

Regulation in the Era of Convergence:

A South African Perspective



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South Africa (ICASA)***

Context: Telecoms Policy Reform

- privatization of national operators
- the licensing of new entrants and services including cellular, paging and VANS
- liberalization of trade and services
- testing notions about the role of the regulator ways to achieve the equitable delivery of services in era of convergence

South African Situation

- Fears: Regulation in the Era of Convergence
- Institutional Framework: Regulatory Developments in South Africa
- The South African Legal, Policy and Regulatory environment

Broad Regulatory Considerations

- Public Interest Imperatives
- Differences between Carriage & Content Regulation

Fears: Regulation in the Era of Convergence

- regulation that stifles innovation
- regulation that does not allow industry self-regulation or co-regulation
- government-backed rules that may undermine creativity
- the dominance of the telecoms industry over broadcasting

Institutional Framework: Regulatory Developments in SA

- convergence and the envisaged blurring of regulatory distinctions
- the emergence of new communications technologies
- Therefore, July 1 2000: **the Independent Communications Authority of South Africa (ICASA)** created
 - successor to the South African Telecoms Regulatory Authority (SATRA) and the Independent Broadcasting Authority (IBA).



Institutional Framework: Regulatory Developments in SA (2)

- ICASA's mandate:
 - facilitate the continued establishment of a vibrant, dynamic and competitive communications industry;
 - develop the framework for SA industries to be investor friendly, stable, and creative & at the forefront of new technologies;
 - promote the empowerment of historically disadvantaged groups
 - facilitate universal service/access, & promote services to enable all South Africans to have access to full and diverse information about their environment.



SA Policy, Legal & Regulatory Environment

- Administrative merger only
- No merged legislation has yet been developed
 - Telecoms Act, Independent Broadcasting Authority Act, and Broadcasting Act are the principal statutes
 - talk of a “Communications Amendment Bill” and “omnibus legislation” in 2001

SA Policy, Legal & Regulatory Environment (2)

- Legal loopholes, gaps, & overlaps
 - E-commerce Green Paper (launched Nov 20, 2000)
 - convergence policy/ legislation (still to be drafted)
- acknowledge that prescriptive rules will often be outdated before they are in place; hence the need for an innovative regulator with methods of continuous improvement and evaluation

SA Policy, Legal & Regulatory Environment (3)

- ICASA maintains two separate divisions for telecoms and broadcasting
 - at present, both sectors remain fairly distinct
 - SA marketplace has few companies that are attempting to combine broadcasting and telecoms or IT at present

Public Interest Imperative

- Shared by both sectors
- Regulatory procedures & processes
 - encourage clarity and consistency in regulation
 - regulators must not be handed significant, and largely unchecked, discretionary power
 - public must be confident that any decision will be taken via a transparent process, or that adequate reasons will be given or required to enable them to check the rationality of such decision-making
- Regulatory policy: Challenge to bridge the “digital divide”



Content & Carriage Regulation

- Infrastructure and content or carriage regulation can be seen as two sides of the same coin
 - they are both needed to deliver the objectives that society has chosen
 - require different expertise and understanding, and different regulatory approaches, but they need to be co-ordinated

Conclusions

- Other regulatory processes & telecoms reform must be completed while we address convergence
- Regional Coordination is Necessary (TRASA)
 - consistent regulatory and legal frameworks
 - issues of jurisdiction



SA is seeking innovative ways of equipping the regulator to function in the new era of convergence bearing in mind the key principles of public interest, minimal regulation, & balance between content and carriage regulation. We are also looking at addressing many of these issues on a regional level to address the social and economic needs of the country and the region.