CABLE & WIRELESS LIMITED, dba FLOW
COMMENTS ON

THE CONSULTATION DOCUMENT "PROPOSED CHANGES TO REGULATION 17(c) OF THE DRAFT ELECTRONIC COMMUNICATIONS (CONSUMER PROTECTION) REGULATIONS (SPECIFIC RULES ON CONSUMER PROTECTION IN THE ELECTRONIC COMMUNICATIONS SECTOR)"

ISSUED BY THE EASTERN CARIBBEAN TELECOMMUNICATIONS AUTHORITY ON 28 AUGUST 2020

30 October 2020

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I. Introduction

1. Cable & Wireless Ltd, trading as FLOW (“FLOW”) appreciates the opportunity to submit comments on the Consultation Document “Proposed changes to Regulation 17(c) of the draft Electronic Communications (Consumer Protection) Regulations (Specific Rules on Consumer Protection in the Electronic Communications Sector)” (the “**Consultation Document**”), issued by the Eastern Caribbean Telecommunications Authority (“**ECTEL**”) on 28 August 2020.

2. Failure to address an issue raised by ECTEL in the Consultation Document should not necessarily be construed as FLOW’s agreement with the position taken by ECTEL on that issue.

3. In this document, we wish to make two basic points:

   i. ECTEL, in contrast to all previous practice, has issued these proposed changes without any forewarning to stakeholders. Many proposed changes are ill-advised, technically not implementable and would unfairly impact service providers and consumers—facts that would have been made clear with the briefest discussion with service providers in advance.

   ii. If ECTEL is serious about making changes to the prepaid market, it should first hold preliminary discussions with stakeholders to determine what is feasible. In the meantime and in the absence such discussions it should radically reduce the amendments to the relevant regulations, or better yet, table these proposals and work towards reissuing a more appropriate Consultation Document. Please direct any questions you may have on these comments to:

David Cox Head of Regulatory Affairs david.cox@cwc.com	David Burnstein Sr. Manager, Regulatory Finance david.burnstein@cwc.com

II. Comments on the Consultation Process

4. C&W has two introductory comments regarding the process of the current proceeding. First, ECTEL appears only to have discussed these proposed changes to regulations with "consumers and the Commissions". ECTEL should be well aware that best international practice in running formal consultations is to discuss its content with stakeholders in advance so as not to propose or amend regulations that are not feasible or lack appropriate technical insight.

5. Second, ECTEL appears to have undertaken no benchmarking of its proposed changes. Are its proposals consistent with relevant best practice in prepaid subscription management? Given its concerns are there alternative means of addressing them? What are the pros and cons of various options? ECTEL has apparently not attempted to answer any of these questions.

6. Third, the document is filled with undefined terms and lack of clarity that makes it difficult to understand at points what are all the practical implications of its ECTEL proposals. These terms include: "pre-paid subscription"; "life cycle"; and "unused".

7. On this basis alone, FLOW believes, ECTEL should suspend this consultation and undertaken to relaunch once it has undertaken appropriate preliminary steps.

III. ECTEL'S Proposed Text

20.1 A licensee shall not activate a prepaid subscription for an electronic communications service that has a life cycle of less than 3 months.

> *FLOW Comment: ECTEL must either define what it means by life cycle and reissue this provision for further comment or delete this provision.*

20.3 A licensee shall—

> a. notify a retail customer by email, text message or other application, at least 5 days before a prepaid subscription expires; and
>
> *FLOW Comment: Because pre-paid subscription are of different durations a 5 day notification may not be relevant or beneficial to a customer. ECTEL should change "5 days" to "1 day" as is current practice.*
>
> b. clearly inform a retail customer of the options that are available and the implications of inaction.
>
> *FLOW Comment: FLOW does notify the customer of his or her options, which differ depending on whether the customer has opted for auto-renew or not.*

20.6 A retail customer may, within 15 days of the termination of a prepaid subscription, request that the prepaid subscription be reactivated, and to keep the same number that was previously assigned.

> *FLOW Comment: Because pre-paid subscription are of different durations a 15 day notification may not be relevant or beneficial to a customer. The customer is able to keep the same number unless he or she makes no chargeable transaction within 270 days of acquiring service, which is standard practice for prepaid calling. Up to 180 days of no chargeable transactions, no request is necessary. Only from 181st day to the 270th day is there need for a request. Provisions 20.6 and 20.7 do not provide more benefit to the customer than the current arrangements; rather it requires the customer to undertake an extra activity that is not necessary to continue to keep the service active.*

21.1. A licensee shall not terminate a prepaid subscription, if—

a. a retail customer has at least $10.00 on his or her account;
b. a retail customer has at least 10% of the voice minutes, text messages or data allowance on his or her account; or
c. in the preceding 3 months, a retail customer has
   i. made or received a call;
   ii. sent or received a text message; or
   iii. used data.

FLOW Comment: Provisions 21.1.a and 21.1.b are inconsistent with what pre-paid accounts were designed for, and FLOW cannot technically automatically interrogate its system to maintain an account depending on a dollar or % allowance balance. However, 21.1.c is implementable and can be retained in the regulations as proposed.

22.1 If a retail customer requests, a licensee shall, within 30 days of the termination of a prepaid subscription with an outstanding credit balance —

a. refund the outstanding credit balance to the retail customer; or
b. transfer the outstanding credit balance from a terminated prepaid subscription to another prepaid subscription on the licensee's network.

FLOW Comment: Provisions 22.1.a and 21.1.b are inconsistent with what pre-paid accounts were designed for, and FLOW cannot technically automatically interrogate its system to take action on a dollar or % allowance balance. Even if it could, these provisions raise numerous practical problems, e.g., where would credit balances be forwarded? What if the customer had no other prepaid subscription on the licensee's network?

22.2 If a prepaid subscription has been terminated by a licensee and the licensee has received no request from a retail customer for a refund or transfer of funds, the licensee shall, after a period of 3 months, deposit any outstanding credit balance to the Accountant General.

22.3 Any outstanding credit balance to be submitted to the Accountant General shall be subject to a 20% administrative fee.

FLOW Comment: Provision 22.2. is technically infeasible for the reasons mentioned above. Moreover, these provisions are simply a new form of taxation which is likely to have negative implications on how prepaid prices are set in the market.

***23*.1.** If a retail customer requests, a licensee shall transfer unused voice minutes, text messages or data allowance from a terminated prepaid subscription to another prepaid subscription on the licensee’s network, within 30 days of the termination of the retail customer’s prepaid subscription.

23.2. If a prepaid subscription has been terminated by a licensee and the licensee has received no request from a retail customer for a transfer of unused voice minutes, text messages or data allowance within 90 days of the termination of the prepaid subscription, the licensee shall conclude that the retail customer has forfeited the unused voice minutes, text messages or data allowance.

> *FLOW Comment: Provisions 22.2. is technically infeasible for the reasons mentioned above.*

END OF DOCUMENT