



EASTERN CARIBBEAN TELECOMMUNICATIONS AUTHORITY

(ECTEL)

**DETERMINATION
ON
INTERNET NEUTRALITY**

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INTRODUCTION

The Eastern Caribbean Telecommunications Authority (ECTEL), through the National Telecommunications Regulatory Commissions (NTRC's), initiated a public consultation on Internet Neutrality for public consultation. In its consultation document, ECTEL quoting from Tim Wu stated that "*Network neutrality is best defined as a network design principle. The idea is that a maximally useful public information network aspires to treat all content, sites and platforms equally. This allows the network to carry every form of information and support every kind of application*" and outlined the different approaches to the issue in different jurisdictions. At the end of the consultation paper, ECTEL put forward its own approach.

The initial comments period ran from the 23rd September 2013 to the 28th October 2013, and during that time submissions were received from LIME, Digicel, Columbus Communications Grenada Limited and NTRC Saint Lucia. The comment on comments period commenced on the 4th November 2013, and at the conclusion of the same submissions were received from LIME, Digicel and Columbus Communications.

SUMMARY OF ECTEL's POSITION

Having reviewed the comments and the comment on comments, ECTEL:-

1. **IS** committed to the principle of an open internet as defined by Tim Wu, and maintains that the practice of blocking websites and throttling speeds interferes with regional objectives to utilize Information and Communication Technology (ICT) as a way of transforming economies and transitioning towards knowledge-based economies.
2. **MAINTAINS** that Deep Packet Inspection (DPI) as a traffic management technique interferes with the privacy rights of the customer and can be utilized for anti-competitive purposes. ECTEL reiterates that traffic management techniques must not interfere with the fundamental right to privacy and must not be utilized to achieve anti-competitive purposes.
3. **RESOLVES** to treat the issue of DPI and traffic management at this time through the promotion of information transparency and a review of the Quality of Service Regulations. For the avoidance of doubt, ECTEL will not at this time

introduce net neutrality regulations, but will reserve its right to do so at a later time.

4. **RESOLVES** to strengthen the capacity of the National Telecommunications Regulatory Commissions to deal with anticompetitive conduct by continuing to work on the passage of the draft Electronic Communications Bill, and co-operate with the Eastern Caribbean Competition Commission when established.

ECTEL'S PROPOSED CURRENT APPROACH TO INTERNET NEUTRALITY

A. INFORMATION TRANSPARENCY

ECTEL maintains that DPI constitutes an interference with the privacy rights of customers; however, ECTEL accepts that the practice can be used to ensure the integrity of the provider's network. Therefore, ECTEL strongly urges providers to utilize information transparency as a means of treating with the privacy issues that may arise. Given that the objective of information transparency can be undermined if the information is presented in a manner that the average customer cannot comprehend, or published in a place where the customer may not have ready access to, it is recommended that all internet service providers provide consumers with coherent and readily accessible information on the broadband services that they offer. Such information should speak to the terms and conditions for the provision of the service, the average speed that the provider intends to supply during normal and peak times, the type of traffic management practices employed as well as the effect of those practices on the service and confidentiality of the consumer's information.

In other words, ECTEL recommends that all internet service providers explain to customers the meaning of DPI, how it is used on their network, and the purpose for which DPI is used. The internet service provider should explain that DPI compromises the privacy of the information that the customer is sending over the network. The provider should in its terms and conditions of service undertake only to utilize DPI for the specific purpose of detecting viruses and maintaining the integrity of the network, and seek to obtain the express consent of the customer to utilize DPI. By providing the customer with all the relevant information, providers will be acting in accordance with the principles of information transparency, to which all of them in their responses to the consultation appeared committed.

B. REFORM OF THE QUALITY OF SERVICE REGULATIONS

However, whilst ECTEL encourages the providers to be more transparent in giving customers information, it is recognized that this voluntary action may not be sufficient to ensure an open internet. Therefore, ECTEL will commence a review of its Quality of Service Regulations with a view to prescribing minimum internet broadband speeds to guard against the degradation of service or the slowing down of traffic.

C. STRENGTHEN ANTI-COMPETITION RULES – THE NEW ELECTRONIC COMMUNICATIONS BILL

ECTEL acknowledges that the current legislative framework is in need of reform, and as such, will continue to work assiduously to advocate for the promulgation of the Electronic Communications Bill, which will allow the regulatory authority to better treat with situations where DPI is utilized in furtherance of anti-competitive conduct. ECTEL also intends to work closely with the Eastern Caribbean Competition Commission, when it is established, to ensure that all anti-competitive conduct in the sector is dealt with.
