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Policy and Regulatory Challenges of Access and Affordability

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INTRODUCTION

Affordable access and the skills to utilise increasingly advanced but essential services remain the central public interest issues for regulators in the area of information and communication technologies (ICTs). This is true for all countries, but particularly for developing countries. The contemporary policy dilemma is that as the urban centres are connected to global networks, illuminating critical paths of planetary contact and influence, the gap between those that are connected and those that are not is widened. At a time when information is power, the inequities of access to and dissemination of information extend to citizens' differential ability to be politically or economically effective.

The major policy and regulatory challenge for the ICT sector is identified as the harmonisation of domestic policy and regulation with international best practices as identified in multilateral agreements and organisations and centred on the concept of efficiency. This includes a deregulated and competitive market structure; private ownership with strong foreign investment; a reduced role for government; cost-reflective prices; and universal service policies to deal with market failure.

The Bretton Woods institutions have argued that privatisation of the incumbent monopoly and liberalisation of the market will remedy the ills of inefficient monopoly provision. The introduction of competition serves the public interest by inducing suppliers to become more efficient and to offer greater choice of products and services at lower prices. However, the imposition of free-market conditions onto the inequitable conditions in most developing countries without programmes of redress, would simply reinforce the iniquitous status quo. A more focused competition programme, enabling market entry by new kinds of players able to offer innovative and sometimes more affordable services, is likely to extend services and enable better integration of marginal markets into the global economy.

COMPETITION: PANACEA OR REGULATORY TOOL?

What is known is that monopoly provision did not roll out telecom services in most countries. Despite claims that cross-subsidies from international calls and high revenue settlement rates were needed to extend services to the under-served,

they were not, by and large, used for this purpose. After decades of monopoly provision by the mid-1990s in Africa, the average teledensity was below 1%.

In the course of the limited reform since the mid-1990s, insufficient emphasis has been placed on institutional arrangements to deal with the inevitable market failures. Effective regulation has been a cornerstone of competitive markets in the countries calling for open access to developing country markets, but it has not been implemented alongside competition policies, often expediently adopted by developing countries to offset debt or secure aid. The introduction of competition, without the regulatory capacity or political will to manage a competitive framework, can be entirely counterproductive to the achievement of the very goals of liberalisation.

In a study of the eastern European Internet market, the Global Internet Liberty Campaign (GILC) reached a conclusion of broader relevance:

Open and competitive markets make a necessary but not always sufficient contribution to securing the public interest objectives of universal access, affordable prices, pluralism and diversity. Indeed, in the absence of countervailing regulation, liberalization could worsen the situation. Tariff rebalancing in favor of high volume and long distance users could benefit business and urban customers, while resulting in increases to residential and rural customers (GILC 2000: 9).

PRIVATISATION: SOLUTION TO INFRASTRUCTURE DEVELOPMENT OR STIFLER OF SECTOR DEVELOPMENT

Due to the lack of success of incumbent telecom operators to build out the infrastructure adequately after decades of monopoly, the solution of privatisation proffered by multilateral agencies has been widely adopted. In many developing countries, privatisation has been implemented through the introduction of a strategic equity partner with the promise of a period of extended monopoly. The rationale for this is a strong one. Often indebted monopolies need injections of capital, skills and technology transfer in order to roll out service to the vast majority in many developing countries, to modernise their outmoded networks and to prepare for competition.

There are now over 120 signatories to the General Agreement on Trade in Services (GATS) – of which over 100 are developing countries. Of these, over 70 have signed the Basic Telecommunications Agreement, and a significant number of them have adopted the Regulatory Reference Paper, which includes a commitment

to establish independent regulators. In practice, however, when regulators are established they are usually incapacitated by a lack of resources and the weak political will of their governments. The absence of the necessary regulatory arrangements, together with the experience that privatisation is often adopted without a commitment to general liberalisation of the market, result frequently in market distortions, rather than in an opportunity to reap the potential benefits of reform.

What then are some of the early outcomes of these privatisation strategies? There is some evidence to suggest that countries that have gone this route, especially those that did so at the advent of large-scale public usage of the Internet, may have met their formal rollout targets but possibly at considerable cost to the broader development of their information and communication technology (ICT) sectors. The decline of South Africa's world ranking from fourteenth in 1997 to twenty-eighth in 2000 in terms of Internet hosts may be partly attributed to the inability of the highly competitive Internet Service Provider (ISP) sector to obtain sufficient bandwidth from the incumbent or to utilise alternative means. Where stringent monopoly rules apply or where regulation fails to enable the liberalised components of the sector to compete effectively, innovation and customer service are unlikely to flourish.

The impact on the industry, and on the economy more generally, of operators being prevented by law from using cheaper and more effective telecom solutions than those offered by the monopoly must be weighed carefully against the contribution of the monopoly to the sector. This is so not only at the value-added end of the market where innovation tends to occur, but also in terms of universal access provision. Where alternative access networks have been permitted and the provision of services to under-served areas has been opened up to other players besides the incumbent, service rollout has often been quicker and more widespread (Melody 2001a). For example, South Africa (with a teledensity of 11.4% in 2001) has exhibited much slower growth in fixed-line connectivity than other economies such as Turkey (28% teledensity), Poland (28%), Argentina (21%) and Chile (22%).

Why is it that privatisation has been more readily adopted by many developing countries than other aspects of liberalisation? Although often couched in more acceptable public policy rationales, the uneven commitment to the process of liberalisation can best be understood in terms of the immediate benefits to often-indebted exchequers. The main driver of the granting of exclusivity periods has been the price that can be extracted from investors. This is not bad thing in and of

itself. Countries all over the world have long used revenues from the telecom sector to cross-subsidise other areas of social delivery, to offset debt and for other legitimate ends. The danger lies in the conflation of short-term revenue gains with the promotion of the national interest. Extracting a few extra million in revenues for a period of exclusivity or Initial Public Offering needs to be carefully weighed against its negative impact on the growth, diversity and quality of services. The resulting privatised monopoly, driven by shareholder demands and the imperative to stifle competition, requires even more rigorous regulation than the public monopoly, which, despite the inefficiencies associated with it, at least is bound by a public service ethos.

Such potentially negative impacts of short-term political decisions on the attainment of broader national goals can be mitigated by institutional arrangements such as the establishment of workably independent regulators.

ACCESS: INFRASTRUCTURE OR AFFORDABILITY

Privatisation is likely to be accompanied by the rebalancing of tariffs, to bring prices in line with costs, resulting generally in higher local prices, which were hitherto cross-subsidised by international calls. The result has been the exclusion on the grounds of affordability of precisely those intended to be the beneficiaries of the exclusivity. A study conducted for the South African telecom regulator found that 44% of households could not afford a service at R30 (about US\$ 6 at the time) a month and that 60% of all households would not even be able to afford the monthly line rental then of R50 (US\$ 8), if it was assumed that only 2% of household income could be allocated for telephony (Stavrou and Mkize 1998). The South African incumbent Telkom SA's Annual Report (2001) indicates that while it had met its annual target of installing 675,000 lines, 'a complete review of non-paying customers and crackdown on commercial fraud resulted in a disproportionate number of fixed lines being disconnected'. This resulted in a decline in customer lines from nearly 5.5 million in 2000 to less than five million in 2001. Over half a million households were disconnected.

While a portion of these can be assumed to have 'churned' or switched to mobile services, as the report indicates, many of these customers either terminated their service or were cut off due to their inability to pay. While cross-subsidies have become a dirty word in discourse of this kind, it is clear that for many years to come access to the home for a vast numbers of citizens in developing countries will only be possible through some form of subsidy or life-line tariff. Rather than jettisoning cross-subsidies as a legitimate social strategy, regulators should set up systems that will ensure that they are transparent and not used anti-competitively,

that they are serving their objectives, and that they are targeted and form part of broader collective access strategies such as tele-centres and payphones. Accounting mechanisms and strict reporting requirements would also be needed to facilitate this outcome.

THE CONUNDRUM OF WIRELESS

The juxtaposition of the above discussed affordability issues and the massive growth of wireless mobile services in developing countries poses an interesting conundrum. All over Africa mobile telephones have overtaken fixed telephones. The dramatic growth of mobile is attributable to the introduction of pre-paid services which are now used by around 70% of subscribers, but which yield less than 30% of subscriber revenue in South Africa. Unlike in the rest of sub-Saharan Africa, these figures cannot be explained solely by the lack of access to the lower-priced fixed phones in South Africa. Pre-paid mobile tariffs are considerably higher even than the relatively cheaper contract tariffs.

Besides the convenience of mobility, and indeed the status, something about the ability of the consumer to control costs make the pre-paid option attractive for people, despite that fact that the up-front cost of purchasing the handset may be as high as half of their monthly income. If, on the other hand, the duopoly mobile providers are exploiting an opportunity created by the fixed monopoly's inability to supply, then this is a glaring case of market failure that needs regulation, rather than being a wireless success story.

GOOD GOVERNANCE: KEY TO TRANSFORMATION

All policy and regulatory responses in the ICT sector are dependent on good governance, including greater transparency, accountability and increased participation by interest groups and individuals in decision making processes. In some parts of the world civil society has shifted the power that traditionally resided in formal government to more democratic and participatory forms of governance:

It hinges on equal partnerships, collective wisdom, co-operation and responsible action on the part of all actors in governance (the public sector, the private sector, academia and the media). It relates to the rule of law, accountable administration, legitimate power, responsive relation and is defined as effective, participatory, transparent and equitable (Global Knowledge 2 2000).

The majority of the world's people do not experience these participatory systems of governance, reflecting and determining their very underdevelopment. All

initiatives to redress this unevenness should be premised on developing organic, transparent and participatory forms of decision making.

The application of the general principles to the local conditions rather than the mimicking of the complex forms of governance in other jurisdictions is what must be achieved in the regulatory arena. To require costly and skill-intensive systems of regulation is to set developing countries up for failure. The urgent need is to devise and implement appropriate systems of governance that conform to the central principles of transparency, public accountability, public participation and equity.

CONCLUSION

Throughout the developing world, monopolies have failed to meet the mandates of universal and affordable service, quality service provision to users and product innovation. But the first round of privatisation and liberalisation in many developing countries does not demonstrate significant gains either.

The reasons for this are multiple and specific to the political economies of different countries. What is common to many of them is the absence of the necessary capacity and resources to enforce restructuring policies. It is increasingly evident in developing countries that, while privatisation and competition may be necessary conditions to expand access to basic and advanced communication services, they are far from sufficient. Competition is an effective tool in regulating the efficiency of the market, but its ability to contribute to public interest outcomes of access, affordability, quality and choice of service is dependent on the existence of capacities and resources to implement, monitor and enforce the relevant policies. If these conditions do not exist, as they do not in many developing countries, the adoption of privatisation and liberalisation strategies could be counterproductive.

The challenge, therefore, is to create conditions that are sufficiently certain and predictable to secure the investment necessary for infrastructure development. At the same time they must engage in the sometimes contradictory task of creating an enabling environment for the introduction of innovative services and products that are necessary to engage effectively in the new economy and to ensure affordable access.