
Office of Utilities Regulation

Responses to Notice of Proposed Rulemaking

Quality of Service Standards and Consumer
Protection Guidelines for the Telecommunications
Sector:

OUR's Comments on Responses to Notice of
Proposed Rulemaking

2016 September 20



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3. PURPOSE OF DOCUMENT

This document presents the Office of Utilities Regulation's (OUR's) response to comments received on the Notice of Proposed Rulemaking for Quality of Service Standards and Consumer Protection Guidelines for the Telecommunications Sector.

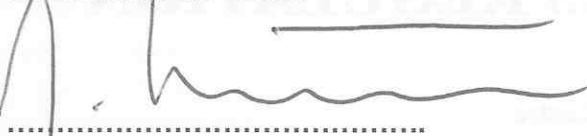
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5. Approval

This document is approved by the Office of Utilities Regulation and the decisions therein become effective on 2016 September 20

On behalf of the Office:



.....
Joseph M. Matalon
Chairman

.....
Date

Abstract

This document presents the Office of Utilities Regulation's (OUR's) response to comments received on the Notice of Proposed Rulemaking for Quality of Service Standards and Consumer Protection Guidelines for the Telecommunications Sector dated 2014 November 10 (Document No.:2014/TEL/005/NPR.002 ("NPRM")). The document specifically outlines the OUR's views on the issues/concerns raised by respondents.

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Chapter 1: Background

The Telecommunications Act and the Office of Utilities Regulation Act establish the encouragement of competition and protection of the interests of consumers as some of the objectives of the Office of Utilities Regulation (OUR).

In a market where adequate and relevant information is provided, consumers are able to make informed choices. The exercise of choice by better-informed consumers leads to increased competition, as licensed providers of telecommunications facilities and services (Licensees) compete to offer better quality of service to retain existing customers or attract new ones. Consumers therefore stand to benefit when quality standards are regulated and Licensees' performances on various quality of service indicators are established, measured and published.

To encourage a competitive market, the OUR proposed rules that place requirements on and make recommendations to Licensees. These requirements and recommendations are intended to foster greater competition through *inter alia*, the provision of information by Licensees on the level of quality being delivered to consumers.

Accordingly, in 2007 the OUR published a consultative document entitled "Quality of Service Standards for the Telecommunications Sector – A Consultative Document" - Document Number: Tel. 2007/15 dated 2007 October 10 ("2007 Consultative Document"). This document took account of the then entry of new Licensees (both fixed and mobile) and the introduction of broadband internet access. In 2010, the OUR published a follow-up consultative document entitled "Quality of Service Standards and Guidelines for the Telecommunications Sector – A Consultative Document", Document Number: TEL2010012_CON001 dated 2010 October 25 ("2010 Consultative Document").

The 2010 Consultative Document considered a number of quality of service indicators, and in particular focused on whether some of these indicators should be set as binding targets. These included targets relating to (i) customer service call answer times and resolution rates, (ii) fixed line telephony service installation and fault repair times; and (iii) the number of mobile calls successfully set up and retained. In most of these cases, the OUR proposed the setting of binding targets.

Having considered the views expressed by respondents to the 2010 Consultative Document, and in light of subsequent developments in the sector, the OUR decided to do a further consultation which took into account additional quality of service indicators. Consequently, the OUR, on 2014 November 10, published a Notice of Proposed Rule Making ("NPRM") - Document # 2014/TEL/005/NPR.002 – which set out the proposed quality standards for fixed telephony, mobile telephony and internet access, as well as procedures for the handling of consumer complaints. It also included a general consumer code of practice, which set out consumer protection guidelines for the telecommunications sector. The OUR received responses to the NPRM from Licensees as well as groups representing consumer interests.

The OUR's intention in issuing its comments to the responses received on the NPRM, is to correct any factual errors highlighted by respondents; provide further arguments, if appropriate, in support of the position proposed by the OUR; and, where reasonable, accept recommendations made by respondents.

Chapter 2: General Responses

2.1 Timeline for Review of NPRM Document

2.1.1 Responses by Stakeholders

In its response to the NPRM, Cable and Wireless Jamaica Limited (“C&WJ”) stated that the document was extensive and that the time allowed for the industry to effectively review it was inadequate.

2.1.2 OUR’s Response

The OUR does not consider the time given to review the NPRM inadequate, as the timeline given for responses was in keeping with the OUR’s standard consultation timeframe. Stakeholders are aware that the OUR may consider and grant approval for an extension of time on request. One such extension was requested and granted to all interested persons for the submission of responses to the NPRM.

2.2 Expansive Mandatory Quality of Service Measurements

2.2.1 Responses by Stakeholders

C&WJ expressed concern that the OUR’s proposal of expansive mandatory Quality of Service (“QoS”) measurements would likely impose an unnecessary burden on service providers. C&WJ proposed that the OUR ensure that it does not impose onerous QoS reporting requirements on service providers. C&WJ was of the view that some of the standards proposed by the OUR appeared arbitrary in nature due to a lack of comparative QoS measurements from other jurisdictions. C&WJ stated that the OUR needed to be flexible in its QoS requirements and it supported the movement towards “light touch” regulation which C&WJ believed would, over time, lead to self-regulation by the industry.

2.2.2 OUR’s Response

The OUR finds the proposed QoS measurements neither expansive nor burdensome to service operators, as operators are already measuring (albeit not reporting) quality of service. In fact, C&WJ in its response to the NPRM stated that service providers constantly monitor their networks to detect and correct service issues as a means of ensuring the provision of good service. As Licensees are already engaged in QoS measurements, the reporting on such measurements are not expected to be unduly burdensome. Such reporting will make more information available to consumers, leading to improved competition in the market and to the enhancement of consumer welfare.

The proposed QoS measurements are not arbitrary, as they measure network incidents which directly impact customer experience. Most of the parameters are already being measured by the providers to assess the quality of service delivery. Additionally, as indicated in the 2010 Consultative Document, the proposed measurements are not out of line with those of other jurisdictions.

2.3 Reporting Period

2.3.1 Responses by Stakeholders

C&WJ was of the view that any QoS reporting requirement by the OUR should be based on submission every six (6) months and not the proposed three (3) months. C&WJ however supported a requirement to report on “weak” measurements every three (3) months, as the company stated that such reporting frequency provided a good incentive for the maintenance of high standards by service providers. Digicel Jamaica Limited (Digicel) and the Consumer Advisory Committee on Utilities (CACU) also supported a similar position of reporting every six (6) months. Digicel further stated that quarterly submissions did not allow sufficient time to analyse results and make required system adjustments and implement changes.

2.3.2 OUR’s Response

The OUR is of the view that for the initial implementation of the quality of service requirements, more frequent reporting will assist in the determination of current service quality levels being provided by Licensees. Additionally, the OUR is concerned that bi-annual submissions will cause a delay in the verification of Licensees’ remedying of sub-standard service levels. Notwithstanding the foregoing, if it is later determined, based on measurement results, that quarterly reporting is unnecessary, then the frequency of reporting may be reviewed.

2.4 Introduction of Standards on a Phased Basis

2.4.1 Responses of Stakeholders

According to C&WJ, appropriate QoS standards should be introduced by the OUR on a phased basis, with the focus on measures intended to address known areas that require improvement, followed by other areas. This, according to the company would eliminate the inefficiency of dedicated man hours on standards that were not impactful.

2.4.2 OUR’s Response

The required measurements will allow the OUR to ascertain existing service quality levels across all parameters, thereby identifying and/or confirming the referenced “known areas” that may require improvement. In the future, the OUR may consider removing measurement

requirements for service parameters where quality levels are constantly achieved. The OUR does not agree that the standards are not impactful, as the parameters chosen directly affect customer experience.

2.5 Applicability of Standards

2.5.1 Responses by Stakeholders

C&WJ was of the view that all service providers within the industry should be held to the same QoS standards. The company stated that if the OUR found its QoS requirements burdensome for new entrants or small service providers, it should revise the requirements of all service providers to ensure all consumers are protected without exception. CACU, while acknowledging that the application of the same standards to smaller providers may be a cost disadvantage to them, contended that the proposed standards should be applicable to all Licensees.

2.5.2 OUR's Response

The OUR agrees that all Licensees should be held to the required minimum quality standards. The OUR however recognises that new entrants may need some lead time to implement technical and administrative measures to ensure compliance with the measurements and minimum standards. Given that existing Licensees will be receiving a six-month lead time to implement the measurement requirements, the OUR is of the view that nine (9) months for new entrants is reasonable.

The OUR will not automatically exempt small carriers and service providers from the QoS measurements and reporting requirements. In order to become exempt, such Licensees would be required to submit an application to the OUR specifying the basis on which such exemption is being sought. In considering the grant of an exemption of measurement and reporting requirements, the OUR must be satisfied that the costs to the Licensee of complying with the requirements is not commensurate to the benefits. Where such an exemption is granted, the OUR reserves the right to do its own measurements to verify compliance by the Licensee with the minimum standards, and publish the results.

2.6 Definition of a Small Carrier or Service Provider

2.6.1 Responses by Stakeholders

Digicel in its comments on applicability of measurements, enquired as to the standard that the OUR would use to determine 'a small carrier or service provider'.

2.6.2 OUR's Response

The OUR agrees that a definition of “small carriers and service providers”, as contemplated in the Rules, is necessary. In the definition, the OUR will apply a similar standard as used in the “Request for Exemption Based on Market Share” provision of the Telecommunications (Number Portability) Rules, 2014. The following will be added to the Rules:

“A small carrier or service provider is a Licensee that serves less than 1% of the total customer base in the telecommunications market in which it operates”.

Chapter 3: Comments Specific to Annex 'A'

3.1 Applicability of the Measurement Requirements and Targets

3.1.1 Responses by Stakeholders

Digicel indicated that the reference to "Annex 1" in clause 2.1 should read 'Annex A'.

3.1.2 OUR's Response

The error is noted.

3.2 Customer Service Call Answer Parameter (Section 10)

3.2.1 Measurement Summary

3.2.1.1 Responses by Stakeholders

Digicel requested that in section 10.1 the term 'call centre' should be defined or its reference be removed, given that 'customer service call' is already defined as a call to a designated telephone number. The company recommended that the measurements be rephrased to include 'customer service calls'. For example:

"Customer Service Call Answer #1 measures the proportion of **customer service calls** that are successfully connected..."

3.2.1.2 OUR's Response

The OUR agrees that with the inclusion of the defined term - "customer service call", a reference to 'call centre' may not be necessary in the measurement summary of the "Customer Service Call Answer" parameter. The change as recommended by Digicel will be proposed for insertion in the promulgated Rules.

3.2.2 Measurement constituents

3.2.2.1 Responses by Stakeholders

Digicel disagreed with the OUR's proposal in section 10.6, which states that the option for speaking to a live customer service agent should not be below the first sub menu of the first layer of the service menu. According to Digicel, the interactive voice response (IVR) self-help functions were present to improve customer service efficiency, as it reduced the demand on agents and the waiting time for customers, which lead to improved call answer and resolution rates. The company further stated that as customers would always default to speaking to a live agent, that option was not immediately made available. Digicel noted that early access to the live agent option negated the efficiencies to be obtained from the utilisation of the IVR functions. The company recommended that at a minimum, the option to speak to an agent should be available.

3.2.2.2 OUR's Response

The OUR acknowledges that there are efficiencies that can be derived from the self-help functions of an IVR system. Customers however are often frustrated when they cannot readily find the appropriate IVR option to address their specific issue, and are unable to access a live agent after several attempts, or in some instances, not at all.

As accessibility to customer service assistance is of significant importance to the consumer, the OUR is not in favour of modifying the proposed minimum standard.

3.2.3 Measurement Target

3.2.3.1 Responses by Stakeholders

Digicel was of the view that the proposed target at section 10.10 of the NPRM which stated that ninety-five percent (95%) of connected calls should not be in the queue to access a live customer service agent for more than two (2) minutes was onerous. The company instead recommended eighty percent (80%) within twenty (20) seconds.

3.2.3.2 OUR's Response

The OUR disagrees that the proposed target is onerous and notes that Digicel's recommended target is more stringent. The OUR is of the view that the target proposed can be met in light of current international practice.

3.3 Customer Complaint Submission Rate (Section 11)

3.3.1 Measurement Summary

3.3.1.1 Responses by Stakeholders

Notwithstanding what was set out in section 11.3 B (ii) of the NPRM, Digicel expressed the view that disconnection for anything outside of full payment cannot be considered a 'customer complaint'. The company recommended that the heading of the section be changed to 'wrongful disconnections'.

Digicel commented that 'Low' as used in section 11.3 C (ii), should be defined given that internet access speed was dependent on the customer's contractual service package.

Digicel commented that for section 11.3 D (iii), (iv) & (v) 'inadequate or delayed' needed some parameter definition.

3.3.1.2 OUR's Response

The parameter in section 11.3B (ii) is seeking to capture all complaints lodged with a Licensee regardless of the resolution outcome. Given that resolution is a firm decision to do or not to do something¹, possible outcomes in this instance could include:

- Confirmation that the customer was correctly disconnected – customer remains disconnected or reconnection occurs after full payment or implementation of a payment plan.
- Confirmation that the customer was incorrectly disconnected – leading to reconnection of customer's service.

The OUR therefore does not agree that this parameter should be changed.

The OUR is in agreement with Digicel's comment regarding section 11.3 C (ii) and as such the description of the complaint category will be modified to read: "Internet access speed below subscribed levels".

The OUR also agrees that clearly defined parameters for these complaints categories are necessary to ensure homogenous application by all Licensees. It is proposed that the reference to 'inadequate' be deleted in the description of the complaints categories mentioned in sections 11.3 D (iii), (iv) & (v) as this may be open to wide interpretation. The reference to "delayed" will be defined for purposes of the measurement and reporting requirements as 'any complaint resolved after the expiration of thirty (30) days from the date of submission of the complaint by the customer'.

¹ <http://www.oxforddictionaries.com>

3.4 Dropped Call Rate (Section 18)

3.4.1 Measurement Constituents

3.4.1.1 Responses by Stakeholders

Digicel, in its comments, stated that dropped call rate "...cannot be properly assessed without providing measurement parameters for geographic coverage which was not included in the Rules". The company further expressed the view that as the dropped call rate could be manipulated up or down through manipulation of the geographic coverage area, "...measuring one without the other would result in sub-standard mobile delivery".

3.4.1.2 OUR's Response

It is acknowledged that counters may be able to pick up a number of dropped calls over total number of call attempts on the Traffic Channel (TCH) on a national basis. This however may not provide meaningful information in identifying specific problem areas, as a one hundred percent (100%) dropped call rate in a single location may not impact the national rate for a Licensee, which may appear at or above the minimum standard.

The OUR agrees that measurement on a geographical basis may be more meaningful in measuring the quality of service in particular locations. This can be done in addition to reporting on a national basis where complaints, or the OUR's own measurements, indicate that there may be quality concerns. In such cases, the OUR will, as indicated in the NPRM, request an operator to do measurements and report on a specific geographic area for reporting periods.

Sections 7.2.1 and 18 of the NPRM specific to Dropped Call Rate, indicate that the reporting requirements for the worst affected cell sites will give an indication of the geographic areas that may require greater scrutiny. In those instances, the OUR can either measure or request the operator to measure and report on the dropped call rates for the geographical area linked to the particular cell sites. Operators would be encouraged to take remedial action where worst affected cell sites have been identified.

The OUR will review the promulgated Rules after their implementation and make an assessment regarding the necessity of establishing dropped call rate parameters and minimum standards based on smaller geographic areas.

3.5 Complaint Handling (Section 31)

3.5.1 Responses by Stakeholders

Digicel highlighted that the reference to "30.1(i)-(xi)" in section 31.3 of the NPRM should be replaced with a reference to "31.1(i) – (xi)".

Also section 31.3 of the NPRM, proposed that Licensees publicise information regarding their procedures for handling complaints. Digicel queried what media would Licensees be required to use to publicise this information.

3.5.2 OUR's Response

The inadvertent error in section 31.3 will be corrected as suggested.

Also, Licensees will be expected to utilise publication methods that will ensure the widest reach and coverage to its customers.

Chapter 4: Comments Specific to the Codes of Practice (Annex C')

4.1 Description of Service (Section 4)

4.1.1 Information on Compensation Mechanism

4.1.1.1 Responses by Stakeholders

In relation to the OUR's recommendation that information on the compensation mechanism for breaches of service quality levels be provided to customers before a contract for service is established, Digicel stated that this would be provided in the company's complaint handling process and manual. Digicel therefore recommended that the customer be referred to the complaints handling procedure in the event that the customer is dissatisfied with the product or service.

The Consumer Affairs Commission (CAC), in its comments on responses, disagreed with Digicel's recommendation on the issue. The agency expressed the view that the customer should be made aware of a Licensee's complaint handling procedure before a complaint arises.

4.1.1.2 OUR's Response

The OUR has no objection to this information being detailed in the complaint handling procedure. However, as the service description should provide sufficient information to highlight material information that influence customer choice, customers should be made aware of the provisions of the complaints handling procedure prior to the establishment of the contract of service.

4.2 Service Contracts (Section 5)

4.2.1 Notice of Changes to Contract Terms etc.

4.2.1.1 Responses by Stakeholders

Digicel stated that the proposal at section 5.3 of Annex C which states that one (1) month's notice should be given to customers regarding changes to pricing plans or the terms and conditions of contract, would bring competitive disadvantage. According to Digicel, this would restrict a provider's ability to effectively respond to market changes and rivalry. The company expressed the view that seven (7) days' notice was adequate.

CACU in its comments on service contracts, stated that the proposed notice should not be limited to changes in pricing plans, instead it should extend to any financial changes to the

service contract. CACU recommended that customers be given a notice period of between two to three months to allow for budgetary adjustments. The agency was also of the view that as special taxes are applicable to some telecommunication services, any such taxes as well as the General Consumption Tax (GCT), should be made clear where applicable.

The CAC in its comments on responses disagreed with Digicel's recommendation of seven days' notice for any change in pricing plans or to the terms of the contract. The agency was of the view that thirty (30) days as proposed by the OUR was appropriate.

4.2.1.2 OUR's Response

While there is no restriction on telecommunications service providers doing short term promotions, they should not be allowed to unilaterally change contract terms without providing adequate notice to customers. The OUR does not consider seven (7) days to be adequate notice to consumers to consider changes to contract terms and conditions and pricing plans and to decide whether to accept them or opt out. The recommendation for one (1) month's notice will therefore remain in the Code.

Annex C of the NPRM already included the recommendation that information relating to applicable taxes be supplied to customers. This is found in section 6.1 under 'Pricing Plans'.

4.3 Accounts/Billing (Section 7)

4.3.1 Comparison with Previous Bill

4.3.1.1 Responses by Stakeholders

Digicel was of the view that the recommendation made in section 7.1(xi) which stated that "Licensees should issue bills to post-paid customers that include a comparison with the previous bill" was onerous.

4.3.1.2 OUR's Response

The OUR disagrees that this recommendation is onerous, as it is being done by other telecommunications service providers and other utilities. A comparison with the previous bill will enable the customer to identify anomalies based on usage patterns, and as such, they would be able to raise these concerns with their service provider.

4.3.2 Itemised Bills versus Summarised Bills

4.3.2.1 Responses by Stakeholders

Section 7.2 of Annex C proposed that customers be provided with itemised bills with the option of requesting summarised bills if available. Digicel expressed the view that summary bills were recommended for efficiency purposes, with itemised details provided on request. The company further stated that customers would also have the ability to get full details of bills by subscribing to e-bill facilities.

4.3.2.2 OUR's Response

Given the relatively low level of internet penetration, the OUR does not think that access to detailed bills via e-billing is an adequate substitute. At this stage, summary billing should be at the option of the customer.

4.3.3 Timeliness of Bills

4.3.3.1 Responses by Stakeholders

CACU in its comments on section 7.2 expressed the opinion that greater scrutiny should be given to the issue of bill preparation and delivery methods to ensure timely receipt of bills to allow a reasonable period before payment is due.

4.3.3.2 OUR's Response

The timeliness of bill preparation, issuance and due date for payment were addressed in sections 7.3 to 7.5 in Annex C of the NPRM.

4.4 Disconnections (Section 8)

4.4.1 Disconnection based on Subscriber Life Cycle

4.4.1.1 Responses by Stakeholders

CACU disagreed with the OUR's proposal that the steps in the procedures for disconnection of a service can begin in instances where the customer has not used the service during the activity period. The agency stated that while it was mindful of the OUR's role as the Numbering Administrator, a customer's service should never be disconnected in instances where there was no outstanding amounts owing on the account, irrespective of whether or not the customer was using the service. According to CACU, there is need for further clarification regarding issues such as the duration a disconnected service is allowed to remain on the network.

4.4.1.2 OUR's Response

While the OUR is cognisant that some customers would like to maintain their service indefinitely, even if they are not actively using the service, numbers are finite which make them scarce resources that must be properly managed. This has given rise to the need for Licensees to define a subscriber life cycle to govern these resources.

While the OUR has not prescribed the details of the subscriber life cycle for each Licensee, it has recommended that this information be shared with customers at the time of contracting telecommunication services.

4.5 Customers with Special Needs (Section 9)

4.5.1.1 Responses by Stakeholders

CACU commented that "the recent enactment of the Disabilities Act has implications for how the special needs populace is included in service provisioning and development".

4.5.1.2 OUR's Response

The OUR intends to further treat with this issue in a future project addressing equivalence in access and choice for persons with disabilities.

4.6 Number Portability

4.6.1.1 Responses by Stakeholders

CACU was of the opinion that the absence of number portability is the remaining barrier to full competition in the telecommunications sector. The agency stated that while quality of service standards and a framework for consumer protection would allow customers to make informed choices, consumers should however have "*the ability also to nimbly navigate the telecommunications offerings with as few inconveniences as possible and at minimal cost*".

C&WJ in its response to comments, was in agreement with CACU and was of the view that once local number portability was implemented, service providers would be incentivised to deliver high quality service to customers. The company was therefore of the view that as number portability would be shortly implemented, the OUR should defer the imposition of onerous reporting requirements on service providers.

4.6.1.2 OUR's Response

Number portability was implemented on 2015 June 22. Under number portability, even with the ability to move from one service provider to another, customers still require accurate and up to

date information to make informed choices. Additionally, in a competitive market where Licensees compete on price, they may reduce quality in order to cut costs and ultimately prices. In other jurisdictions that have number portability, quality of service measurements are also done.