

Internet Access – Legal and Regulatory Issues



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COMPETITION & CONVERGENCE – The means to the end!

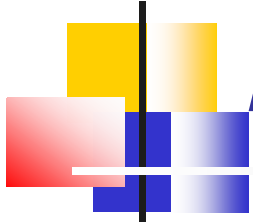




Technology – Convergence/Competition

- Networks
- Services
- Institutions

THE INTERNET: What is it really?



- *A multipurpose, multipoint, digital, interactive, continuously evolving, worldwide telecommunications network.*^[1]

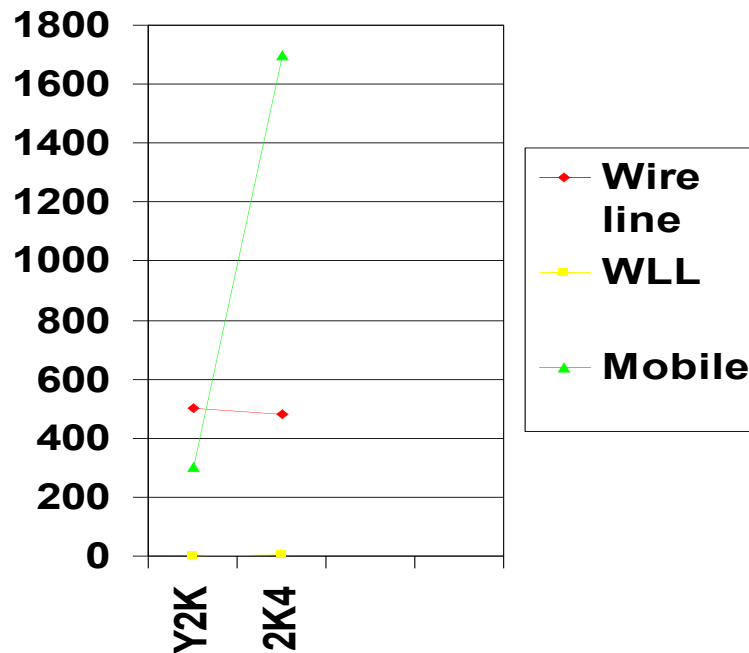
^[1] Nicholas Economides, *The Economics of Networks*, online: <<http://www.stern.nyu.edu/networks>> (dated accessed: 28 July 2002)



The Internet: The Importance of Access I.

- MULTIPURPOSE:
 - *e* - Communication
 - *e* – TRADE: Globalization
 - *e* - Commerce
 - *e* - Business
 - *e* - Government

Multi-point?



■ Access v. Accessibility

- 2000 – 510,000
- 2004 – 480,000

- 2000 – 0
- 2004 - 4,000

- 2000 - 350,000,
- 2004 - 1.7m

Base date 2K is 28th February
(OUR Statistics)

The Internet: Which Regulatory Paradigm?

- The traditional paradigm for utility regulation rests on the regulation of a *well defined* set of services, offered by a *well identified* operator (or small group of operators) in a *well circumscribed* geographic area.^[2]

^[2] Jean-Jacques Laffont and Jean Tirole, *Competition in Telecommunications* (2001) at 272



The Jamaica Problem

- Regulators/Polycymakers need to accept this contra-distinction:
 - The Act sets up the Framework BUT *is it being used in the Best interest of all stakeholders?*
 - It appears to be Regulation by Prohibition for fear of the Unknown *beast of VoIP/Voi.*
 - But Who benefits from this Ultra-cautious approach the incumbent or the consumer?
 - ANSWER: Let's Look at the
 - The Act
 - The Licences and the Stakeholders



The Telecommunications Act – Key Concepts

- Voice Services include VoIP and VoI.
- Telecommunications Network is a system or ***any part thereof*** used in connection with the provision of a specified service.
- Specified Service: service provided by means of a telecommunications network – this includes VoIP and VoI
- **Facilities:** Physical component of a telecommunications network.
- **Telecommunications Service**



TELECOMMUNICATIONS ACT - THE LICENCES: s. 13

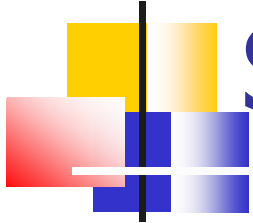
- Data Service Provider;
- Domestic Carrier;
- Domestic Voice Service Provider;
- International Carrier;
- International Service Provider;
- International Voice Service Provider.
- Internet Service Provider.
- Internet Service Provider/Subscriber.
- Television Operator.



The Stakeholders

- Government
- Carriers
- Service Providers
- Consumers (Including businesses)

The Stakeholders - Internet Service Providers



- The Internet Protocol Suite enable these providers to offer:
 - Voice
 - Video
 - Data (including pictures, email)
- But
 - What does their Licence authorize them to do?



TYPICAL ISP LICENCE.

- Grant of Rights

- **3.1** The licensee shall provide the licensed services described in paragraph
- **3.2 The Licensee is authorized pursuant to the licence to provide services in relation to Internet Access (EXCLUDING VOICE SERVICES).**



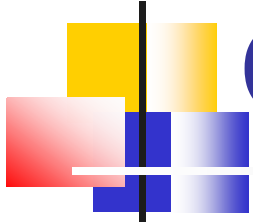
The Stakeholders: Government /Quasi-Government

- (Adsl) – No voice Non-compliance with Section 78(6) of the Telecommunications Act.
- Deafening silence from the FTC

The Effect: Interconnection, Dominance and Pricing

- Abuse of Dominance capitalizing on the restrictions in the current regulatory structure.
- A contract from the Dominant player which restricts the carrying of Voice over the network.
- The sale of the same network elements as a product/service to competitors at a higher price although the act differentiates products/services from network elements.
- Unidirectional access at the same price as bi-directional access.
- Higher price to ISP than to non-competitors offering the same product.

The Effect: Stakeholders - Consumers



- Duplication of Networks – hence reducing the likelihood of costs reduction to the consumer.
- Inability to take advantage of expensive private networks unless they put in their own.



ACCELERATING ACCESS - I

- Recognize, especially in the case of local investors that it is expensive to build parallel networks – it is wasteful and it increases costs to consumers.
- Recognize the possibility that facilities can be leased.
- Focus on the revenues to be derived from taxation when more persons are connected to the network as opposed to the current focus on lost revenues from settlement rates
- The Current Accounting Rate system is dying – find an alternative before it dies! It cannot form the basis for refusing to allow ISP's and consumers to benefit from the MULTIPURPOSE nature of the Internet.



ACCELERATING ACCESS - II

- REGOGNISE THAT THERE IS CURRENTLY A MONOPOLY ON TERRESTRIAL INTERNET BANDWIDTH.
- Recognize that the Internet as a means of communication is a substitute.
- Multipurpose Nature of Internet is being compromised.
- Remove barriers to Internet ***services – comply with s. 78(6).***



ACCELERATING ACCESS - III

- Remove barriers to Internet ***services – comply with s. 78(6).***
- Comply with the Spirit of the Act – Grant licences without the current restrictions.
- Think of alternative media of transmission
 - Wireless.
 - It is arguably cheaper to deploy
 - SPREAD SPECTRUM WIRELESS
 - Example Dewayne Hendricks – Kingdom of Tonga and Experimentation with the Native Americans(Indians)
<www.dandin.com>



FOCUS ON CONSUMER NEEDS

- They want ACCESS
- They want CHEAP ACCESS
- Businesses want to compete in the globalized environment.
- ALLOW COMPETITION - REMOVE THE BARRIERS TO ACCESS.
- LET THE MARKET DECIDE!



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- QUESTIONS & ANSWER PANEL