

ITU Workshop on Policy and Regulations for Newly Established Regulators in the Asia Pacific Region

Nha Trang, VietNam, 8-9 December 2009

Country experience: newly established regulator's birth pangs

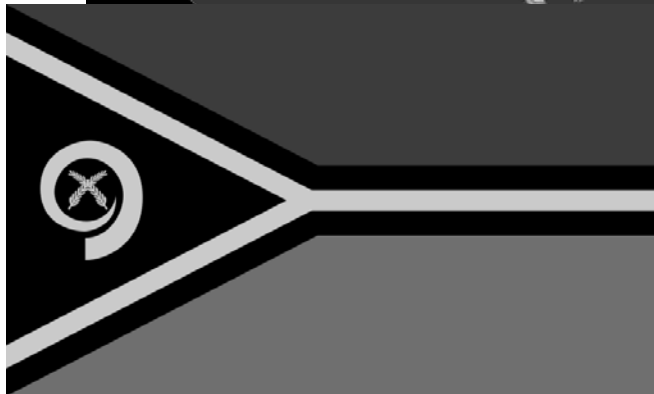
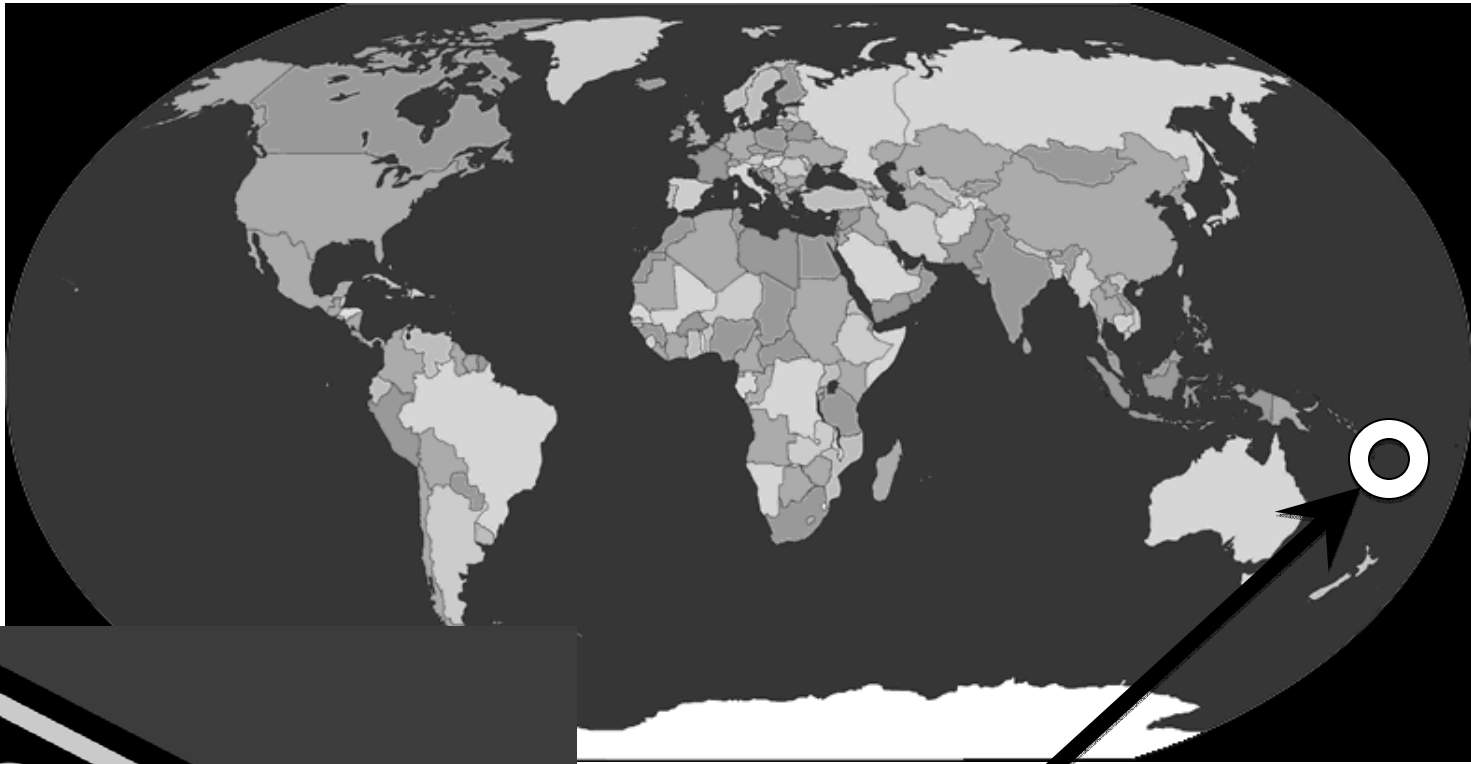
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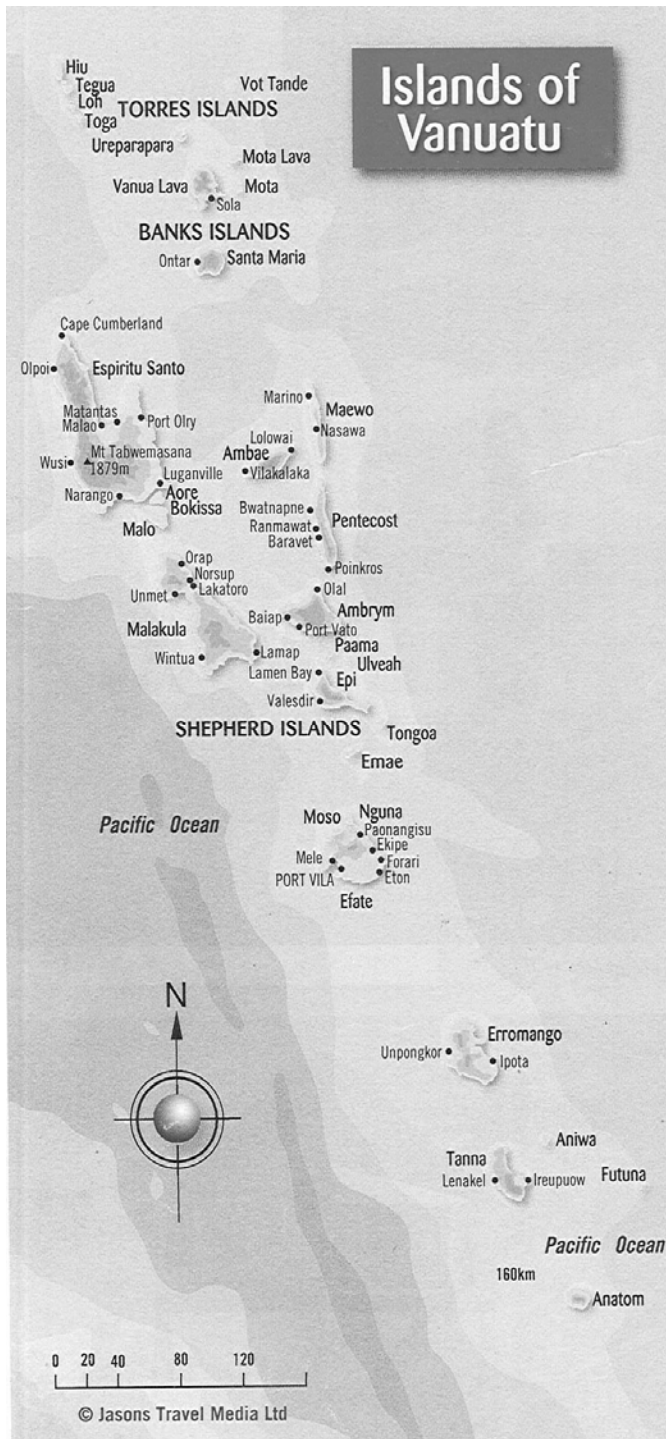


Where is Vanuatu?



Vanuatu





Islands of Vanuatu

Vanuatu

- Volcanic and coral islands
- 86 islands
- 240,000 population
- Indigenous people are Melanesians
- More than 120 languages
- Parliamentary democracy



Policy overview (1)

- Government decides to end Telecom Vanuatu's monopoly
 - Settlement Agreement negotiated with TVL shareholders
 - Shares given as compensation
- Appoints interim regulator



Policy overview (2)

- Government licences Digicel to become new mobile operator - with duopoly for mobile up to 2011
 - Performance bond (USD 3 million)
 - Cover 75% of population after 6 months
 - Cover 85% of population after 18 months



Policy overview (3)

- All other telecom services become an open market from March 2009
- New telecom law
 - Includes
 - Consumer protection
 - Rules of competitive behaviour
- Universal Access Policy fund established



Road Map to an Open Market

Event	Date
CoM approves new telecommunications policy	Nov 07
(Old) Telecom Act amended	Dec 07
Settlement Agreement	19 Dec 07
Regulator appointed and powers delegated	28 Feb 08
Settlement Day	10 Mar 08
TVL and Digicel licences	11/14 Mar 08
Interconnect Agreement	13 Mar 08
Digicel Launch	25 Jun 08
CoM approves open licensing policy	11 Mar 09
More telecom licences (not mobile telephone)	30 Sep 09
New Telecom Act	Sep-Dec 09
Additional Mobile Operator(s)	2Q 11?



Effects of mobile competition

	February 2008	November 2009
Number of mobiles	28,000	140,000
Population covered	~25%	85%
Telephones per 100	~11	58
Prepay call prices	40 vatu first minute (pk) 20 vatu after that	25-27 vatu Numerous specials
Call price rounding	Next whole minute	Next whole second



Internet broadband services

- Price for 128 kB/s fell by two-thirds when competition policy was announced
- Prices still high and bandwidth limited but competition has not really started



The big issues for the Regulator

- Interconnection and 7-digit numbering
- Number “portability”
- *Predatory pricing (alleged)
- Declaration of dominance
- *Digicel signal coverage checking
- UAP levy
- UAP projects
- Radio licensing and policy
- *Internet governance
- TVL loss-making lines
- Advertising standards
- Advertising war
- Staffing and development
- New legislation
- Marine radio watch
- Malicious emergency calls



Predatory pricing allegation (1)

- Incumbent alleged that new entrant's pricing specials were predatory. Examples:
 - pay for five minutes talking and get 55 minutes for free.
 - make two paid three-minute calls during the day and then all (local) calling that night is free
 - free telephone in exchange for competitor's SIM card



Predatory pricing allegation (2)

- Would the behaviour be a rational strategy in a market with no competitor?
- Under the licence (and the new law) there were three tests to apply:
 - Is the alleged offender *dominant* in the relevant market?
 - Is the pricing below variable costs?
 - Has the alleged behaviour been going on for an *extended period of time*?



Predatory pricing allegation (3)

- Findings:
 - The new entrant was dominant in the market for *retail mobile services*
 - Pricing was not below variable costs
 - No finding was made on the “extended period of time” as this was not relevant.



Predatory pricing allegation (4)

- Comments
 - Protracted enquiry as the new entrant put up numerous arguments to avoid providing data
 - Despite insistent allegations the incumbent had no knowledge of the likely variable costs
 - Regulator examined both likely variable costs and ARPUs
 - New entrant's specials were designed to increase revenue – not to throw it away



Digicel coverage

- Two targets:
 - 75% population covered by 6 months
 - 85% population covered by 18 months
- Initially claimed 85% but Regulator's initial finding was less than 70%
- Interesting arguments
 - technology vs pragmatism



Internet Governance (1)

- What changes need to be made to move from a single monopoly ISP to competing ISP's in a way that is fair to all participants?
- There is no standard model
- ICANN approach is full consultation amongst stakeholders and development of policy consensus



Internet Governance (2)

- Provisional findings:
 - establish stakeholder representative policy body
 - establish a neutral registry for .vu and redelegate ccTLD
 - allow multiple registrars
 - Establish a neutral Internet traffic exchange point (IXP)
- Where should the neutral functions be located?



Big issues coming up

- More interconnection
 - pricing review 2010
 - Internet interconnection
 - VoIP
 - UAP winner if not existing operator
 - Dominance (again)
 - UAP projects and levy
 - Access deficit (TVL loss-making lines)
 - Recruiting and staff development
 - Training
 - Establishing internal procedures
 - Finalise national radio frequency plan
- ... plus whatever comes up!!!



Advice to a new regulator

- Concentrate on what's important
- Don't be distracted from the real issues by bluff and bluster
- Do your homework
 - research the issues thoroughly – especially the legal aspects
- If in doubt – seek professional advice
- Document thoroughly





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