

Case Study: Policy and Regulatory Reform in the Liberalization Process – Jamaica Experience

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Constructing a scenario

The implications of convergence in the Caribbean and Jamaica

Policy and regulatory reform in the liberalisation process

Experience of new entrants and the incumbent provider

Policy and regulation

Define the liberalisation process

Influenced by

Movement of telecommunications from utility to ICT

Terms of trade in the global telecommunications economy

This paper

Evolution of the liberalisation process

Steps that the government has taken

Examining the regulatory framework

Should regulatory bodies be merged?

What of Liberalisation

Need to clarify “liberalisation” in the Jamaican context .

“The minimal content of the term ‘liberalization’, is de-monopolisation, meaning that at least two providers compete to serve the market...

...Liberalisation cont'd

“... de-monopolisation is not the same as liberalization since the latter encompasses more than the former does. [...] Complete de-monopolisation pre-supposes the de-integration of formerly consolidated markets, as well as, the existence of more than one provider in each market.

...Liberalisation cont'd

“The greater the degree to which decisions concerning entry, market structure, investment, service provision, mode of provision, standards and pricing, are transferred to the market, the greater the degree of liberalization. ... In this sense, full liberalization means open, unrestricted entry and market determination of outcomes.

...Liberalisation

At best, de-monopolisation can only mean the first stage of liberalization, since it is a precondition for the transition towards full liberalisation.”

A new telecommunications policy framework

Telecommunications is to be regulated by an independent Regulator, the Office of Utilities Regulation.

The laws relating to telecommunications will be modernized by introducing a new Telecommunications Act.

Licences issued to the incumbent PTC will be honoured at the same time that competition is encouraged in areas that do not infringe on the licences.

Regulatory commitments made by Jamaica to the WTO will be fulfilled.

A new telecommunications policy framework Cont'd

A Universal Service Policy to ensure access to basic telecommunications and to promote special interests of schools, hospitals and the handicapped.

Interconnection in a fair and non-discriminatory manner, with recourse to the Regulator in case of dispute.

Spectrum management and numbering administration by the Regulator within a defined government policy framework to ensure that common resources are exploited for the benefit of the people of Jamaica.

A new telecommunications policy framework Cont'd

A rate rebalancing strategy will be developed by the Regulator following consultation with interested parties

Use of telecommunications technology to enhance education, health and national security. No private monopoly will be entertained in this area.

The government, the OUR and the Broadcasting Commission will explore convergence and develop a regulatory framework.

A new telecommunications policy framework Cont'd

The Government and the OUR will seek to ensure appropriate and adequate representation of Jamaican and Caribbean telecommunications interests internationally.

GOJ/C&W agreement

The stage is set

Global trade arrangements – WTO commitments

Competitive incursions – customer premises equipment

TOJ licences contested

Challenge from new internet provider

US reduction of settlement rates

GOJ/C&W agreement Cont'd

Litigation

National developmental imperatives

The National Industrial Policy emphasized the government's policy on telecommunications to promote continued expansion, and technological modernization...

National Industrial Policy Cont'd

...of the network to allow the provision of services at competitive prices to subscribers and to create a regulatory environment that would facilitate this expansion. [NIP 1996:85].

Private sector participation

Telecommunications crucial for other sectors.

GOJ/C&W agreement Cont'd

Circumstances create environment requiring policy regulatory and legislative reform.

Sector overview

Fully digital telecommunications network

Wide range of services

Provision of selected services

Service	Subscribers/audiences (‘000)	Dateline
Fixed line	511.661	2002
Mobile telephone	902.433 ⁹	2002
Internet	68.917 ¹⁰	2002
Data	4.882(C&W)	2000/2001
Television	1,483.6	2000
Cable	1,507.5	2000
Radio	1,699.0	2000

Policy and Regulatory Arrangements

Ministry	Function	Services	Regulatory	Advisory Body
Ministry of Industry, Commerce and Technology	Policy and regulation	Internet Services Telecommunications	Office of Utilities Regulation	Jamaica Telecommunications Advisory Council
Office of the Prime Minister	Policy and Regulation	Radio and Television Services Cable services	Broadcasting Commission	Broadcasting Commission
	Policy	Public Exhibition of Films	Cinematograph Authority	None

Convergence trends

Links between ministries and among ministries and other public sector bodies.

Cabinet sub-committee

Cable operators under both frameworks.

BUT: Consolidated policy framework for telecommunications sector, does not presently exist.

Legislation

Telecommunications Act 2000

The functions of the Office of Utilities
Regulation re. telecommunications
services

Licensing

Interconnection

Universal service

Consumer Protection

Telecommunications Act Cont'd

International services

Standards

Regulatory enforcement

Review of administrative decisions

Establishment and functions of the

Spectrum Management Authority and the

Telecommunications Advisory Council

Legislation cont'd

Broadcasting and Radio Re-diffusion Act
Radio and Telegraph Control Act
Regulations
[Fair Competition Act]

Liberalisation Developments

Phase One:

Cellular licences to Digicel & Centennial raised
US\$92 million

International voice resale

Opening of market for multi-line customer
premises equipment

ISP licences

VSAT licences for single-entity free zones

Liberalisation Developments cont'd

Phase Two:

Issuance of domestic carrier licences for fixed facilities

Issuance of domestic voice service licences for fixed services

Digicel has spent over US\$272 million for licence and cell sites, and will spend another US\$175 million to expand its network and move its subscriber base from 360,000 to 500,000

Liberalisation Developments cont'd

Centennial & C&W also in expansion mode
Teledensity increasing by 23%-27%
annually

Cable penetration growing, with increase
from 37 to 44 operators in recent months

Consumption Tax removed from computer
hardware & software

Regulatory bodies

Principally:

Office of Utilities Regulation

Broadcasting Commission

Related agencies:

Fair Trading Commission

Spectrum Management Authority

Policy and regulation

INSTITUTION	AUTHORITY	RESPONSIBILITY	SERVICE AREA	LICENSING	ENFORCEMENT	FUNDING
MICT	Constitution (G.G) Telecoms Act R&T Control Act	-Political direction; -Policy -Regulation of T'coms	T'coms services IT	Grant (Minister)	Yes	Consolidated Fund
OPM (Min. of Info.)	Constitution (G.G)	-Political direction; -Policy -regulation	Broadcasting Cable TV (entertainment)	Grant (Minister)	Yes	Consolidated Fund
OUR	Telecoms Act OUR Act	Regulation	T'coms services IT services – ISP's Cable TV	App. Forms; Evaluation; Recommendation; Insuance; Terms and conditions not specified in licences	Yes	[Gess (OUR Act)] * No regulatory fees; Application fee charged

Policy and regulation cont'd

B/casting Comm.	B/casting & Radio Re-Diffusion Act	Regulation Policy advice	(entertainment) – content and technical standards	App. Forms Evaluation Recommendation Issuance Terms and conditions specified in licence	Yes	Consolidated Fund (Licence fees collected returned to Fund)
Post and Telecommunications Department	Radio and Telegraph Control Act	Non-spectrum licences		Post master General grants	Yes	Consolidated Fund (Licence fees collected returned to Fund)
SMA	Minister thru' T'coms Act [R & T Control Act]**	Spectrum allocation Monitoring use	All spectrum users: T'coms IT services B/casting Cable TV Others (petty licences)	Yes Terms and conditions specified in licence	Yes	[Regulatory fees]*
Others: NEPA Parish councils	Executive Agency Ministry of Local Govt. Building Act	Environment protection and land use	Carrier licensees constructing infrastructure	Grant of Permission/Permits	Yes	Fees/ Consol. Fund

Assessing the system

Available expertise spread over the
Ministries and agencies

Agencies not always expeditious

Overlap and duplication

Differences in regulatory practice

Potential for tension

For March 2003

Completion of regulatory framework
Certainty and confidence
Meeting policy objectives

Should regulatory bodies be merged?

Single regulator

Independent regulator

Responsibility for all regulatory functions including licensing

Guidance and expertise of organization planners and re-engineering specialists

Consolidate policy-making

... merged (cont'd)

One Ministry of Information and
Communications Technology
Reconcile legislative instruments
Study of the sector

Some conclusions

Bold reforms in policy and in regulatory design by the government

Now dynamic marketplace

Merging of the regulatory institutions will facilitate national policy objectives, protect the public interest and ultimately ensure quality service at affordable prices