EASTERN CARIBBEAN TELECOMMUNICATIONS AUTHORITY
ECTEL

The Making of ECTEL: A Lesson in Caribbean Integration

by Anderson Reynolds

"How could a country truly call itself independent when a foreign international has exclusive control of the industry earmarked as one of the most important for its continued economic growth?"

The CARICOM Single Market and Economy (CSME) and the Caribbean Court of Justice (CCJ) with their promised benefits have in recent months undoubtedly captured the Caribbean imagination and rivalled or probably surpassed the dismal West Indies cricket team and World Cup Cricket 2007 as attention getters. This, however, may belie the fact that with regard to Caribbean integration, it is the Eastern Caribbean that has led the way. And among the subregion's many integration initiatives, probably the most intriguing has been the making of the Eastern Caribbean Telecommunication Authority (ECTEL).

Formally inaugurated June 2002, ECTEL, along with its associated National Telecommunication Regulatory Commissions (NTRCs), serves as the regulatory body that regulates telecommunications in five of the OECS territories. However, beyond serving as another example of OECS integration efforts, as a telecommunication regulator ECTEL has the added status of being the first and only one of its kind in the world, for it is the only regulatory entity that regulates telecommunications across sovereign states. Recognizing the potential of this structure as a model for other developing regions, not only did the World Bank place its financial might behind this OECS experiment, but since its inception has kept a watchful eye over it.

OECS Economic Realities

What led to the formation of ECTEL is steeped in the economic realities of the OECS. This group of islands entered the mid 1990s with economies that exhibited serious structural problems. Sugar, a mainstay of St. Kitts' economy, had been in decline since the 1980's, causing speculation that the island would soon follow the example of neighbouring Antigua and cease production altogether.

Similarly, bananas, once the largest source of income, employment and foreign exchange of the Windward Islands of Dominica, Grenada, St. Lucia and St. Vincent had suddenly taken a precipitous fall. Windward Islands banana exports had slipped by more than half, from a peak of 277 thousand tonnes in 1990 to 137 thousand in 1997, resulting in an estimated 57 percent drop in banana revenues, from EC$383 million to EC$165 million.

In the seventies and eighties the islands had pinned their hopes on manufacturing as an engine of economic growth and a means of achieving economic diversification. But this too proved disappointing. For example, while between 1977 and 1990 the contribution of St. Lucia's manufacturing sector to GDP grew by an annual average of 9 percent, from EC$26 million to EC$78 million, in the decade of the nineties its contribution to GDP declined by an annual average of more than 1 percent.

These salient realities were further compounded by the fact

St. Kitts' sugarcane landscape about to become the past.

that even in the best of economic times the Windward Islands faced double digit unemployment rates. In fact, the greater majority of full-fledged CARICOM countries suffered from perennial double-digit unemployment rates.

Yet, the data also revealed that in contrast to agriculture and manufacturing, the service sector overall, and tourism in particular, was exhibiting continued growth and in most of the islands tourism had surpassed both agriculture and manufacturing in economic importance. For example, an OECS 2002 human development report indicated that between 1985 and 1999 the contribution of agriculture to OECS GDP declined from 12 to 8 percent, and that of manufacturing dropped from 7.4 to 6 percent. In contrast, the contributions of tourism increased from 8 to 10 percent (1998), and that of both communications and financial services increased from 16 to 19 percent. Indeed, it appeared that the CARICOM countries (for example, Barbados, St. Kitts, Antigua,and the Bahamas) with the most viable and developed economies were those with the most developed tourism and financial service sectors.

In 1995, to address these structural economic weaknesses, the OECS embarked on an economic diversification program. However, recognizing that the service sector, and not the traditional export sectors of agriculture and manufacturing, was now the engine of economic growth, this new initiative concentrated on the development of the growth sector.

As part of this diversification initiative a preliminary study was conducted to identify the bottlenecks to economic growth and diversification. Conducted by the Adam Smith Institute, the study revealed that the main impediments to diversifying the economy and developing the service sector were: (1) high cost of telecommunications services, (2) limited access to telecommunications infrastructure, and (3) a shortage of trained information communication technology (ICT) personnel.

More specifically, most OECS territories faced a telecommunication environment in which Cable&Wireless (C&W) was the sole legal provider of telecommunication services, and which was characterized by exorbitant lease line and international calling rates; poor, unresponsive and unaccountable customer service; long wait time for telephone lines; limited Internet and cellular service at exorbitant prices; free use of the spectrum resource by C&W; limited C&W license fee payments to respective governments; and uneven or inconsistent telecommunication policies across countries.

The OECS Telecommunications Reform Project

Clearly, these findings showed that a lot was riding on the back of the OECS telecommunications sector. Therefore, rather than pursuing a broad diversification program, which might lack focus and consequently may not produce desired results, the OECS embarked on a Telecommunications

Windward Islands bananas may soon follow sugar

The future awaits

Reform Project with an ICT training component.

However, this Telecommunication Reform Project was not to be for all OECS members. For when in 1997 the OECS embarked on this initiative and entered negotiations with the World Bank to secure funds for financing the project, only five of nine OECS territories—Dominica, Grenada, St. Kitts, St. Lucia, and St. Vincent—were available for World Bank funding and therefore could participate. Antigua could not be financed through the World Bank because of outstanding commitments to the Bank, and, as dependent states, Anguilla, Montserrat and the British Virgin Islands were not eligible.

Officially established in 1998, the OECS Telecommunication Reform Project had as its main aim the liberalization of the telecommunication sector. With liberalization, the OECS hoped to achieve open entry and competition in the telecommunication sector; universal service to ensure the widest possible access to telecommunications services and products at affordable rates; freedom to communicate over an efficient and modern telecommunications network; fair pricing and the use of cost-based pricing methods by telecommunication providers; the introduction of advanced telecommunications technologies and an increased range of services; fair competition practices by discouraging anti-competitive practices by telecommunications

providers; and increased penetration or usage of telecommunications services.

This was no doubt both a heady and a perilous episode in the history of the OECS. For how could a country truly call itself independent when a foreign international has exclusive control of the industry earmarked as one of the most important for its continued economic growth? How could any self-respecting country allow a foreign-owned international (or any company for that matter) to continue undermining its growth potential? Could member states of the reform project honestly maintain that colonization is over? Yet what would happen to the same country and to this most vital of its industries if, in response to the cancellation of its exclusive license and the introduction of competition, the said company packs up and leaves?

Regarding colonialism or imperialism, OECS states would have been hard pressed to find a corporation whose existence had been as intertwined with a colonial and imperial power as was that of C&W. At the end of World War I the British empire ruled over more than a quarter of the globe's population and land area. Part of what made British rule possible over such an extensive portion of the world was the communications network of the Eastern Telegraph Company, later renamed Imperial & International Communications, and later still (1934) Cable & Wireless. First, by telegraph and later by both telegraph and telephone, the network of C&W would extend to match the reach of the empire and to become its very nerve system. In war C&W served the empire well. The company's web site boasts that during World War II its "branches around the world were fully manned and messages always got through using both the radio and cable networks. Cable ships played a vital part in repairing cables damaged by enemy action. They also cut and diverted enemy cables. For example, the Italian Malaga to Canary Islands cable was diverted to form a British Gibraltar to Casablanca cable."

Apparently, C&W's contributions to the British War effort demonstrated so clearly how vital the company was to the empire that soon after the War, in 1947, the company was nationalized and it was not until 1981 that it was reprivatized.

However imperialistic the nature of C&W, much more was riding on the back of this OECS experiment. As mentioned earlier, the OECS has led the way in Caribbean integration, and as for telecommunications liberalization it was leading the way in

yet another dimension. The Telecommunication Reform Project meant that the OECS and Jamaica would represent the only two CARICOM entities to have attempted telecommunications liberalization. Clearly, the success of this OECS experiment would influence the decision and the timing of other Caribbean states to liberalize their telecommunications sectors.

Unquestioningly, the OECS Telecommunication Reform Project was reaching for noble and lofty goals, but between these goals and the micro states of Dominica, Grenada, St. Kitts, St. Lucia and St. Vincent stood C&W, the global telecommunication giant that held monopoly or exclusive telecommunications licenses in all five states. The exclusivity of these licenses gave the company the sole right to provide telecommunication services in these countries. So, in effect, Cable and Wireless was what economists call a legal monopoly.

OECS liberalization efforts faced a further complication in that the termination dates of the exclusive licenses differed across countries. In St. Lucia, the license would end in 2001; St. Vincent in 2004; Grenada in 2013; Dominica in 2020; and St.

Kitts in 2024. Given this wide spread in license termination dates, how could the OECS adopt a common telecommunications liberalization policy?

In answering this question, the Reform Project adopted the strategy that since St. Lucia's license was the first to come due, when St. Lucia was negotiating its new license arrangement, the remaining islands would join the negotiations such that there would be just one set of negotiations, which in effect implied that all the monopoly licenses, no matter their legal due dates, would end when the new telecommunications arrangement was put in place.

The Nature of Monopolies

With this joint policy approach to telecommunications liberalization, the battle lines were drawn, for no where in the world has any monopoly enterprise given up its monopoly privileges without a fight. The conduct of monopolies is well known. They produce a smaller quantity of goods and services than what is best for society and they sell these goods and services at prices higher than what would obtain under a competitive environment. And as to be expected, they make economic profits, meaning that they earn above what it would take to cover all their cost, including a reasonable (market going rate) return on their capital. In other words, not only are monopolies wasteful, but they grow fat by providing society a sub-optimal level of goods and services at exorbitant prices. Economic theory suggests that monopolies cannot help but behave as described, because given the market structure implicit in a monopoly industry, and given the assumption of profit maximization, a monopoly firm has to produce less and price higher than would be the case if the industry was competitive.

In economics there is something called a natural monopoly, which is a production situation where the long run average cost structure of the industry declines continuously throughout the feasible range of output, such that the optimal plant size (the one associated with the lowest average cost of production) corresponds to the full range of output. Under these conditions governments may legislate the monopoly status of the firm because the presence of two or more firms in the industry would invariably imply unnecessary duplication of infrastructure and thus a waste of societal resources. Many of the utility industries (water, electricity, sewage management, etc.) are considered natural monopolies. So too is the provision of fixed line telecommunication services, although recent changes in technology has made this less so.

However, although governments may give the nod to a natural monopoly, recognizing its inherently undesirable conduct, they often put measures in place to regulate the operations and pricing policies of the monopoly firm, and they place a limit on the amount of profits the firm can retain, thus ensuring that it does not abuse its monopoly status.

Well, as a monopoly, C&W had it nicer than most other monopolies in that the company was virtually unregulated. For all practical purposes, and maybe partly because of the OECS governments' ignorance of telecommunications technology and operations, C&W was a regulator unto itself. Not only were C&W's profits unregulated, but the company was managing both the region's telephone numbering system, and its spectrum resource. So besides earning monopoly profits, C&W was using the region's spectrum for free while telecommunications companies in most other countries had to pay substantial amounts for that resource.

Now, one need not scratch too deep to understand how C&W came to enjoy such coziness. For generations C&W was the official sponsor of West Indies Cricket. So much so that the name C&W had become synonymous with West Indies Cricket, one of the few areas of West Indian life where the public does not "take it easy" and where "man, that's good enough" is not good enough.

Cricket may have accounted for the lion share of C&W's sponsorship dollars, but it was by no means the company's only charitable cause. One got the impression that the company sponsored every public event worth doing. Still, maybe what made previous governments look upon C&W with such benign eyes, was not so much the company's sponsorship activities, but that C&W had become an extension of the governments' coffers. For the governments could always count on C&W for short term loans when, for example, there were shortfalls in public servant payrolls. In other words, to some extent C&W bankrolled some of the governments. On top of that some governments of the Telecommunication Reform Project had significant ownership in C&W. The government of Grenada owned 30 percent of C&W Grenada Ltd., the Dominica government owned 20 percent of C&W Dominica Ltd., and the St. Kitts government owned 17 percent of C&W St. Kitts and Nevis Ltd.

Clearly, C&W was not about to willingly give up all this power and coziness in the name of liberalization. After all it had been playing its part, and playing it well. So not only was C&W unwilling to give up its monopoly powers, it probably considered the governments and people of the region very ungrateful for all what it had done for them. All this suggests that it would take much more than lofty goals to effectively challenge C&W's monopoly status. In fact, the reform project's proposed integration of OECS telecommunications was like no other integration initiative, because, whereas in previous integration initiatives the Caribbean territories had only their differences to deal with, here they had the added task of stripping C&W of its monopoly privileges.

New Sheriffs in Town

Economic realities coupled with World Bank backing may have been what set the OECS on the path of telecommunications integration and liberalization, but given the challenge C&W posed, staying that course had much to do with the personalities who were at the helm of these governments. By 2000, the changing of the guards of OECS political leadership was all but complete. The old guard of Sir John Compton of St. Lucia, Patrick John and Dame Eugenia Charles of Dominica, Sir James Mitchell of St. Vincent, Sir Kennedy Simmonds of St. Kitts, and Eric Gary of Grenada had given way to a younger generation of Prime Ministers that included Dr. Kenny Anthony of St. Lucia, Rosie Douglas and Pierre Charles of Dominica, Dr. Ralph Gonsalves of St. Vincent (2001), Dr. Denzil Douglas of St. Kitts, and Dr. Keith Mitchell of Grenada.

The Changing of the Guards—Sir Dwight Venner and 2004 OECS Heads of State

The new generation was clearly more predisposed than their predecessors to challenging C&W's telecommunications monopoly licenses. To begin with, it was their forerunners and not they who were the signatories to these exclusive licenses, so they need not have qualms about revisiting these agreements. Secondly, being of more recent vintage they would have been less marked by the region's colonial legacy and therefore would have looked upon C&W with less awe and would have been less inclined to see C&W as untouchable. Thirdly, it is safe to say that as a group this new breed of leaders leaned more towards socialism or communism than did their predecessors. Dr. Ralph Gonsalves and Roosevelt Douglas were part of the group (that included George Odlum of St. Lucia and Tim Hector of Antigua) labelled the "four musketeers," on account of their dedication and commitment to socialism. Even today Dr. Gonsalves, the only remaining member of the "four musketeers," makes no bones about his socialist sensibilities, albeit one softened by political pragmatism.

Roosevelt Douglas's radicalism was evident even back in 1969 when as a student at Montreal's George Williams University he took part in what became known as the George Williams Computer Riot. The riot, which was in protest of the university's mishandling of racism allegations against a professor, involved more than 200 students and was the largest student riot in Canada.

Dr. Kenny Anthony was also a proponent of communism. Not only did he receive his political baptism under the wings of George Odlum, one of St. Lucia's most famous politicians and greatest advocate of left-wing politics, but during his secondary school teaching days it was reported that he help special communism doctrinaire classes for his more daring or politically conscious students.

Indeed, part of the reason the old guard of Caribbean leaders had been so keen in inviting and welcoming the 1983 US invasion of Grenada was to stem the communism tide that was then sweeping across the region.

At heart socialism or communism embraces the notion of community ownership, of a classless society in which the means of production (and thus the levers of power) are not subjected to the ownership or control of others, but are collectively owned.

Clearly, the notion of a foreign company having exclusive rights to provide a service deemed essential for the economic viability of a society does not sit well with the tenets of socialism.

St. Lucia
The Ace In The OECS Deck of Cards

Another reality that gave OECS telecommunications liberalization a nudge was that it was St. Lucia and not one of the other five members of the OECS Reform Project whose exclusive license would be the first to expire and, therefore, would be the first to lock horns with C&W. From Sir George Charles to Sir John Compton to Dr. Kenny Anthony, St. Lucia had been at the forefront, and one of the greatest proponents, of OECS integration and the coordination of OECS social and economic policy. St. Lucia was one of the territories that regional organizations like the OECS could always count on to meet its financial obligations. St. Lucia had always been an advocate of maintaining a common Caribbean front. For example, as Prime Minister of St. Lucia, Sir John Compton had worked tirelessly for the imposition of an Eastern Caribbean uniform tax on cruise ship tourists. Indeed, throughout most of its post universal suffrage history, St. Lucia has shown a tendency to uphold, even sacrifice for, Caribbean unity.

Another reason it was propitious for St. Lucia to be the one leading the telecommunications liberation charge was that in 2000 with close to 160 thousand people and a real GDP of over EC$1161 million, the country had both the largest population and the largest economy of the five islands, and the revenue that C&W derived from the country represented the largest chunk of C&W telecommunications revenues. Therefore, one could conclude that St. Lucia was the OECS country with the greatest bargaining power in relation to the telecommunications giant.

Yet another reason St. Lucia was the best positioned to take on C&W was that by 2000 the Dr. Kenny Anthony-led Labor

Party government had gone through the experience of liberalizing what was once (in terms of both income, employment and foreign exchange) its most important industry—bananas. Following the infamous 1993 banana strike, the government had liberalized the banana industry by first dissolving the St. Lucia Banana Growers Association (SLBGA), the (quasi) state monopoly that was in charge of purchasing all of St. Lucia's exportable bananas., and then vested the SLBGA assets in a new entity, called the St. Lucia Banana Corporation (SLBC), that would be privately owned by registered banana farmers. With this governmental act, the floodgates were opened. Soon the SLBC was joined by the Tropical Quality Fruit Company (TQFC), the Agricultural Commodity Trading Company (ACTCO), and the Banana Salvation Marketing Company, all vying for a share of the banana export crop, such that by 2000 the St. Lucia banana industry was fully liberalized. The experience gained in liberalizing its banana industry would undoubtedly serve the government well in liberalizing its telecommunications sector.

The Hero of OECS Liberalization

All revolutions, all movements, have to have heroes or messianic characters, those who come to personify the very essence of the phenomenon, for at the early stages of any movement, positions are shaky, the mission can seem impossible, outcomes are uncertain, some are plagued with doubts, detractors are many and bold and confident. Therefore, to persevere, it takes nothing less than the kind of confidence that comes with righteous indignation, from the attitude that one's position is absolutely right, that one was chosen by God for the mission in question, that to be against the mission is to be against God and man.

More than six feet tall, with broad frame, bulging eyes, studied intelligence, a deep, heavy voice that does not lack for words, and often waxed eloquent, in Calixte George, St. Lucia's Minister for Communications, the OECS liberalization movement had found its hero. Calixte George's zeal, fierceness, and tenacity towards OECS telecommunications liberalization could have easily led one to conclude that he was the one, the chosen one, the one who was placed on earth for the sole purpose of liberalizing the telecommunications sectors of the OECS. One may have also concluded that Calixte George's vehemence towards C&W in the battle to liberalize OECS telecommunication went beyond getting the job done, that he considered C&W's predisposition a personal affront. Such was the Minister's total confidence in the rightness and morality of the mission that one could well imagine that if any of the Prime Ministers of the region were to have wavered, and wondered whether they had made an error in judgement, and that the risk of locking horns with C&W far exceeded the benefits, they simply had to glance at Calixte George for their compasses to return to the mission. In attempting such a momentous and important change as regional telecommunications liberalization, in the process going against such odds as a global corporate giant, the OECS needed no less a personality with no less a passion for the cause than Calixte George.

David Facing off with Goliath

A glance at Calixte George's education, professional history and personality suggests that indeed he was tailor made for the post. Born and raised in Castries, St. Lucia, he attended the St. Mary's College, the secondary school that produced St. Lucia's two Nobel Laureates—Sir Arthur Lewis and the Honourable Derek Walcott. There he distinguished himself by becoming the first student to obtain in one sitting distinctions in three Cambridge School Certificate science subjects, and by being among the first group of St. Lucians to gain Higher School Certificates in three science subjects, namely Chemistry, Botany, and Zoology. From there Calixte George attended the University of the West Indies where he received a BSc. Degree in agriculture with honors, and then the University of Reading, where he graduated with a MSc degree in soil science. Calixte George's research discipline and technical training would allow him to quickly grasp difficult telecommunications technology and economic concepts, which would gain him the respect of his OECS colleagues and in the fight to liberalize OECS telecommunications would enable him to challenge C&W's arguments with great confidence and conviction.

Before Calixte George's appointment as St. Lucia's Minister for Communications, he held several top national and regional posts, including Agronomist with the Windward Islands Banana Research Project, Research Officer with the St. Lucia Ministry of Agriculture, Executive Director of the Caribbean Agricultural Research and Development Institute (CARDI), and Managing Director of the St. Lucia Banana Growers Association. Already endowed with the necessary mental and physical qualities for leadership, these positions allowed Calixte George to develop and fine tune his leadership style. By the time Calixte George took up the charge against C&W, he had become a leader of men, one who did not need any formal titles or positions to command respect. Calixte George was imbued with the type of personality, which was such that anyone present in a discussion with him would first wait to hear what he had to say before voicing an opinion. As for regional stature and force of personality, it may not be far fetched to suggest that Calixte George towered over most of the OECS Prime Ministers of the time. On top of all these qualities, Calixte George had earned a reputation of being a no nonsense person who had no patience with incompetence and little tolerance for laxness and mediocrity. Also, as a trade unionist (he headed the CSA for several years) he had proved to be a skilled negotiator and a formidable rival to the John Compton administration in the heady days of the 1970's.

Therefore, as St. Lucia's Minister for Communications, Calixte George represented another reason that it was a blessing to the OECS Telecommunications Reform Project that St. Lucia's telecommunication monopoly licence was the first to expire.

The Caribbean, Cable & Wireless's Cash Cow

However, Calixte George or no Calixte George, C&W was not ready to lie down and let a few tiny Third World islands get the upper hand. After all, the company's clientele stretched across the globe in 80 different countries. It provided cellular service in 24 countries around the world, and the combined GDP's of OECS countries was a mere fraction of its roughly 8 billion pounds of annual global revenues.

Besides, notwithstanding the tininess of these countries and their telecommunications systems, the global giant had plenty at stake. For although the 912 million pounds of revenues that it generated from its Caribbean operations (in 1998) represented only 11.5 percent of its global revenues, the 324 million pounds of profits derived from the region represented no less than 19.7 percent of its global profits. In other words, the Caribbean as a region was accounting for a disproportionate share of C&W profits, providing an example where size can be deceiving and leading some market analysts to conclude that C&W's global strategy was to use the Caribbean (where it does not face any competition) as a cash cow to finance its operations in competitive environments such as the US, where lately the company was attempting to gain a foothold.

The great irony that one of the largest and most cash-rich companies in the world was milking a group of poor, third world countries to invest in developed, wealthy countries must have no doubt fuelled the passion and moral indignation of Calixte George and the rest of his colleagues in their fight to regain control of their telecommunication sectors.

Facing such odds, it is not hard to imagine Calixte George picturing himself the David of the OECS, devoid of armour, but equipped with only words and moral indignation, facing off with the telecommunications Philistine giant who was protected by hordes of high priced lawyers and accountants, equipped with billions of dollars, and filled with the arrogance and disdain of the invincible, who for decades was taking the Caribbean to the bank.

In response to the OECS call for liberalization, C&W had this to say. First, to give up its monopoly rights prematurely (before the natural termination of its licenses) it would require US$97 million in compensation. Secondly, since it had been subsidizing domestic services with revenues from its international sector, before liberalization can take place, rates must be rebalanced, meaning rates must be brought closer to their true cost, which invariably means increasing domestic rates while decreasing international calling rates. Third, to allow for a gradual adjustment, liberalization should be phased over a period of up to five years.

The OECS Telecommunication Reform Team countered. They said that liberalization was urgent and of economic necessity for the OECS, therefore it should be introduced as quickly as possible. Second, they believed all services were priced well above cost, so although they might agree with rate rebalancing in principle, C&W has to justify it based on the cost of providing the service. Finally, the reform team said that by virtue of its exclusive licenses, C&W had prevented an additional US$300 million from being invested in the islands, so this more than offset any compensation for the early termination of its monopoly licenses.

The Birth of ECTEL

Despite C&W's objections, convinced that a liberalized and competitive telecommunications sector was essential for the future economic and social development of their countries, and recognizing that a harmonized and coordinated approach was the best way to achieve a liberalized and competitive telecommunications sector, in St. Georges, Grenada, May 4, 2000, the governments of Dominica, Grenada, St. Kitts, St. Lucia and St. Vincent entered a treaty establishing the regulatory regime that would regulate telecommunications in the five countries.

The telecommunications regulatory regime established by the treaty embodied the Eastern Caribbean Telecommunications Authority (ECTEL) and five National Telecommunications Regulatory Commissions, one in each of the five countries. The treaty envisioned that ECTEL would play an advisory, coordination, management, and monitoring role. More specifically, the functions of ECTEL included: (1) advise member states on the conduct and regulation of the telecommunication sector; (2) manage the spectrum resource; (3) recommend and monitor the implementation of a regional universal service plan; (4) recommend and monitor interconnection, numbering, and pricing plans; (5) develop a frequency authorization plan; (6) develop operator licensing plans; (7) prepare and recommend regulations, forms and templates to facilitate the harmonization of regulations in member states; (8) review and evaluate applications for individual licenses; (9) monitor and appraise the effectiveness of issued licenses; (10) develop fee structures; (11) recommend a regional cost based pricing regime; (12) recommend technical equipment standards and procedures for the approval of equipment for use by telecommunications providers; and (13) coordinate activities with third parties in the fulfilment of the treaty.

According to the treaty, ECTEL would comprise three enti-

ties—A Council of Ministers, a Board of Directors, and the ECTEL Secretariat. The Council of Ministers, to whom both the Board of Directors and the ECTEL Secretariat are answerable, would consist of the Telecommunications Ministers in the contracting states, and the OECS Director General or his or her representative as an ex-officio member.

The Council of Ministers would be responsible for the formulation of policy as pertaining to the management of the telecommunications sector. More specifically the functions of the Council would include: (1) promote the purposes of ECTEL and the effective implementation of the treaty; (2) give directives to the Board on matters arising out of the treaty, including the generation and disbursement of revenue; (3) approve ECTEL's budget; (4) approve forms and procedures for the application of individual licenses; (4) determine the internal organizational structure of the ECTEL Secretariat; (5) determine the fees payable to the ECTEL Secretariat for the performance of its functions; and (6) ensure that the Board is responsive to the needs of the Contracting States in the conduct of telecommunications policy.

Once the Treaty establishing ECTEL was signed, ECTEL states enacted the Telecommunications Act. The Act was the vehicle by which the telecommunications sector would be regulated, and, whereas the treaty mentioned the National Telecommunications Regulatory Commissions (NTRC's), it was the Telecommunications Act that established the NTRCs and defined their powers and responsibilities. According to the Act, besides an NTRC staff, the NTRC would comprise three to five Commissioners appointed by the Minister. The Commissioners would essentially act as the Board of Directors of the NTRC. The responsibilities of the NTRC (one in each member state) would include: (1) advising the Minister on matters pertaining to telecommunications; (2) establishing technical standards and ensuring compliance and compatibility with international standards; (3) ensuring compliance with government's international obligations on telecommunications; (4) regulating prices and standards; (5) planning, supervising, regulating and managing the use of frequency spectrum; (6) collecting prescribed fees and any other tariffs levied under the Act or regulations; (7) receiving and reviewing application for licenses and advising the Minister accordingly; (8) monitoring and ensuring that licenses comply with the conditions attached to their licenses; (9) investigating and resolving disputes and complaints of operators and other telecommunication stakeholders; (10) monitoring anti-competitive behaviour; (11) managing the universal service fund; and (12) reviewing proposed interconnection agreements and making recommendations to the Minister.

When one compares the role of ECTEL as laid out in the Treaty and that of the NTRCs as defined in the Telecommunications Act, it becomes clear that while ECTEL would function primarily as an advisor and coordinator, the NTRCs would be charged with monitoring the sector, ensuring compliance with standards and regulations, and resolving complaints and disputes among stakeholders to ensure that the sector operates as smoothly as possible.

However, this structure was not the one originally designed by the OECS Telecommunications Reform Project. The original intent was that ECTEL would be patterned after the Eastern Caribbean Central Bank (ECCB) model of one central authority. Thus ECTEL would be to OECS telecommunications what the ECCB was to OECS monetary policy. Accordingly, ECTEL would have been charged with the formulation, coordination, and implementation of telecommunications policy, and the regulation of the telecommunications sectors of its member states. However, along the way, the governments of some ECTEL member states saw this structure as subjecting their countries to too great a loss of sovereignty, thus the five islands departed from the central or single authority model of the ECCB, and instead opted for the dichotomous structure established by the ECTEL Treaty and the Telecommunications Acts, in which ECTEL would be mostly responsible for helping to formulate and coordinate telecommunications policy, while each country's telecommunications Minister along with his National Telecommunication Regulatory Commission (NTRC) would be responsible for the execution of telecommunication policy in his country and the direct regulation of his country's telecommunication sector. This change in the original intent provided an example of how not to integrate, because (as will be discussed in Part 2 of this article) it has impaired the smooth coordination and implementation of OECS telecommunications policy, and has introduced duplication of function and undue political interference that has undermined the integrity of the regulatory apparatus.

The Negotiations

It was all fair and well for the OECS to establish its regulatory regime, but given it had C&W to contend with, it was a whole different ball-game to having an industry to regulate. In this game, there had to be two players. Yet how could the game take place when the positions of the opposing teams were so far apart, and when the two sides did not even have a common appreciation of the rules much less an acceptance of them? Because of the unresolved differences between the OECS and C&W, the governments had two options. Litigate, let the courts decide, or negotiate. For OECS governments liberalization was a matter of great urgency. The future economic development of their countries depended on the liberalization of their telecommunication sectors. Furthermore, they were most definitely anxious to lay their hands on the additional revenues in the form of license fees, spectrum fees and royalties that liberalization promised. Therefore, to avoid the protracted wait that litigation was sure to bring, OECS Heads agreed to negotiate the early termination of C&W's exclusive licenses.

To conduct the negotiations the parties formed negotiating teams. Headed by Minister Calixte George, the OECS team comprised OECS Communication Ministers, who were in turn supported by a team of legal, financial, economic, and telecommunications experts. The C&W team, which comprised C&W senior officials from the region, was headed by Errald Miller, the Regional Director of Cable and Wireless.

In the negotiation process, C&W's claim of US$97 million as compensation for the early termination of its licenses quickly became a none issue. This left only two main contentious points. The first being the timing of liberalization or how quickly liberalization should take place. The second was C&W's claim that local access and domestic calling were priced below cost and were being subsidized by its more profitable international calling market segment, therefore a precondition for liberalization was the realigning of domestic rates closer to cost.

Regarding the first point of contention, the OECS wanted to liberalize as quickly as possible, whereas C&W wanted liberalization phased over a five-year period. On the second point, OECS governments were not convinced that any of C&W's services were being priced below cost, therefore before they could agree to rate rebalancing they wanted proof that indeed the rates in question were below cost.

As late as January 2001 the parties could not reach agreement on these issues and the negotiations reached a deadlock. In the heat of battle Calixte George publicly referred to the head of C&W's legal team as a "house nigger" and he let loose his fighting mantra: menm bèt menm pwèl (same animal, same body hair), which, considering the fact that he had labelled the C&W lawyer a "house nigger," could be interpreted that, since C&W looked like the plantation slave masters, and behaved in like manner (exploiting the Caribbean to invest in America), C&W and the slave masters were the same.

Cable and Wireless punched back. The company threatened to close its St. Lucia operation and to pack up and leave. Apprehension over such an outcome rippled across the nation. In an article printed in the Star newspaper, Rick Wayne, St. Lucia's preeminent journalist, characterized Calixte George as the bull, a Don Quixote one at that, who seemed intent on smashing the OECS telecommunications china store.

Responding to the telecommunications giant's threat, OECS Heads came together as one and announced that if C&W abandoned St. Lucia, then it must leave the remaining four countries that formed ECTEL. One for all, all for one, was the battle cry that rang across the subregion. Never before had OECS flags flown so high, providing a perfect example of how to integrate.

However, the Heads of the ECTEL countries were not politicians for nothing. Though they stood holding hands, they softened the stance of the negotiating team by shuffling its composition and appointing Prime Minister Keith Mitchell of Grenada to replace Calixte George as head of the negotiation team.

Following the shuffling of the OECS negotiating team, on April 7, 2001, in a meeting co-chaired in St. Kitts by Prime Minister Denzil Douglas, the parties arrived at an agreement on liberalization. However, it was an agreement on the broad principles of liberalization. Namely, that the sector would be fully liberalized between twelve and eighteen months from April 2001; that the exclusive licenses of C&W would terminate; that upon application, OECS contracting states would give C&W nonexclusive licenses to provide at least the same networks and servic-

OECS Government Signatories to the May 20, 2002 Telecommunications Liberalization Agreement

es as the company provided before the termination of its exclusive licenses; and that the OECS agreed to rate rebalancing in principle, provided that C&W costs justified its rate rebalancing claims. Once the agreement was reached, the working out of the details of how liberalization would be effected were left to joint working groups that included a legal and regulatory working group, a tariff rebalancing working group, and a communications working group.

Given this breakthrough in negotiations, it seems that inadvertently the OECS had played the good cop, bad cop strategy to perfection. The Calixte George negotiating team had waved a big stick and had given C&W a taste of how far the OECS was willing to go to make liberalization a reality, so by the time the multinational met the softer, more gentle team of Keith Mitchell it was much more willing to negotiate.

Notwithstanding, the tug of war between the OECS and C&W was not yet over. In negotiating the details of the liberalization process, the working teams reached an impasse. The OECS tariff rebalancing team found C&W's defense of rate rebalancing and the data it supplied to justify such claims unsatisfactory.

Why was the OECS at odds with C&W's notion of rate rebalancing? To answer that question it would help to first provide a brief overview of the economics of the local access network. The main functional elements of a modern telephone system are local access, switching and transmission. Sometimes called the local loop, the local access network connects end users (businesses, government, and residential customers) to the national and international network. More often than not this is accomplished by connecting a twisted pair of copper wires from the user's premises to a local switch. These copper wires (or other types of cables) and the labour required to lay them account for most of the cost of the local access network, and of the three main network elements, the local access network is by far the most expensive, contributing from one-third to one-half of the total network cost.

C&W's contention was that the revenues it was generating from its local access services (mainly domestic calling, connection fees and the basic monthly access charge) were insufficient to cover the cost of the access network, therefore all along it was using revenues from its long distance business to make up for the shortfall in access revenues. However, with liberalization, it would no longer be able to do so because competition would invariably drive down international calling rates, leaving less of a surplus to offset the deficit in access revenues. Therefore, before liberalization could take place, its access rates should be raised to be more reflective of the cost of the local access network.

The OECS tariff rebalancing team had several problems with this argument. To begin with, even without any prior analysis, it would have been difficult to convince them that C&W was losing money on any service when all reports seemed to suggest that the company was using the Caribbean as its cash cow.

Secondly, the OECS team saw C&W's method of allocating cost to services as arbitrary, non-transparent, and almost impossible to verify. In fact, given the arbitrariness of C&W cost allocation methods, the OECS team was of the view, that as opposed to determining its costs and then setting rates according to these costs, C&W's approach was to first set rates and then allocate cost to match.

Furthermore, there was the issue of which expenses were admissible as the cost of providing access and which were not. For example, should the airfare of a C&W personnel flying first class as opposed to economy class, be considered part of the cost of providing access? How about expensive paintings decorating the offices of the company?

Still, even if C&W's cost was justifiable and properly apportioned to its services, there was the concern that the cost structure in question was that of a monopoly firm, and as indicated above monopolies are wasteful. For any given level of output or service, they use a greater amount of society's resources than would firms operating in a competitive environment. So by allowing C&W to set rates based on its existing monopoly cost structure, the OECS would be locking in the company's inefficiencies, the very conditions that they hoped to change through liberalization.

Most services offered by a fixed network telephone provider use access as an input, because to complete calls, be they national, regional or international, the transmission has to pass through the local access network. Accordingly, the OECS team was also of the view that some of the revenues derived from non-access services, such as international calling, should rightly be assigned to the local access network and therefore should not even be considered a subsidy.

Finally, and probably above all, rate rebalancing was a very politically unpalatable proposition. The governments of the ECTEL countries had sold liberalization to their electorates with the promise that liberalization would lower rates. Yet, here was C&W telling them that by its very nature, liberalization meant increasing domestic rates (monthly access and local calling), the very rates that their citizens were most concerned about. Clearly, the OECS Heads were in a dilemma. They wanted to liberalize in a hurry, but doing so would place them at the risk of giving in to C&W's notions of rate rebalancing, which to them spelt political suicide.

No matter the concerns and arguments of the OECS, on the issue of rate rebalancing C&W refused to bulge. After all, not only was the company in no hurry to give up its monopoly privileges, but it had already conceded its liberalization compensation claim of US$97 million, and more importantly it had history and international best practice on its side, for in most parts of the developed world regulators have acknowledged the notion of an access deficit and as part of their liberalization process have allowed the incumbent monopolies to raise access fees and local calling rates while decreasing national long distance and international calling rates. In short, rate rebalancing.

In this contest C&W's great advantage was that it had no problems with a protracted negotiation process, because as long as the process lasted the company's monopoly status remained in place and competition would be kept at bay. In contrast, the OECS Heads did not have or did not allow themselves the luxury of time. After the last impasse over rate rebalancing, the Heads had had enough. So for the first time since the process started, they took over the negotiations, such that by May 20, 2002, they were able to reach and sign an agreement with C&W that spelled out the final details that would lead to full liberalization on April 1, 2003, five years from the date that the OECS first embarked on their quest to liberalize their telecommunications sectors. However, as we will show in the second part of the article, that May 20th Agreement would come back to haunt them.