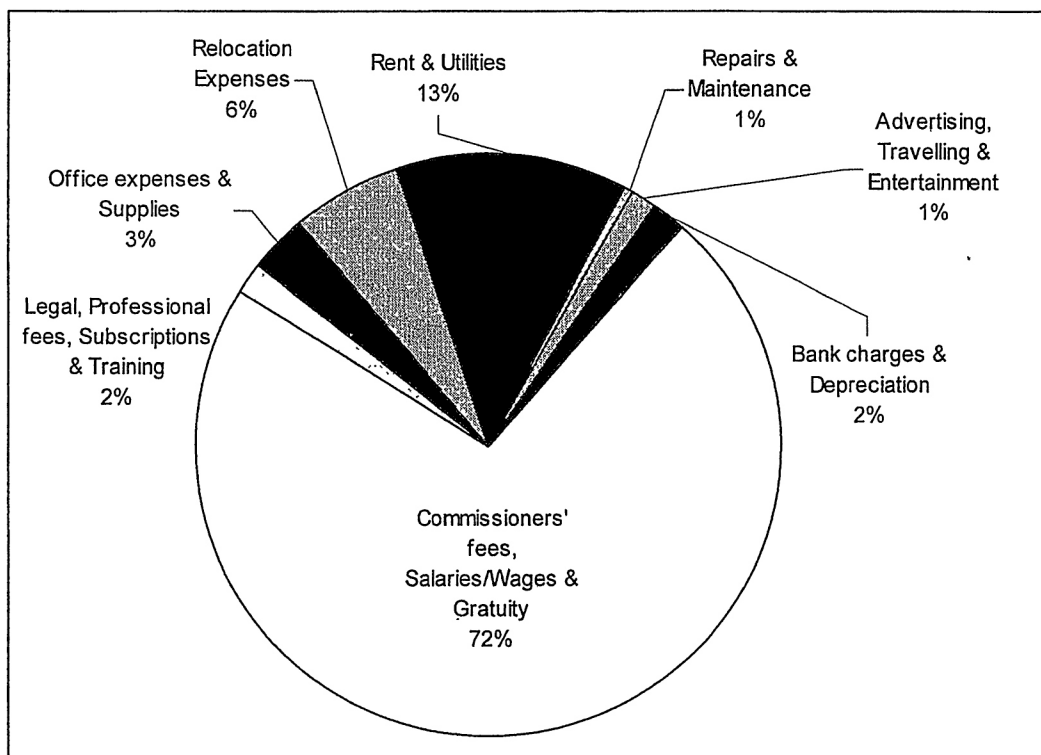


Figure 6.1: Expenditure for the period ended September 2004

Similar to the Commission's previous financial report, the remuneration to staff and Commissioners fees accounted for over 70% of the expenditure during the 2003/2004 fiscal year. The dollar amount, however, increased by EC\$ 166,725, which was due to the recruitment of additional staff and the implementation of a mechanism for the regular deduction for future gratuity payments.

The expenses associated with the relocation of the Commission's office to the Global Tile Building were capital expenses to create the environment conducive to the work of the organisation. However, the payment of rent is a new recurring expense. It should also be noted that the cost of utilities, especially electricity, is significantly higher at the new location, due to the larger premises, and the demands made with respect to lighting and air-conditioning, as well as the increased equipment on site.

Finally, of note is the relatively small amount under *Legal/Professional fees*, as compared with that for 2002/2003. In the last financial year, the Commission was engaged in litigation with Cable & Wireless (West Indies) Limited. The services of Legal Counsel had to be secured and the fees for his services were thus reflected in last year's report.

TELECOMMUNICATIONS LICENCES

Upon the recommendation of ECTEL, January 30th, 2002, was set as the deadline for receipt of Applications for Individual Licences, thereby closing the process indefinitely and allowing the organisation to evaluate the applications that it had received. By an advisory dated October 22nd, 2003, ECTEL recommended the publication of an invitation for Applications for Individual Licences. Such an invitation was published in the Official Gazette, in December 2003.

The number of providers/users licensed under the Telecommunications Act 2000 has increased marginally since the last report. However, during that time significant groundwork has been done to establish the systems that would allow for an extensive re-licensing programme to be initiated in the coming months, and which has been included on its Work Plan for 2004/5.

7.1 LICENCES UPDATE

Since the last report, according to the Commission's records, the activities with respect to licences have been as follows.

7.1.1 Licences Issued

Licence: The Resale of International Switched Minutes

Licensee	Date Issued
NETEL	December 5, 2003
Global Link (St. Lucia) Limited	November 21, 2003
NCIC (St. Lucia) Limited	October 28, 2003

Licence: Restricted Internet Services Provision

Licensee	Date Issued
Flo Internet Services	January 8, 2003

Licence: Private Telecommunications Network

Licensee	Date Issued
Helen IT Systems	July 27, 2004

7.1.2 Licences Transferred or Assigned

As of September 30th, 2004, no licences have been transferred or assigned.

7.1.3 Licences Modified

As of September 30th, 2004, no licences have been modified.

7.1.4 Licences Terminated

As of September 30th, 2004, no licences have been terminated.

7.2 COMMENTS

From the update provided, it has been observed that only six (6) additional licences have been issued within the period under review. In many respects, this can be attributed to the continued unavailability of licence templates for other telecommunications services such as Land Mobile Radio, Maritime Mobile Radio, Aeronautical Mobile Radio and Amateur Radio, for which scores of existing users need to be properly licensed under the Telecommunications Act 2000. Thus, having taken into consideration the significant amount of time that has elapsed whilst awaiting receipt of the outstanding approved licence templates from ECTEL, the Commission's secretariat has undertaken to prepare drafts of the licences, which it hopes will be approved and issued in the coming months.

It should be noted that some of the licensees for International Simple Voice Resale and Restricted Internet Service Provision have not yet launched their services. In some instances, this has been attributed to the fact that some of the new entrants/licensees are not as familiar as they might be with the requirements needed to successfully negotiate agreements of this nature. These services require the use of the incumbent's network infrastructure, and are usually procured by wholesale agreement between the new entrant/licensee and the incumbent.

In discussions with the Commission, the new entrants/licensees have often attributed the protracted negotiations with the incumbent operator to the unsatisfactory terms that are being offered. It has also been questioned whether the incumbent has been using its powers as the sole owner of the fixed network infrastructure and the sole provider of fixed line and internet services to impede new entrants' access to the telecommunications markets. That argument may have been given credence by the recent improvements that have been made to its internet (specifically ADSL) service in terms of prices and capacity, in the absence of competition in that market.

The regulation of abuse of monopoly would be greatly enhanced when the work on Competition Legislation, started by CARICOM, OECS and other agencies, is completed and promulgated in St. Lucia.

TELECOMMUNICATIONS FEES

Upon the grant and anniversary of licences, licensees are required to pay telecommunications licence fees to Government and where applicable, spectrum fees to the Commission for transmission to ECTEL. For the period October 2003 to September 2004, the following amounts were collected.

Licence fees (GOSL)	EC\$ 1,549,825.48
Spectrum fees (ECTEL)	EC\$ 986,733.00
TOTAL	EC\$ 2,536,558.48

8.1 TELECOMMUNICATIONS LICENCE FEES

There has been a drastic increase in the licence fees collected by the Inland Revenue Department (IRD) since the last reporting period. Significant payments, over 95% of the total amount recorded, were made by the three largest telecommunications operators on percentages of their revenues.

However, it is worth mentioning that gaps have been identified with the collection mechanism for telecommunications licence fees, which is being done through the IRD. Discussions have been held with the IRD, with a view to improving the operations of the telecommunications licence fee collection mechanism. With the anticipated improvements and the implementation of the proposed re-licensing scheme, the amount of licence fees collected will increase, and would better reflect activity within the sector.

8.2 FEES FOR USE OF THE RADIO FREQUENCY SPECTRUM

The amount collected within this reporting period is marginally less, down 18.5%, to that collected in 2002/3, and represents 18.8% of the total amount collected in spectrum fees within the ECTEL States. The decrease can be attributed to invoicing disputes

surrounding the number of microwave links established and the quantum of spectrum in actual use. In many instances, the operators would forward the amounts that were consistent with their records and refrain from paying any other questionable amounts or listings, pending resolution.

The queries had been drawn to ECTEL's attention in March 2003. From the Commission's records, they had not been resolved during the 2003/4 fiscal year to be reflected in amounts collected during that period. It is, however, expected that with the imminent preparation of invoices to fund the 2004/5 financial year, all outstanding queries would have been addressed and full payment, as per the new invoices, will be received.

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TARIFFS & PRICING

9.1 THE IMPORTANCE OF A PRICE CAP PLAN

Historically, telecommunications operators have argued that the provision of certain telecommunications services, such as fixed line domestic telephony, is not as profitable as others, and accordingly, the more profitable services subsidize the less profitable ones. But, in a regulated and competitive environment, where it is important to disaggregate costs and revenues and have each service assessed for profitability on its own merit, operators seek to (substantially) increase the rates paid by consumers for the 'not profitable' services so that they might meet their 'true costs'. Research has, however, shown that many of the services claimed to be 'not profitable' can at least cover their costs and in many instances are indeed profitable.

As was mentioned in the 2002/3 report, a price cap is a system of price regulation that is imposed on an operator (usually the incumbent) as a means of controlling prices for identified services and their rates of increase for a specific period of time. Therefore, a price cap regime protects that sector and consumers from price increases by operators, which might be applied as a means of compensating for the competitive (and lower) rates that they have had to offer for other telecommunications services. The proposed list of services that was included in the Consultation Document, *Recommendation of the Eastern Caribbean Telecommunications Authority ("ECTEL") to Approve or Disapprove a Price Cap Plan for Cable and Wireless (West Indies) Limited ("C&W") in Saint Lucia*, [LCD/AU04.003], has been provided in Appendix D.

The services protected under a price cap are generally those that have been deemed to be not profitable, which are often the ones for which there is no competition. By controlling the prices and their rates of increase, new entrants to those markets have a chance of securing market share, since in some instances the operators are also not allowed to drop their prices significantly and impede competition.

As a result of the work on the price cap regime that had been undertaken by ECTEL, with the assistance of consultants, McCarthy-Tetrault, negotiations with Cable & Wireless (West Indies) Limited were initiated in order to establish a framework for its implementation. An Implementation Agreement was prepared and has been signed by

ECTEL, its Member States and Cable & Wireless (West Indies) Limited. Within the Agreement, time lines, responsible parties and key activities that would need to be completed in the ECTEL States before the price cap plan could take effect have been detailed.

9.2 THE PRICE CAP IMPLEMENTATION AGREEMENT

The Commission was consulted on the proposed Agreement, which included draft regulations to be enacted and the proposed Price Cap Plan that would be implemented. After extensive discussions with the ECTEL Directorate and revisions made, the Commission was able to communicate to the Minister that although it was not completely satisfied with the contents of the Agreement, the areas of discontent were not significant enough for it not to support its signing, when the potential national (and regional) benefits were taken into account.

The *Price Caps Implementation Agreement* between Cable & Wireless (West Indies) Limited, ECTEL, and the ECTEL Member States was signed on Friday, July 30th, 2004, in St. George's, Grenada². Of note are the following provisions:

- (i) Subject to public comment, the Minister responsible for telecommunications in each of the corresponding ECTEL Member States would enact (new) Telecommunications (Retail Tariff) Regulations and repeal the existing Telecommunications (Tariff) Regulations, on or before October 8th, 2004.
- (ii) Subject to public comment, the NTRC in each of the ECTEL states would review and consider the proposed Price Cap Plan. It is required to file its approval or disapproval of the proposed Plan on or before October 19th, 2004.
- (iii) Approval of the proposed Price Cap Plan and the enactment of the Telecommunications (Retail Tariff) Regulations are preconditions for the implementation of the Price Cap Plan.
- (iv) In the respective countries, Annex F in the licence issued for Cable & Wireless's fixed operations, which arose out of the May 20th 2002 Agreement, would be replaced as specified in the present agreement on or before November 30th, 2004.

² A full copy of the Agreement is available on the ECTEL Website, <http://www.ectel.int>.

- (v) Upon implementation of the Price Cap Plan as contemplated in the agreement, ECTEL will withdraw its recommendation to the NTRCs that Cable & Wireless be designated dominant in respect of a number of telecommunications services, on or before October 19th, 2004. In Dominica, ECTEL will withdraw its recommendation to the Dominica NTRC regarding the jurisdiction of the NTRC in respect of the regulation of certain telecommunications services, on or before the same date.
- (vi) The approved Price Cap Plan will be implemented in respective territories on December 1st, 2004.

9.3 UPDATE

On August 4th, 2004, the Commission launched the consultation on the *Recommendation of the Eastern Caribbean Telecommunications Authority (“ECTEL”) to Approve or Disapprove a Price Cap Plan for Cable and Wireless (West Indies) Limited (“C&W”) in Saint Lucia*, [LCD/AU04.003]. The procedure adopted for the consultation was:

1.	NTRC publishes consultation document, with copy posted to NTRC and ECTEL websites requesting comments from the public.	4 th August 2004	0
2.	Members of the public file initial submissions, with copies sent to ECTEL and Cable & Wireless.	8 th September 2004	36 days
3.	ECTEL and Cable & Wireless file reply submissions with NTRC.	22 nd September 2004	14 days
4.	NTRC issues decision approving or disapproving Price Cap Plan.	19 th October 2004	26 days
	Duration of Consultation Process		86 days

Concurrent with the Consultation on the Price Cap Plan, the Minister was required to launch a consultation on the draft Telecommunications (Retail Tariff) Regulations. However, the consultation was launched on August 14th and ended on September 13th, 2004.

As of September 30th, 2004, the Commission had approved an extension of time for ECTEL's and Cable & Wireless's comments on the views received, from September 22nd to October 12th, which also gave Government much needed time to process the outcome of its consultation on the Retail Tariff Regulations and arrange for its promulgation. The deadline date by which the Commission ought to issue a decision approving or disapproving the Price Cap Plan was also pushed back to November 16th, 2004, with the proposed date of implementation of the approved Price Cap Plan rescheduled to January 1st, 2005.

APPEAL CASE AGAINST CABLE & WIRELESS

In July of 2003, the Commission filed an appeal against the decision given in the case, Cable & Wireless (West Indies) Limited vs. the National Telecommunications Regulatory Commission, which was heard earlier in the year. Since the filing, plans have been initiated to revise the legal/regulatory provisions with respect to tariffs and pricing, and so replace Annex F and the Telecommunications (Tariff) Regulations 2002. Questions have therefore been posed as to whether it is still necessary (or critical) to continue with the appeal, in light of recent changes.

10.1 EVENTS SINCE THE FILING OF THE APPEAL

The appeal case was first scheduled to be heard in February 2004. However, due to the then ongoing negotiations between Cable & Wireless (West Indies) Limited and ECTEL on the price cap regime the Commission was encouraged to seek an adjournment of the appeal to the next sitting of the Court, as a sign of good faith to the negotiations process which, if successful, would be of benefit to the telecommunications sectors in the ECTEL States.

The next sitting of the OECS Court of Appeal was in April 2004. However, at that time, the negotiations had not yet been completed, so Cable & Wireless sought a further adjournment of the case to the next sitting of the Court.

10.2 IMPACT OF PRICE CAPS IMPLEMENTATION AGREEMENT

With the negotiations successfully concluded and the *Price Caps Implementation Agreement* signed in July 2004, the Commission has had to decide whether the Agreement impacts on the case so as to mitigate the need to continue with the appeal. In giving careful deliberations to the issue at hand, the following matters have to be considered:

- Although it has been appreciated that there will be changes in the regulatory environment, as per the Implementation Agreement, which would affect the basis for the litigation, it was strongly felt in some quarters that the case had been wrongly decided and it would be remiss of the Commission to let bad law (or a bad precedent) remain on the record unchallenged, and
- Whether the Agreement and its supporting documents, protect the Commission's regulatory powers as it relates to pricing and tariffs.

The Commission has sought the assistance of its legal counsel for the litigation, Mr. Anthony W, Astaphan, S.C., in determining whether or not it is necessary to continue with the appeal, and the repercussions therein. The Eastern Caribbean Supreme Court is expected to sit in St. Lucia during the week of October 18th. It is therefore expected that a decision as to the way forward will be finalised within on or before that date.

FACTORS THAT AFFECT THE WORK OF THE COMMISSION

The constraints to the work of the Commission are the same ones that have been identified in previous reports, which continue to limit its ability to address the increasing demands of the local industry and the global environment. The factors discussed below are threats to the proper functioning of the organisation in the role that it was created to fulfil, and shows the interdependency of agencies and the need for resources to achieve the stated objectives.

11.1 FINANCIAL

As was reported in earlier chapters, the activities that the Commission sought to undertake during the 2003/4 financial year were greatly hindered by the wide disparity between the disbursements received from ECTEL and the Commission's proposed budget for the same period.

Notwithstanding the marked reduction in the funding from ECTEL, it has been appreciated that the revenue collected from telecommunications spectrums fees to finance the operating budget of the regulatory machinery, comprising ECTEL and the five (5) NTRCs, is finite. Further, the Commission has had limited success in its efforts to source additional funding for identified projects, which has been due to the following:

- its status as a statutory body and therefore apparently not being directly eligible for assistance through the usual sources, and
- the focus on funding agencies on Information Technology (IT) and/or Information and Communications Technology (ICT), without regard for the need for a robust telecommunications platform to facilitate IT and ICT.

11.2 ECTEL RETREAT

On September 24th and 25th, 2003, representatives from the Commission attended an ECTEL Ministerial Retreat, held in St. Kitts & Nevis, which had among its objectives,

- to define a strategic vision and focus for ECTEL for the next five years,
- to deepen the understanding and value of harmonisation, collective action and the fundamental principles of the Treaty Establishing ECTEL,
- to review the administrative, legal and financial issues related to the management of the telecommunications sector, and
- to review the relations between ECTEL and the NTRCs with reference to the implementation of all of the provisions of the Treaty

From the discussions at the Retreat and the subsequent recommendations, it was agreed that systems to facilitate a greater sense of involvement and better communication between ECTEL and the NTRCs were urgently required. While it would be incorrect to suggest that no improvement has taken place, much work still needs to be undertaken in that direction. Delay in finalising certain arrangements may be evidence of the insufficiency of meaningful communication between and among the components of the regulatory machinery.

11.3 LACK OF RESOURCES AT MINISTRY LEVEL & CLARITY ON THE ROLE OF GOVERNMENT

The legislation that governs the telecommunications environment in St. Lucia places a large degree of responsibility within the purview of the subject Minister. Apart from the statutory duties imposed upon him, he is responsible for providing leadership and direction to the industry by adumbrating the requisite policies to steer the country in the direction which it chooses to pursue.

The observance of developments which are taking place in the general telecommunications landscape lends the Commission to the view, based on its interaction with the Ministry, that the resources currently devolved to the taste of reshaping policy to keep pace with those developments are insufficient.

The result is that the role of the Ministry of Communications, Works, Transport & Public Utilities and by extension the Government of St. Lucia, in the development of the island's telecommunications industry is still unclear. In many circles, the provision of

telecommunications services is seen as a commercial activity, with the industry dictating the pace of growth and the availability of services, and Government focussing on revenue collection for the Consolidated Fund.

It has been observed that great attention is being placed on Information Technology (IT) and Information and Communication Technology (ICT), with the hope that those sectors will provide a much-needed anchor to the economy. However, it perhaps is not understood that a robust telecommunications sector is a critical platform for the IT and ICT development. Telecommunications regulation, which is done through the Commission and ECTEL, is just one device to develop this sector. Additional strategies and efforts are required to ensure that the necessary support services and mechanisms are available and that there is continued and holistic progress.

11.4 AVAILABILITY OF RELEVANT EXPERTISE

The regulatory structure that has been adopted by the ECTEL Member States is unique. Although a common history is shared, the solutions for the problems of each territory must be customised to fit the individual context.

As relatively new regulatory bodies, the availability of pertinent technical assistance has been limited for a number of reasons. First, the experiences in other jurisdictions are not easily translatable to the Caribbean and OECS situation. Consultants and other 'experts' tend only to be versed on how issues have been addressed in their jurisdictions, and maybe to a lesser extent, other countries that they might have worked in. Although it has been argued that it is possible to recruit suitable expertise, the consultants often seek to directly apply their experiences in an environment where they really aren't relevant, which is often only realised well after they have been recruited. The general principles are relatively easy to master, but it is often the idiosyncrasies that make circumstances (and solutions) unique. Hence, regardless of training, the intricacies of the subject are picked up on the job, which then makes it specific to the environment and not easily translatable to others.

Second, there is cost attached to acquiring the competent expertise. The spectrum fees collected is a finite amount, and the disbursement made to the NTRCs is just enough to cover basic operating expenses. As mentioned above, the availability of alternative sources of funding is limited, which in turn limits the opportunities for securing the use of much needed expertise.

Although it might be argued that ECTEL was created to provide a common pool of expertise to its Member States, circumstances have arisen when the NTRCs need to have independent advice in order to assess a position or proposal submitted by ECTEL. A pertinent example is with respect to the role of the Commission in establishing the proposed Price Cap Regime³. A consultation was required on the proposed Price Cap Plan. The proposed Plan, which was recommended by ECTEL, was as a result of a long negotiation process between Cable & Wireless and ECTEL. Comments were invited from the general public and ECTEL and Cable & Wireless were allowed to comment on the views received. The Commission was then required to conduct a review of those responses, with the expectation that they will produce a decision either approving or disapproving the proposed Price Cap Plan.

Under those circumstances, where ECTEL is the proposer of the Plan and for all intents and purposes has a vested interest, it might not be the best source of advice to the NTRCs. A Price Cap Plan is a complex subject, requiring expertise in finance and economics. Due to its specialist requirement, those skills are often not found within the NTRCs and it might be unfair to expect lay Commissioners to digest the views presented (on their own) and make a balanced and expert decision.

³ More details are given in Chapter 12.

2022-23

1. Name of the organization: *The United Methodist Church*

2. Address: *2000 East 10th Avenue*

3. City: *Denver, CO*

4. State: *Colorado*

5. Zip: *80218*

6. Phone: *(303) 733-1000*

7. Email: *office@umcdenver.org*

8. Website: *www.umcdenver.org*

9. Type of organization: *Religious*

10. Number of employees: *15*

11. Number of volunteers: *50*

12. Type of service: *Religious services, community outreach*

13. Date of establishment: *1858*

14. Type of structure: *Religious organization*

15. Type of funding: *Church members, donations*

16. Other information: *United Methodist Church*

17

NTRC WORK PLAN

In its Work Plan for October 2004 to September 2005, the Commission intends to complete many of the initiatives begun during the last reporting period. Many of those projects required either input from other agencies and the implementation and/or the completion of a variety of sub- or preliminary processes as input to the larger activity, as well as access to technical expertise and funding which might not have been readily available.

Presented below are details of some of the key activities that have been planned for the next year. It, however, ought to be noted, that the Commission will have obligations as it pertains to regional initiatives, such as the implementation of the Price Cap Regime and the prospective work that will begin on Universal Service, which will affect its ability to complete the activities identified.

12.1 PLANNED ACTIVITIES

Many of the tasks that the Commission plans to undertake focus on the licensing and re-licensing activities, and operationalisation of its procedures to ensure compliance with the terms and conditions of those licences. Through these activities, the Commission will be actively seeking to ensure that all telecommunications providers are licensed in keeping with the Act, and that their operations are in keeping with the prescribed terms and conditions, and that the appropriate systems are in place to provide the necessary oversight. In that regard, the subsections below discuss some of the tasks that are being (or which will be) undertaken, most of which ought to be completed by the end of the next reporting period.

12.1.1 Preparation of Outstanding Licence Templates

In the absence of receiving the full complement of telecommunications licence templates from ECTEL, the Commission has undertaken under the guidance of its Legal Officer, to prepare drafts of the outstanding licence documents. The documents will be forwarded to

ECTEL for vetting, before they are formally accepted as the approved licences. It is expected that this approval will be granted before the end of the 2004 calendar year.

12.1.2 Licensing & Re-licensing All Telecommunications Users

In the 2002/3 Annual Report, the treatment of licensees under the now repealed regime, who must now fall in line with the requirements of the Telecommunications Act 2000, was discussed. It has been agreed that with the passing of the new Act, all previously held licences are void, thus all operators and users of telecommunications services will be required to re-apply under the new legislation.

Pending finalisation of the outstanding licence templates, this initiative can begin. It is therefore expected that the licensing/re-licensing activity will commence within the first quarter of 2005 and should be substantively completed by the end of the next reporting period.

12.1.3 Establishing Effective Liaisons

In order to fulfil some of its responsibilities, the Commission requires the assistance of a number of agencies, including

- Ministry of Communications, Works, Transport & Public Utilities (policy development and management of issued licences)
- Inland Revenue Department (licence fee collection)
- Customs & Excise Department (type approval and processes to oversee importation telecommunications equipment)
- Police Force (investigation, enforcement and compliance procedures and processes)
- St. Lucia Bureau of Standards (standards development)
- National Emergency Management Office (disaster management)
- St. Lucia Air & Sea Ports Authority (aeronautical and maritime issues)

Although the Commission has established some kind of relationship with most of the agencies, it is believed that those linkages between the organisations ought to be put on firmer footing, and so facilitate efficient and effective transfer of information.

12.1.4 Amateur Radio

The state of amateur radio operations in St. Lucia is deserving of special attention. Amateur radio refers to a community of people that use radio transmitters and receivers to communicate with other Amateur radio operators. They enjoy more radio operation privileges than Citizen's Band (CB) radio operators do, but with those privileges come responsibilities and rules for the operation of an amateur radio station.

In many jurisdictions, amateur radio is usually self-regulating, with its members, either through a club or association attending to matters related to membership and ensuring compliance with internationally recognised standards of operation. In St. Lucia, however, many of the original clubs and associations have become defunct and organised oversight and nurturing of the community is virtually non-existent.

Since February of 2003, the Commission had sought to intervene in that regard, by first re-establishing the framework for amateur radio operations in St. Lucia. In the absence of any documentation stating policies and procedures used in the past, efforts to date have had little success. Although for the continued success of the amateur radio service in St. Lucia that framework must be established, urgent attention is being given to the re-licensing of existing operators, with the intention of ensuring that an able cadre of persons exist who can be of service to the island especially in times of emergency and natural disaster.

It has therefore been proposed that the re-licensing efforts for existing amateur radio operations begins mid-October, while work still continues on establishing the framework. It is, however, expected that by the end of the first quarter of 2005 the re-licensing drive would be completed, the systems and procedures that would govern operations would be in place, and the licensing of new operators can begin.

12.1.5 Spectrum Monitoring Exercise

With the recent delivery of the Spectrum Monitoring and Management System, an island-wide spectrum monitoring exercise will be scheduled. This activity will take place after the system has been formally handed over to the Commission, through the signing of the Memorandum of Understanding. In this first instance, it is expected that the monitoring exercise will take several weeks to complete. It has been appreciated that the time frame for this activity will be dependent on the results recorded, which might necessitate further action and so delay completion of the entire exercise.

12.1.6 Surveys & Assessments

In past reports, a section was dedicated to providing information that might be deemed pertinent to sector performance. The exercise, however, was time consuming, particularly with regards to securing the required information, and often significantly delayed completion of the report.

It has therefore been proposed that the survey information and assessment results be removed from the report and prepared separately for publication. Noting that the Annual Report is presented to the Minister, who then tables it in Parliament, it was believed that the sector might benefit from having the information available on a timelier basis. Further, to increase their relevance to the sector and to the regulator, the surveys and assessments could be done more regularly within a year.

12.2 WORK PLAN SCHEDULE

Presented below are the activities earmarked for action during the period October 2004 to September 2005. For those projects that were listed in last report, an update has been provided.

PROJECT & GENERAL TASKS	STATUS & COMMENTS
<p>Licensing of Telecommunications Users & Service Providers</p> <ul style="list-style-type: none"> • Complete outstanding licence templates and other evidence of registration • Establish linkages and procedures to manage non-compliance to the Act • Begin re-licensing exercise 	<p>In process</p> <p><i>Draft templates have been completed. Will be forwarded to ECTEL for no-objection approval. Linkages with agencies such as the Police critical in order to establish enforcement and compliance measures</i></p>
<p>Office Procedures</p> <ul style="list-style-type: none"> • Identify contractor and finalise contract • Contractor prepare draft Manual • Commission review and approves draft Manual • Manual finalised and published 	<p>In process</p> <p><i>Possible contractor identified. Terms of Reference being negotiated. Critical to the success of this initiative is the development of administrative procedures to support processes outlined in the Sector Procedures Manual. Possible constraint to this activity might be funding.</i></p>

PROJECT & GENERAL TASKS	STATUS & COMMENTS
<p>Sector Procedures Manual</p> <ul style="list-style-type: none"> • Consultant prepares draft Manual • Commission reviews draft • Comments from ECTEL • Draft revised for Public Consultations • Public Consultation • Publication of approved Manual 	<p>In process</p> <p><i>Drafts are being reviewed and revised. It is hoped that public consultation process can begin before the end of 2004, with the Manual finalised within the second quarter of 2005.</i></p>
<p>Public Education</p> <ul style="list-style-type: none"> • Overhaul website • Identify and select other public education medium, if necessary • Prepare material, if necessary 	<p>In process</p> <p><i>Work on website underway. Publication of a newspaper column has been cancelled until further notice due to the existence of column published by ECTEL in the Weekend Voice Newspaper. Publication of a newsletter is being investigated, which could be a vehicle for publication of assessments and surveys.</i></p>
<p>Amateur Radio Operations</p> <ul style="list-style-type: none"> • Re-license existing amateur radio operators • Develop draft framework for amateur radio operations in St. Lucia • Consult with amateur radio community on draft framework • Finalise draft framework • Arrange for licensing of new amateur radio operators 	<p>To begin</p> <p><i>Re-licensing activity has been given priority. Technical expertise is being sourced for development of framework.</i></p>
<p>Establishing Effective Liaisons</p> <ul style="list-style-type: none"> • Ministry of Communications, Works, Transport & Public Utilities • Inland Revenue Department • Customs & Excise Department • Police Force • St. Lucia Bureau of Standards • National Emergency Management Office • St. Lucia Air & Sea Ports Authority 	<p>In process</p> <p><i>Discussions have begun with some agencies.</i></p>

PROJECT & GENERAL TASKS	STATUS & COMMENTS
<p>Spectrum Monitoring</p> <ul style="list-style-type: none"> • Start monitoring exercise • Revise database • Determine and execute follow-up action to be taken for identified breaches 	<p>To begin</p> <p><i>Start date will be dependent on arrangements for spectrum monitoring vehicle being finalised.</i></p>
<p>Assessments & Surveys</p> <ul style="list-style-type: none"> • Identify performance indicators for NTRC • Identify performance indicators for licensees • Identify performance indicators and target groups among the public • Determine frequency of assessment and methods of administering surveys • Implement approved assessment processes 	<p>In process</p> <p><i>Possible performance indicators have been identified. Methods of administration are being finalised. Proposal being prepared for approval before implementation.</i></p>

FINAL REMARKS

Although St. Lucia has been an integral part of the sub-regional telecommunications liberalisation initiative, it is widely believed that the role of telecommunications in the continued development of the island has not been clearly defined. One is also left to question whether the vision and objectives of the architects of this regional regulatory machinery will ever truly be realised, particularly insofar as the issue of development goals is concerned.

Regulation of telecommunications, at the best of times, is a challenging undertaking, which is often dependent on and interdependent on a number of factors. With the continued advances in technology, the impact of regional and international trade agreements, as well as the liberalisation of neighbouring markets, such as Barbados and Trinidad & Tobago, St. Lucia's telecommunications sector is still too far behind to possess any real comparative advantage, especially when population and size of market are also considered. It will continue to lag behind, unless strategic decisions are made to address some of the hindrances to its development, especially those described in earlier chapters.

In a presentation made by the World Bank in 2000, countries were categorised with respect to their use of telecommunications as follows:

- Leaders;
- Adopters;
- Latecomers.⁴

Countries that were held to be Leaders were those that were pioneers in harnessing telecommunications technology and have an elaborate environment. Countries that had been categorised as Adopters had liberalised their telecommunications sectors and were developing their infrastructure. It was expected that those countries would have the capability to unleash the internet revolution within the next 3 – 5 years. Finally, Latecomer countries were those with poor telecommunications infrastructure and who were struggling to liberalise the sector, and often were not able to take full advantage of the multitude of telecommunications services that are available. It was also expressed

⁴ *Transition Issues in the Liberalization of the Telecommunications Sector*, Rob Schware (World Bank)

that they “... are in a perilous situation and without serious intervention they stand to be left completely behind with the gap widening irrevocably.”⁵

At that time, based on the categories stated, it had been inferred that St. Lucia, along with other Caribbean territories, some Latin American countries and the poorest nations in the world were in the Latecomer category. Latecomers had the lowest penetration for telecommunications services and by 2010, Latecomers would still not have attained the market penetration for telecommunications services that the Leaders had in 1999/2000. Finally, low income base and poor literacy rates were contributors to Latecomers not being able to capitalise in the technology. These inferences were likely to be realised if no conscientious effort was made to decrease the technology gap with Leaders and Adopters.

While it can be argued that there is some national focus on Information and Communications Technology (ICT), the vision which enunciates exactly what part the industry is expected to play in St. Lucia's future development is still not complete, nor are all the players who need to be involved in developing that vision aware of the extent of their role. If the use of ICT is envisaged as a means of enhancing productivity in established operations, as well as providing the platform from which new areas of activity are expected to evolve, then there is need to involve all areas of both the public and private sectors in defining precisely where we wish to go, as well as devoting the resources needed to keep abreast of the rapidly changing ICT scenario to that crucial task.

The development of a successful ICT environment will depend on the creation of the technologically proficient workforce to support it, and the planning, legal, financial, and public information resources have to be mobilised urgently to undertake this task, or we may well find ourselves lagging behind. Whichever way it is decided to go, however, a large element of any successful venture will be a well conceptualised and regulated telecommunications platform, functioning within a flexible but supportive environment able to utilise the rapid changes in technology to its benefit.

⁵ ibid

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SYNOPSIS OF THE COMMISSIONERS (2003-2006)

- Thaddeus Antoine** Thaddeus M. Antoine is a Barrister-at-Law of the Honourable Society of Lincoln's Inn, England, an Attorney-at-Law of the Eastern Caribbean Supreme Court and a partner in the law firm of Francis & Antoine. He holds a Bachelors Degree of Law (LL.B) from the University of Wolverhampton, along with a Masters of Law (LL.M) in Commercial and Corporate Law, from King's College, University of London.
- Victor Ellis:** He entered into the field of Electronics with a Company called International Aeradio (Caribbean) Limited in December 1960, which ceased operations in the OECS states in 1982. He continued to maintain Airport Telecommunication until OECS Aeradio was formed in 1987 and assumed responsibility for Airport Telecommunications in the OECS States. He filled the post of Senior Technical Specialist with OECS Aeradio from its inception until January 2002. Retired from the Post of Senior Technical Specialist January 2002 with the OECS Directorate of Civil Aviation after forty years service. During his 40-year stint in the Aviation Industry he had the opportunity to live and work in all the OECS States, as well as Barbados and Trinidad & Tobago.
- Victor Eudoxie:** Retired banker with 36 years banking experience with Barclays Bank. He is currently Chairman of Bank of Saint Lucia. Amateur Radio Operator for the past 27 years.
- Eldon Mathurin:** A retired public servant with over thirty years of experience at national, regional and international levels. In St. Lucia, he has served as Comptroller of Inland Revenue and Financial Controller, St. Lucia Banana Growers Association. At the Regional level, he was a Tax Adviser to the CARICOM Secretariat, where he also later performed the duties of a Divisional Director. His most recent stint in the regional public service has been a three-year period at the OECS Secretariat. He has also carried out many consulting assignments in both the public and private sectors of the Caribbean.

Wendell Skeete: Wendell Skeete is a Fellow of the Institute of Chartered Accountants of England and Wales and a partner in the audit and consulting firm of Chase, Skeete & Boland, an affiliate firm of PKF International. He started his career with an international firm in the London, England, and later joined Peat Marwick Mitchell and Co in St. Lucia as a supervisor before establishing his own practice. He has served on several Government-appointed commissions including the Public Utilities Commission.

DIARY OF KEY EVENTS

2003	
October 6	Appointment of Office/Information Clerk
October 22	Appointment of Commissioners
	Re-Opening of Invitation to Apply for Individual Licences
	Launch of Public Consultation on Dominance?
November 7	Postponement of Public Consultation on Dominance?
December	Interconnection Costing Workshop (T' dad)
2004	
January 12 – 23	PURC Workshop,
February 16	Appeal for Case between NTRC and Cable & Wireless (West Indies) Limited (postponement was requested to next sitting)
February 18	Re-appointment of Coordinator
February 26	Relocation of NTRC Offices to Global Tile Building, Bois d'Orange
March 22 – 26	Spectrum Management Workshop for IRIS and Billing Software
July 30	Rescheduled Appeal for Case between NTRC and Cable & Wireless (West Indies) Limited (postponement was requested to next sitting)
March 17 – 23	Spectrum Monitoring Training
June 14 – 15	Cariforum ICT Logical Framework Workshop, Guyana

June 17 – 22	Spectrum Monitoring Training with Vehicle
July 1 – 7	Visit of Consultant for Sector Procedures Manual
July 21	Appointment of Technical Officer
July 30	Signing of <i>Price Caps Implementation Agreement</i> between Cable & Wireless (West Indies) Limited, ECTEL, and the ECTEL Member States
August 4	Consultation begun on <i>Recommendation of the Eastern Caribbean Telecommunications Authority (“ECTEL”) to Approve or Disapprove a Price Cap Plan for Cable and Wireless (West Indies) Limited (“C&W”) in Saint Lucia</i>
August 14	Ministry of Communications, Works, Transport & Public Utilities began <i>Consultation on draft Telecommunications (Retail Tariff) Regulations</i>
September 9	Re-appointment of Administrative Assistant
September 10	Deadline for receipt of comments on <i>Recommendation of the Eastern Caribbean Telecommunications Authority (“ECTEL”) to Approve or Disapprove a Price Cap Plan for Cable and Wireless (West Indies) Limited (“C&W”) in Saint Lucia</i>
September 23 – 24	Legal Seminar, St. Vincent & the Grenadines

THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

FINANCIAL STATEMENTS

SEPTEMBER 30, 2004

**G LLEWELLYN GILL & CO.
CHARTERED ACCOUNTANTS
P O BOX 546, CASTRIES**

THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

SEPTEMBER 30, 2004

CONTENTS

	Page
AUDITORS' REPORT	1
FINANCIAL STATEMENTS	
Balance Sheet	2
Statement of Changes in Funds	3
Statement of Support and Expenditure	4
Statement of Cash Flows	5
Notes to Financial Statements	6-7



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AUDITORS' REPORT

To the Commissioners of:

THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

We have audited the balance sheet of **THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION** as at September 30, 2004 and the statement of changes in funds, support and expenditure and cash flows for the year then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with International Standards on Auditing. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Commission as at September 30, 2004 and the results of its operations and its cash flows for the year then ended in accordance with International Accounting Standards.

Castries, St Lucia
October 25, 2004

Chartered Accountants

THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

BALANCE SHEET

AS AT SEPTEMBER 30, 2004

ASSETS

	<u>2004</u>	<u>2003</u>
CURRENT ASSETS		
Cash	\$ 151,015	119,069
Prepaid expenses	<u>9,000</u>	<u>-</u>
	<u>160,015</u>	<u>119,069</u>
CAPITAL ASSETS (Note 2)	<u>56,724</u>	<u>25,368</u>
	<u>\$ 216,739</u>	<u>\$ 144,437</u>

LIABILITIES

CURRENT LIABILITIES		
Bank overdraft	\$ 28,495	\$ -
Licence fees payable (Note 3)	22,505	24,898
Accounts payable	18,561	44,540
Gratuity payable	<u>30,785</u>	<u>-</u>
	<u>100,346</u>	<u>69,438</u>

FUNDS

CONTRIBUTED FUNDS (Note 4)	6,499	8,666
ACCUMULATED SURPLUS	<u>109,894</u>	<u>66,333</u>
	<u>116,393</u>	<u>74,999</u>
	<u>\$ 216,739</u>	<u>\$ 144,437</u>

APPROVED ON BEHALF OF THE COMMISSION:


 _____ Chairman


 _____ Member

The accompanying notes form an integral part of these statements.

THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

STATEMENT OF CHANGES IN FUNDS

YEAR ENDED SEPTEMBER 30, 2004

	<u>Contributed Funds</u>	<u>Accumulated Surplus</u>	<u>Total</u>
Balance at beginning of year	\$ 10,833	\$ 39,452	\$ 50,285
Contributed Funds	-	-	-
Amortization of Contributed Funds	(2,167)	2,167	-
Excess Support over Expenditure	-	<u>24,714</u>	<u>24,714</u>
Balance at September 30, 2003	<u>\$ 8,666</u>	<u>\$ 66,333</u>	<u>\$ 74,999</u>
Balance at beginning of year	\$ 8,666	\$ 66,333	\$ 74,999
Additions to Contributed Funds	-	-	-
Amortization of Contributed Funds	(2,167)	2,167	-
Excess Support over Expenditure	-	<u>41,394</u>	<u>41,394</u>
Balance at September 30, 2004	<u>\$ 6,499</u>	<u>\$ 109,894</u>	<u>\$ 116,393</u>

The accompanying notes form an integral part of these statements.

THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

STATEMENT OF SUPPORT AND EXPENDITURE

YEAR ENDED SEPTEMBER 30, 2004

	<u>2004</u>	<u>2003</u>
RECEIPTS		
Contributions from ECTEL	\$ 500,000	\$ 300,000
Application fees	75,666	45,586
Other	<u>14,117</u>	<u>58</u>
	<u>589,783</u>	<u>345,644</u>
PAYMENTS		
Advertising and promotion	4,155	2,647
Audit	4,000	4,000
Bank charges and interest	1,156	1,138
Commissioner's fees	91,836	91,200
Depreciation	8,802	6,288
Gratuity	81,785	-
Legal and professional fees	2,300	35,000
Membership and subscriptions	1,321	-
Office expenses	12,526	6,997
Relocation expenses	32,897	-
Rent	31,500	-
Repairs and maintenance	3,174	1,714
Salaries and wages	223,820	139,516
Supplies	5,392	2,551
Training	1,526	-
Travelling and entertainment	3,418	3,230
Utilities	<u>38,781</u>	<u>26,649</u>
	<u>548,389</u>	<u>320,930</u>
EXCESS OF SUPPORT OVER EXPENDITURE for the year	<u>\$ 41,394</u>	<u>\$ 24,714</u>

The accompanying notes form an integral part of these statements.

THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

STATEMENT OF CASH FLOWS

YEAR ENDED SEPTEMBER 30, 2004

	<u>2004</u>	<u>2003</u>
Cash Flows from Operating Activities		
Excess of support over expenditure for the year	\$ 41,394	\$ 24,714
Add/(deduct): charges to income not involving cash		
Depreciation	<u>8,802</u>	<u>6,288</u>
	<u>50,196</u>	<u>31,002</u>
Net change in non-cash working capital balances related to operations*	<u>(6,587)</u>	<u>51,159</u>
Net cash provided by (used in) operating activities	<u>43,609</u>	<u>82,161</u>
Cash Flows from Investing Activities		
Additions to capital assets	<u>(40,158)</u>	<u>-</u>
Net cash provided by (used in) investing activities	<u>(40,158)</u>	<u>-</u>
INCREASE/(DECREASE) IN CASH	3,451	82,161
CASH AND CASH EQUIVALENTS, beginning of year	<u>119,069</u>	<u>36,908</u>
CASH AND CASH EQUIVALENTS, end of year	<u>\$ 122,520</u>	<u>\$ 119,069</u>
*Consisting of changes in:		
Licence fees payable	\$ (2,393)	10,248
Prepaid expenses	(9,000)	-
Accounts payable	(25,979)	40,911
Gratuity payable	<u>30,785</u>	<u>-</u>
	<u>\$ (6,587)</u>	<u>\$ 51,159</u>

The accompanying notes form an integral part of these statements.

THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

NOTES TO THE FINANCIAL STATEMENTS

SEPTEMBER 30, 2004

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Status

The National Telecommunications Regulatory Commission was established by the Telecommunications Act No. 27 of 2000 on the 22nd November 2000. The Commission commenced operations on March 18, 2002.

(b) Principal activity

The principal activity of the Commission is to execute the functions defined in Section 12 of the Telecommunications Act No. 27 of 2000 in the regulation of Telecommunications in Saint Lucia.

(c) Basis of Accounting

These financial statements are prepared on the accrual basis of accounting.

(d) Capital Assets

Capital assets are stated at cost and or valuation and are depreciated on a straight line basis at the following rates:

Furniture and Equipment 15% - 25%

2. CAPITAL ASSETS

	<u>Furniture & Equipment</u>	
	<u>2004</u>	<u>2003</u>
COST		
Balance at beginning of year	\$ 35,906	\$ 35,906
Additions	<u>40,158</u>	<u>-</u>
Balance at end of year	<u>76,064</u>	<u>35,906</u>
DEPRECIATION		
Balance at beginning of year	\$ 10,538	\$ 4,250
Depreciation for the year	<u>8,802</u>	<u>6,288</u>
Balance at end of year	<u>19,340</u>	<u>10,538</u>
Book Value end of year	<u>\$ 56,724</u>	<u>\$ 25,368</u>

3. LICENCE FEES PAYABLE

This represents Licence fees received on behalf of and payable to the Government of St.Lucia.

NOTES TO THE FINANCIAL STATEMENTS

SEPTEMBER 30, 2004

4. CONTRIBUTED FUNDS

These funds have been provided by the Government of St. Lucia as a contribution towards the purchase of Assets for the Commission. The funds are being amortized over a period of five years commencing 2003.

5. COMPARATIVE FIGURES

Where changes have been made in the presentation of the current year's figures, comparative amounts have been restated.

LIST OF CONTENTS

LIST OF FIGURES	V
ABBREVIATIONS & ACRONYMS	VI
EXECUTIVE SUMMARY	VII
1 NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION	1
1.1 Constitution of the Commission	1
1.2 Diary of Key Events	1
2 HUMAN RESOURCE CAPACITY.....	2
2.1 New & Future Appointments.....	2
2.2 Organisational Chart.....	3
3 PLANT & EQUIPMENT	4
3.1 Relocation of NTRC Offices.....	4
3.2 The Spectrum Management & Monitoring System (SMMS).....	4
3.2.1 Training.....	6
3.2.2 Assignment of the SMMS to the NTRCs	6
4 SYSTEMS DEVELOPMENT.....	7
4.1 Policies Development	7
4.2 Sector Procedures Manual.....	7
4.3 Office Procedures Manual	8
4.4 Website.....	8
5 OTHER INSTITUTIONAL STRENGTHENING MEASURES	9
5.1 Regional NTRC Discussion Forum	9
5.2 Improved Links with Other Agencies.....	9
6 FINANCIAL REVIEW	10
6.1 Update on the Financial Autonomy of the Commission.....	10
6.2 Income Inflows and Usage.....	10
6.3 Financial Audit Report.....	11
7 TELECOMMUNICATIONS LICENCES	13

Proposed List of Services and Rate Elements to be Included in the Price Cap Plan as of 1 December 2004

Basket	Service(s)	Rate Element(s)
1	Residential fixed line access	1: Connection 2: Reconnection 3: Monthly rental
2	Business fixed line access	4: Connection 5: Reconnection 6: Monthly rental
2	Metered government fixed line access	7: Connection 8: Reconnection 9: Monthly rental
2	PBX fixed line access	10: Connection 11: Reconnection 12: Monthly rental
3	Fixed To Fixed Calling	13: FTF (Day) 14: FTF (Night) 15: FTF (Weekend)
3	Fixed To Mobile Calling	16: FTM (Day) 17: FTM (Night) 18: FTM (Weekend)
3	Fax Line	19: Connection 20: Reconnection 21: Monthly Rental
3	Calling Card	22: Calling Card to local fixed C&W line calling 23: Calling Card to C&W mobile calling 24: Calling Card to interconnect calling
3	Payphone Calling	25: Payphone to local fixed C&W line calling 26: Payphone to C&W mobile calling 27: Payphone to interconnect calling
3	International Leased Circuit	28: IPLC 64 Kbps Installation 29: IPLC 128 Kbps Installation 30: IPLC 192 Kbps Installation 31: IPLC 256 Kbps Installation 32: IPLC 384 Kbps Installation 33: IPLC 320 Kbps Installation 34: IPLC 448 Kbps Installation 35: IPLC 512 Kbps Installation 36: IPLC 768 Kbps Installation 37: IPLC 1024 Kbps Installation 38: IPLC 1544 Kbps Installation 39: IPLC 2048 Kbps Installation 40: IPLC 64 Kbps Monthly 41: IPLC 128 Kbps Monthly 42: IPLC 192 Kbps Monthly

		43: IPLC 256 Kbps Monthly 44: IPLC 384 Kbps Monthly 45: IPLC 320 Kbps Monthly 46: IPLC 448 Kbps Monthly 47: IPLC 512 Kbps Monthly 48: IPLC 768 Kbps Monthly 49: IPLC 1024 Kbps Monthly 50: IPLC 1544 Kbps Monthly 51: IPLC 2048 Kbps Monthly
3	National Leased Circuit	52: DPLC 64 Kbps Installation 53: DPLC 128 Kbps Installation 54: DPLC 192 Kbps Installation 55: DPLC 256 Kbps Installation 56: DPLC 384 Kbps Installation 57: DPLC 320 Kbps Installation 58: DPLC 448 Kbps Installation 59: DPLC 512 Kbps Installation 60: DPLC 768 Kbps Installation 61: DPLC 1024 Kbps Installation 62: DPLC 1544 Kbps Installation 63: DPLC 2048 Kbps Installation 64: DPLC 64 Kbps Monthly 65: DPLC 128 Kbps Monthly 66: DPLC 192 Kbps Monthly 67: DPLC 256 Kbps Monthly 68: DPLC 384 Kbps Monthly 69: DPLC 320 Kbps Monthly 70: DPLC 448 Kbps Monthly 71: DPLC 512 Kbps Monthly 72: DPLC 768 Kbps Monthly 73: DPLC 1024 Kbps Monthly 74: DPLC 1544 Kbps Monthly 75: DPLC 2048 Kbps Monthly
3	VSAT (very small aperture terminal)	76: VSAT Installation 77: VSAT Monthly 78: VSAT Site Survey 79: VSAT Link Monthly
3	Frame Relay	80: Frame Relay Port 56 Kbps Monthly 81: Frame Relay Port 64 Kbps Monthly 82: Frame Relay Port 128 Kbps Monthly 83: Frame Relay Port 192 Kbps Monthly 84: Frame Relay Port 256 Kbps Monthly 85: Frame Relay Port 384 Kbps Monthly 86: Frame Relay Port 512 Kbps Monthly 87: Frame Relay Port 768 Kbps Monthly 88: Frame Relay Port 1024 Kbps Monthly

		89: Frame Relay Port 1544 Kbps Monthly 90: Frame Relay Port 2048 Kbps Monthly 91: Frame Relay Port 56 Kbps Installation 92: Frame Relay Port 64 Kbps Installation 93: Frame Relay Port 128 Kbps Installation 94: Frame Relay Port 192 Kbps Installation 95: Frame Relay Port 256 Kbps Installation 96: Frame Relay Port 384 Kbps Installation 97: Frame Relay Port 512 Kbps Installation 98: Frame Relay Port 768 Kbps Installation 99: Frame Relay Port 1024 Kbps Installation 100: Frame Relay Port 1544 Kbps Installation 101: Frame Relay Port 2048 Kbps Installation 102: Frame Relay CIR 1024 kbits Monthly 103: Frame Relay CIR 348 kbits Monthly 104: Frame Relay CIR 512 kbits Monthly 105: Frame Relay CIR 768 kbits Monthly
3	ISDN	106: Business BRI Installation 107: Business BRI Monthly 108: Residential BRI Installation 109: Residential BRI Monthly 110: PRI Monthly 111: PRI Installation
3	Dial-Up	112: Internet 10 Monthly Rental 113: Internet 20 Monthly Rental 114: Internet 30 Monthly Rental 115: Internet 50 Monthly Rental 116: Unlimited Internet Monthly Rental 117: Dial Up Access Charge
3	Dedicated Internet Access (DIA)	118: DIA: 64 Kbps Monthly 119: DIA: 128 Kbps Monthly 120: DIA: 256 Kbps Monthly 121: DIA: 512 Kbps Monthly 122: DIA: 768 Kbps Monthly 123: DIA: 1024 Kbps Monthly 124: DIA: 2048 Kbps Monthly 125: DIA: 64 Kbps Installation 126: DIA: 128 Kbps Installation 127: DIA: 256 Kbps Installation 128: DIA: 512 Kbps Installation 129: DIA: 768 Kbps Installation 130: DIA: 1024 Kbps Installation 131: DIA: 2048 Kbps Installation
3	ADSL	132: Ultra Monthly 133: Select Monthly 134: Premium Monthly

APPENDIX D

		135: Deluxe Monthly 136: Ultra Installation 137: Select Installation 138: Premium Installation 139: Deluxe Installation
3	Telex	140: TeleMax Basic Package Monthly 141: Telex Call Forward on No Answer Monthly
3	Magic Touch	142: Magic touch - Wake up Call Usage Based 143: Magic touch - Call Back When Busy Monthly 144: Magic touch - Call Forwarding Monthly 145: Magic touch - Call Transfer Monthly 146: Magic touch - Call Waiting Monthly 147: Magic touch - Full Package Monthly
3	Other Enhanced Features	148: Voicemail Set-Up 149: Voicemail Monthly 150: Conference calling Monthly 151: Calling No. Delivery Monthly
3	Smartchoice	152: SmartChoice Business Plan A 153: SmartChoice Business Plan B 154: SmartChoice Business Plan C 155: SmartChoice Residential Plan A 156: SmartChoice Residential Plan B 157: SmartChoice Residential Plan C

Rule 1: Initial Rates & Pricing Commitments

C&W agrees to implement the following maximum prices (that is, C&W may set prices that are lower than these, but cannot set prices that are higher than these levels) for the following rate elements in Basket 3, during the following periods:

Service	Maximum Rate per minute (ECS)	Effective Periods
Fixed-To-Mobile: Day	\$0.760	1 December 2004 to 30 November 2005
Fixed-To-Mobile: Day	\$0.710	1 December 2005 to 30 November 2008
Fixed-To-Mobile: Night	\$0.750	1 December 2004 to 30 November 2005
Fixed-To-Mobile: Night	\$0.690	1 December 2005 to 30 November 2008
Fixed-To-Mobile: Weekend	\$0.750	1 December 2004 to 30 November 2005
Fixed-To-Mobile: Weekend	\$0.690	1 December 2005 to 30 November 2008
Fixed-To-Fixed: Day	\$0.070	1 December 2004 to 30 November 2008
Fixed-To-Fixed: Night	\$0.050	1 December 2004 to 30 November 2005
Fixed-To-Fixed: Night	\$0.040	1 December 2005 to 30 November 2008
Fixed-To-Fixed: Weekend	\$0.050	1 December 2004 to 30 November 2005
Fixed-To-Fixed: Weekend	\$0.040	1 December 2005 to 30 November 2008

Where: “Day” is defined as the periods from 8:00 a.m. to 5:59 p.m. Monday through Friday, or as otherwise agreed to by C&W and the NTRC.

“Night” is defined as the periods from 6:00 p.m. to 7:59 a.m. Monday through Friday, or as otherwise agreed to by C&W and the NTRC.

“Weekend” is defined as the period from 11:59 p.m. Friday to 11:59 p.m. Sunday, or as otherwise agreed to by C&W and the NTRC.

C&W also agrees to include a minimum of 60 minutes per month of free Fixed-To-Fixed calling on Night and Weekend calling periods with each metered Residential access line from 1 December 2004 to 30 November 2005. From 1 December 2005 to 30 November 2008 C&W will include a minimum of 80 minutes per month of free Fixed-To-Fixed calling on Night and Weekend calling periods with each metered Residential access line.

All pricing commitments pursuant to this rule will continue during the duration of the PCP regardless of whether the service or rate element is subsequently designated as an



7.1	Licences Update	13
7.1.1	Licences Issued	13
7.1.2	Licences Transferred or Assigned	14
7.1.3	Licences Modified	14
7.1.4	Licences Terminated.....	14
7.2	Comments	14
8	TELECOMMUNICATIONS FEES.....	16
8.1	Telecommunications Licence Fees.....	16
8.2	Fees for Use of the Radio Frequency Spectrum.....	16
9	TARIFFS & PRICING.....	18
9.1	The Importance of a Price Cap Plan.....	18
9.2	The Price Cap Implementation Agreement.....	19
9.3	Update	20
10	APPEAL CASE AGAINST CABLE & WIRELESS.....	22
10.1	Events since the Filing of the Appeal	22
10.2	Impact of Price Caps Implementation Agreement	22
11	FACTORS THAT AFFECT THE WORK OF THE COMMISSION	24
11.1	Financial.....	24
11.2	ECTEL Retreat	25
11.3	Lack of Resources at Ministry Level & Clarity on the Role of Government.....	25
11.4	Availability of Relevant Expertise.....	26
12	NTRC WORK PLAN	28
12.1	Planned Activities.....	28
12.1.1	Preparation of Outstanding Licence Templates	28
12.1.2	Licensing & Re-licensing All Telecommunications Users.....	29
12.1.3	Establishing Effective Liaisons.....	29
12.1.5	Spectrum Monitoring Exercise	30
12.1.6	Surveys & Assessments	31
12.2	Work Plan Schedule	31
13	FINAL REMARKS.....	34

APPENDICES

LIST OF FIGURES

Figure 2.1:	Organisational Chart for the National Telecommunications Regulatory Commission	3
Figure 3.1:	Schematic of the Spectrum Management & Monitoring System at each NTRC (NCC/MCC).....	5
Figure 3.2:	Schematic of the Regional Spectrum Management & Monitoring System	5
Figure 6.1:	Expenditure for the period ended September 2004.....	12