

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 55 of 2020

Eastern Caribbean Telecommunications Authority (Amendment of Schedule)  
Order, 2020

In exercise of the power conferred by section 5(1) of the Eastern Caribbean Telecommunications Authority Act, Cap. 25.13, the Minister, makes the following Order:

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**1. Short title.**

This Order may be cited as the Eastern Caribbean Telecommunications Authority (Amendment of Schedule) Order, 2020.

**2. Amendment of Preamble to the Treaty.**

The Preamble to the Treaty is amended by deleting the word “telecommunications” wherever it appears and by substituting the words “electronic communications”.

**3. Amendment of Article 1.**

Article 1 of the Treaty is amended by –

- (a) deleting the definition of the words “telecommunications”, “telecommunications licence”, “telecommunications provider” and “telecommunications services”;
- (b) deleting the definition of the words “frequency authorisation” and substituting the following –

“**frequency authorisation**” means an authorisation to use radio frequencies in connection with the operation of an electronic communications network or the provision of electronic communications services under a licence or otherwise;”;

- (c) deleting the definition of the word “Organisation” and substituting the following –

“**Organisation**” means the Organisation of Eastern Caribbean States established by the Treaty of Basseterre on 18 June, 1981 as amended by the Revised Treaty of Basseterre, 18<sup>th</sup> June, 2010;”;

- (d) deleting the definition of the words “universal service” and substituting the following-

“**universal service and access**” means universal service and access as defined by Contracting States;”;

- (e) deleting the definition of the words “Universal Service and Access Fund” and substituting the following –

“**Universal Service and Access Fund**” means the Fund established by Contracting States under Article 12;”;

- (f) inserting the following definitions in the proper alphabetical sequence –

“**electronic communications**”

- (a) means a type of transmission, emission or reception and, where applicable switching or routing of -

(i) voice, data, text, sound, audio, video, animation, visual images, moving images, pictures, pulses, signals or other information, or

(ii) a combination of the information under subparagraph (i),

using wire, radio frequency, optical, other electromagnetic means or by way of any other technology, whether with or without the aid of tangible conduct;

- (b) includes telecommunications;

- (c) does not include content services;

“**electronic communications equipment manufacturer**” means a person who makes equipment or apparatus for the purpose of or intended to be used for electronic communications as part of or comprising an electronic communications system;

“**electronic communications network**” means transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, radio, optical signals, electricity distribution systems, high-voltage lines or other electromagnetic means, including networks for radio and television broadcasting and cable television networks;

“**electronic communications service**” means a service provided wholly or partially by the conveyance of signals on an electronic communications networks;

“**licence**” means a licence issued to a person for the operation of an electronic communications network or the provision of an electronic communications service;”;

- (g) in the definition of the words “class licence” and “terminal equipment” –

(i) deleting the words “telecommunications network” and substituting the words “electronic communications network”, and

(ii) deleting the words “telecommunications service” and substituting the words “electronic communications service”;

- (h) in the definition of the words “individual licence”, deleting the words “telecommunications licence” and substituting the words “electronic communications licence”.

#### **4. Amendment of Article 3.**

Article 3 of the Treaty is amended by – deleting paragraph 2 and substituting the following –

“The Contracting States undertake to put in place in their respective jurisdiction an Electronic Communications regulatory body to be known as the National Telecommunications Regulatory Commission which shall co-ordinate and liaise with ECTEL.”

#### **5. Amendment of Article 4.**

Article 4 of the Treaty is amended by –

- (a) deleting the words “telecommunications” and substituting the words “electronic communications”;
- (b) deleting the words “telecommunications providers” and substituting the words “electronic communication providers”;
- (c) deleting the words “a universal service” and substituting the words “universal service and access”.

#### **6. Amendment of Article 5.**

Article 5 of the Treaty is amended by –

- (a) deleting the word “telecommunications” and substituting the words “electronic communications”;
- (b) deleting paragraph (d) and substituting the following –
  - “(d) recommend to the Contracting States the type of electronic communication networks or electronic communication services subject to a licence and exemption, if any;”;
- (c) deleting paragraph (g) and substituting the following -
  - “(g) design and operate open tender procedures for licenses related to electronic communication networks and electronic communications services as requested by Contracting States;”;
- (d) deleting paragraph (h) and substituting the following –
  - “(h) subject to article 11, review an application for a licence;”;
- (e) deleting paragraph (l) and substituting the following -
  - “(l) recommend to the Contracting States classes and sub-classes of licenses, an appropriate fee structure for licenses or other matters for or in relation to the conduct or regulation of electronic communications;”.

#### **7. Amendment of Article 6.**

Article 6 of the Treaty is amended by deleting the word “telecommunications” and substituting the words “electronic communications”.

**8. Amendment of Article 7.**

Article 7 of the Treaty is amended by deleting the word “telecommunications” and substituting the words “electronic communications”.

**9. Amendment of Article 8.**

Article 8 of the Treaty is amended –

- (a) in paragraph 3 sub-paragraph (b), by deleting the word “telecommunications” and substituting the words “electronic communications”;
- (b) in paragraph 3 sub-paragraphs (h), (m) and (n), by deleting the words “telecommunications legislation” and substituting the words “electronic communications legislation”.

**10. Amendment of Article 9.**

Article 9 of the Treaty is amended by –

- (a) deleting the words “telecommunications provider” and substituting the words “electronic communications provider”;
- (b) deleting the word “telecommunications” and substituting the words “electronic communications”.

**11. Amendment of Article 11.**

Article 11 of the Treaty is amended -

- (a) by deleting paragraph 1 and substituting the following –
  - “1. The Contracting States agree that:
    - (a) the classes of licences are an individual licence, a class licence, or a class or sub-class of a licence as recommended by ECTEL under article 5(l);
    - (b) an application made in a Contracting State for an individual licence shall be submitted to ECTEL for its review and recommendation in order to ensure compliance with the technical and financial requirements of ECTEL and this Treaty;
    - (c) an application for a class licence in a Contracting State shall be submitted to the National Telecommunications Regulatory Commission in the Contracting State for its review;
    - (d) an application for a frequency authorisation in a Contracting State shall be submitted to ECTEL;
    - (e) in the case of other licences or sub-classes of licences recommended by ECTEL under article 5(l), ECTEL shall determine, if an application for that licence is submitted to ECTEL or the National Telecommunications Regulatory Commission for review;
    - (f) if an application is reviewed by ECTEL under paragraph (e), ECTEL shall recommend applicants who satisfy the relevant technical and

financial requirements to operate an electronic communications network or an electronic communications service;

- (g) if an application is received by the National Telecommunications Regulatory Commission under paragraph (e), the National Telecommunications Regulatory Commission shall review the application;
- (h) ECTEL shall manage the spectrum on behalf of the Contracting States.”;
- (b) in paragraph 2, by–
  - (i) deleting the words “universal service” and substituting the words “universal service and access”,
  - (ii) deleting the word “telecommunications” and substituting the words “electronic communications”.

#### **12. Amendment of Article 12.**

Article 12 of the Treaty is amended by –

- (a) deleting the words “universal service” and substituting the words “universal service and access”;
- (b) deleting the word “telecommunications” and substituting the words “electronic communications”.

#### **13. Amendment of Article 13.**

Article 13(1) of the Treaty is amended –

- (a) by deleting the word “may” and substituting the word “shall”;
- (b) in subparagraph (b), by –
  - (i) deleting the word “mediation” and substituting the word “resolution”,
  - (ii) deleting the full stop and substituting a semi-colon;
- (c) inserting immediately after sub-paragraph (b) the following new sub-paragraph (c) –
 

“(c) refer the matter to ECTEL for arbitration.”.

#### **14. Amendment of Article 17.**

Article 17 of the Treaty is amended by deleting paragraph 2.

Made this 23<sup>rd</sup> day of December, 2020.

AKILAH BYRON-NISBETT  
*Minister responsible for Telecommunications*