

# Internet Access – Legal and Regulatory Issues



July 17, 2004

---

M. Georgia Gibson-Henlin

# ***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.*<sup>[1]</sup>

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

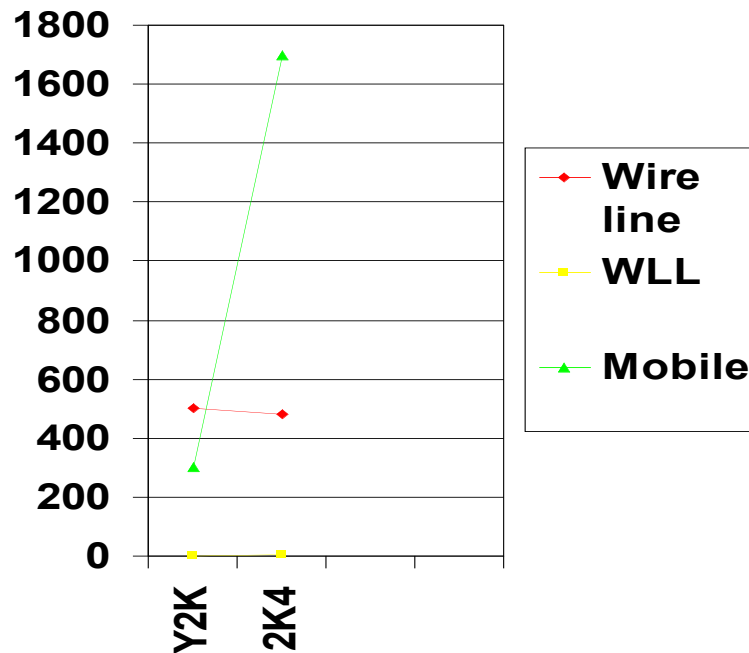


# The Internet: The Importance of Access I.

---

- 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 28<sup>th</sup> 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.<sup>[2]</sup>

<sup>[2]</sup> 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.



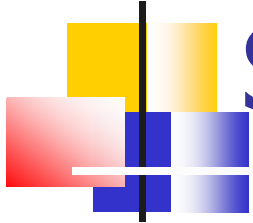
# The Stakeholders

---

- 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

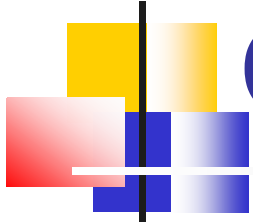
# The Effect: Interconnection, Dominance and Pricing

---

- 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](http://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!



- 
- QUESTIONS & ANSWER PANEL