

## **Telecommunications liberalisation**

### **A brave new future...**

South Africa finds itself in a brave new world. The 'Industrial Age' has been succeeded by the 'Information Age' and is characterised by the many ways in which people wish to exchange information, particularly through electronic means of communication. Unfortunately South Africa has a monopoly telecommunications industry which has seriously hindered technological developments. But recent moves to liberalise the sector have many in the corporate and IT world excited about the future. Is the excitement justified?

### **...to be hobbled by regulatory compromise?**

The recent policy document published by the Department of Communications presents a very different model to the ones put forward by South Africa's technology industries. Their suggested solutions were in favour of a free and unregulated approach. But instead what has emerged from the department is a mixed bag of watered-down liberalisation coupled with restrictive regulations and social requirements. On the one hand it proposes the introduction of competition, while on the other hand it places such onerous restrictions on the market players as to make the term almost meaningless.

Positively, liberalisation has been recognised in the policy document as the way to move forward. But what is it that the document calls "Managed Liberalisation"? South Africa does not have the luxury of time to experiment with untried concepts and verbal compromises. Globalisation and the Internet are not technology trends. They constitute a fundamental break in the way human beings will engage each other in the future. This is as revolutionary an event in human history as the invention of the printing press. It is imperative that our legislation and policies should immediately be adapted to help foster a free and unfettered environment which is conducive to the exchange of information and international trade.

So, if the government recognises that liberalisation is the best way to bring benefits to the people and businesses of South Africa, it should aim for the greatest benefit in the shortest possible time. There are no additional gains to be had from "managing" (or in practice, delaying) the process. The potential benefits of rapid transformation for the majority of South Africans are too great, and the costs – in the form of lost opportunities – are too devastating, for government to compromise policy. With the 21<sup>st</sup> century and the Information Age upon us, South Africa cannot afford to wait.

Of course, the dilemma as the politicians see it is the apparent conflict between creating a free market environment (as trumpeted by the globalisation ideology), and meeting the needs of the poor and under-served. If profit is the motive of competitive firms then it is obvious to all that there will be no takers in the provision of services to the townships. The digital divide will become a communication chasm. Naturally this is an area for concern. So how does government reconcile the required freeing-up of services in one area of the economy with imposing controls to encourage organisations to fulfil their so-called social obligations?

### **But there are alternatives...**

The solution that has been proposed – granting exclusionary licenses with social obligations – is flawed, as the end result would suit neither the customers in the First World or the unconnected consumers in the Third World. A better solution would be direct subsidy of those poor areas which are offered out to tender to competing firms. The advantages of the subsidy approach are several. Firstly, no compromise is made between creating an efficient market-environment, in which competing firms can chase business at uncontrolled prices, and a nationalised firm hampered by

social obligations. Secondly, a better price is obtained for the subsidy if the task is put out to tender, since government is offered solutions at competitive market prices. Thirdly, this approach need not stop the later provision of novel or innovative supply to the under-served area if marginal cost or revenue structures should change. This is not achievable under the licensing approach because potential suppliers are often excluded from a market in order to protect both the obligated firm and its license requirements. Fourthly, the subsidy is more transparent to the public by being directly reported in the fiscus. Some in the trade-union movement have recently argued that this is the disadvantage of such techniques, but there can surely be no harm when society sets itself social obligations and then allows them to be reviewed transparently. This has to be preferable to a back-room deal involving twenty-year licenses with social strings attached. A licensing approach does little more than move the raising of funds for the subsidy from the fiscus to the telephone bill while injuriously hiding those costs from the public. Society still ends up paying the bill but sees it in the form of higher telecommunications costs and reduced service, rather than as a justified and approved tax.

### **...provided they are not hijacked**

The other startling constraints in the policy document relate to the deals that appear to have been struck behind closed doors. It seems that while the industry was being asked to comment on telecommunications liberalisation, a framework involving Eskom, Transtel, Sentech and a third-party empowerment company had already been worked out. Apparently this favoured group will own at least 51% of the new company, with any interested foreign investors being restricted to the remaining 49%. This move by the department has to be criticised on several counts. First, it showed significant disrespect to the South African industries asked to comment on the draft policy when it appears that the major policy decisions had already been made. There was an immediate feeling that many alternatives open to the department were being ignored simply because they did not take current vested interests into account.

Secondly when this country is in such need of significant foreign investment, why would we draft a policy document that has such self-defeating financial restrictions as the maximum 49% foreign-interest stake? International companies wishing to invest large amounts of capital into this country should have the right to control the allocation of their money, so a limit of 49% cannot be as valuable to an overseas investor as the possibility of a controlling interest. (Inevitably this will be reflected in the price that South Africans will receive for their telecommunication assets). Furthermore we should remember that, world-wide, telecommunications companies are cash-strapped, having coughed up for 3<sup>rd</sup> generation licenses all over Europe, so investments at this end of the world are not going to be top of their list. Surely we could have laid something a little more tempting on the table to attract those dollars?

And thirdly there is the subject of affirmative action. The 30% shareholding applicable to Historically Disadvantaged Groups, mentioned in the policy document, means that we are again restricting the capital-financing options open to competing participants. In other words, we are tying the hands of the companies we wish to have develop our country's infrastructure. What is the prime goal here? Surely the focus in developing a communications policy has to be the advancement of the country's people as a whole and not a select group of venture capitalists (the currently privileged elites)? The suggested policy approach, that of affirmative-action shareholding requirements and limited overseas equity holdings, will create artificial structures that lead to price increases and reduced implementation of technology, hurting the very people that the measures are supposedly intended to help.

Of technological interest arising from the policy document is how government intends to enforce the prize of exclusive “voice” data rights across the IT and communications industry. PABX/PBX and Local Area Network technologies are already merging as Voice-Over-IP protocols are integrated into corporate networks. The distinction of voice as a separate data type has rapidly lost all meaning in the Internet-connected world. Furthermore the global phenomenon of convergence means there is a real danger that technology has run ahead of the policy direction and, unless this element of the document is reviewed, South Africa may find itself with antiquated legislation made meaningless by practical reality. Worse still, we may criminalise legitimate business behaviour which is required in order to remain internationally competitive, simply because of misguided license policy and protection requirements.

Finally, the sad thing about the telecommunications policy document is how its presentation has an air of *fait accompli* about it. Too much has taken place behind closed doors with almost no consideration for the policy alternatives put forward by the various interested industries, notably those of IT firms. Almost no consideration appears to have gone into alternatives to the Second National Operator principle, and genuine free-market suggestions seem to have been refused out of hand. This is a real cost as vested interests within the industry and confused ideology on the part of public officials have ignored some valuable proposals.

For example, instead of looking at the business of telecommunications in a vertical fashion, the different layers of business can be identified in a horizontal manner, and then these can be structured for possible sale. Telkom currently provides a number of services that include infrastructure provision, switching, content-delivery services, network-equipment sales and consultancy. Now if these services are seen as horizontal markets then there is no reason why Telkom could not be separated in this manner and sold off as several separate corporations, with no requirement for license restrictions on any of the liberated firms. Competitors already wait in the wings. Eskom is in an excellent position to assist in laying fibre-optic cables alongside its current power-infrastructure. Corporations like AT&T and Dimension Data are more than ready to compete for the switching business. And a host of VANs, PBX, LAN and network consultancies can add value over the final infrastructure (even to the extent of simple branding, as Virgin has achieved in the UK cellular market). Moving from a monolithic environment to an equally restricted duopoly cannot be the only solution for South Africa and the benefits of the proposed “managed liberalisation” are unlikely to emerge. Only unfettered competition can bring the hoped-for benefits of a robust telecommunications industry.

## **Conclusion**

In summary, the issue of telecommunications is an important one for South Africa as it represents a major spring-board for growth going into the 21<sup>st</sup> century. As roads were the reason for Rome’s success, so shall communications be for the new world order. And this is about infrastructure. If South Africa embarks on a flawed, regulated and unfree telecommunications policy it runs the risk of being trampled by those countries which are willing to take brave steps forward. We should remember that modern industries are built on the back of this infrastructure and mistakes will have ramifications all the way along the supply chain. Poor communications mean increased prices and poor service delivery, which mean uncompetitiveness. In turn this means job losses and a general reduction in the country’s wealth. With so much at stake and so many possible solutions at hand, government proposals for minimum licensing, exclusionary rights, and restrictive corporate structuring have to be questioned with the sternest public criticism.

**Further reading**

Telecommunications Policy Directions – Government Notice of Intention to Issue Ministerial Policy Directions, 20 March 2001.

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