Telecommunication Regulatory Reform and the WTO Process

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* The views expressed in this presentation are those of the author, and do not necessarily reflect the opinions of the ITU or its membership. Dr Kelly can be reached by e-mail at Tim.Kelly@itu.int

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Agenda

- The Telecommunications Sector in the 1990s
- Trade in telecommunications
- WTO Trade Principles
- The stakes:
  - Market liberalisation
  - Shift from a bilateral to a multilateral trade regime
- Establishing independent regulators
- What does it all add up to?
Cellular subscribers worldwide, per 100 inhabitants

Annual growth rate of cellular subscribers (right scale)

Introduction of digital systems

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Cellular subscribers as a % of total telephone subscribers, 1996

Main telephone lines per 100 inhabitants

**Telecom Reform and the WTO Process**

### Trends towards competition: OECD countries

![Graph showing trends towards competition: OECD countries](image)

Source: 1999 OECD Communications Outlook.

### Growth in international traffic per line, in emerging markets (1990=100)

![Graph showing growth in international traffic per line](image)

**Telecom privatisations, value by region, 1994-97**

- Western Europe 62%
- Asia-Pacific 23%
- Latin America 8%
- African & Arab states 2%
- Eastern Europe 5%

Total value: US$ 94.5 billion, 39 privatised companies

*Source: ITU African Telecommunication Indicators, 1998*

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**Teledensity before and after privatisation: Year of privatisation = 100**

*Source: ITU “World Telecom Indicators Database”*
**Trade in telecoms**

- Dual role of telecommunications
  - As a facilitator of trade in other sectors (GATS)
  - As a directly traded product and service (BTA)

- How can telecom services be traded?
  - **Modes of delivery**
    - Cross-border (e.g., international calls)
    - Commercial presence (e.g., Foreign Direct Investment)
    - Consumption abroad (e.g., calling cards)
    - Movement of staff (e.g., consultancy services)

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**Global Telecom Trade, US$ billion**

![Chart showing global telecom trade from 1990 to 1995](chart.png)

Note: “Other” includes privatisation receipts, cross-border roaming of mobiles, consultancy, FDI, foreign aid etc.

**WTO timetable**

- 1986-1993: Uruguay Round
- 15 April 1994: Marrakech Treaty (GATS)
- 1994 - 1997: Group on Basic Telecommunications (GBT)
- April 30 1996: “Standstill”
- Feb 15 1997: Basic Telecommunications Agreement (BTA)
- April 1997: Information Technology Agreement (ITA)
- 5 February 1998: Implementation of BTA

**General Agreement on Trade in Services (GATS) principles**

- Most-favoured nation (MFN), Article II
- Transparency, Article III
- Domestic regulation, Article VI:
  - qualification requirements and procedures
  - technical standards
  - licensing requirements
- Monopolies and exclusive service supply (Article VIII)
- Market access (Article XVI)
- National Treatment (Article XVII)
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**GATS annex on telecommunications**

- **Scope:** “public telecommunications transport networks and services” (PTTN&S)
- **Transparency**
- **Access to and use of PTTN&S “on reasonable and non-discriminatory terms”**
- **Obligations:**
  - interconnection to PTTN (including private nets)
- **Safeguards:**
  - public service responsibilities
  - protect technical integrity of network

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**Basic Telecom Agreement**

- **Process initiated in 1994 to extend GATS commitments to basic telecoms (i.e., voice)**
- **Process reached “standstill” in April ‘96.**
  - **Sticking points:**
    - Reaching Critical Mass of countries
    - “One-way by-pass” of accounting rate system
    - Status of mobile satellite services
- **Negotiations re-opened, 15 Jan-15 Feb 1997**
- **Successful conclusion on 15th February**
  - 69 countries signed agreement
  - 61 countries committed to Regulatory Reference Paper, in whole or in part
Countries permitting competition in basic telecoms:

1990
- Japan
- United Kingdom
- United States

1995
- Australia
- Canada
- Chile
- Finland
- Japan
- Korea (Rep.)
- New Zealand
- Philippines
- Sweden
- United Kingdom
- United States

1998
- Australia
- Austria
- Belgium
- Canada
- Chile
- China
- Denmark
- El Salvador
- Finland
- France
- Germany
- Ghana
- Hong Kong SAR
- Israel
- Italy
- Japan
- Korea (Rep.)
- Mexico
- New Zealand
- Netherlands
- Norway
- Philippines
- Russia
- Spain (Dec 98)
- Sweden
- Switzerland
- Uganda
- USA

Percentage of outgoing international traffic open to competition

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Monopoly | 35% | 46% | 74% | 85%
Number of countries permitting more than one operator for international telephony
Note: Analysis is based on WTO Basic Telecommunications Commitments and thus presents a minimum level of traffic likely to be open to competitive service provision. Source: ITU, WTO.
African countries making GATS commitments to liberalisation

- Côte d’Ivoire
  - Full competition by 2005
- Ghana
  - Duopoly for five years, then review
- Mauritius
  - Competition by 2004
- Senegal
  - Competition some time between 2003-2006
- South Africa
  - Competition by 2003
- Uganda
  - Duopoly, 1998-2003; thereafter review

Regulatory Reference Paper (1)

- Competitive safeguards
  - prevention of anti-competitive practices
  - engaging in anti-competitive cross-subsidisation
  - withholding information
- Interconnection
  - provided under non-discriminatory terms
  - cost-oriented, transparent and timely
  - additional network termination points on request at cost-oriented rates
  - Published terms and rates
  - Disputes procedure
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**Regulatory Reference Paper (2)**

- **Universal Service Obligations**
  - at discretion of Member State
  - no more burdensome than necessary

- **Licensing criteria**
  - publicly available
  - transparent process

- **Independent regulatory authority**

- **Allocation and use of scarce resources**
  - objective, timely, transparent and non-discriminatory procedures for allocation

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**Number of new African Regulatory agencies established per year, 1992-97**

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Source: ITU “African Telecommunication Indicators” 1998
## Two Telecom Worlds?

### WTO World:
- 132 Members, governments only
- 72 Members, accounting for 93% of global telecoms market and 55% of global population, have made market access commitments
- 63 Members have committed to regulatory principles (Reference Paper)

### ITU World:
- 188 Member States & 500+ Sector Members (private)
- 72 are also part of WTO world, in whole or in part
- 116 Member States, accounting for <45% of global population, not part of WTO telecoms world
- 56 are not WTO Members
- 60 are WTO Members but have not made market access commitments

## What’s covered, what’s not?

### Covered in WTO telecoms agreements
- Government measures
- Individual country commitments (schedules) providing market access to stated markets in telecom services
- Related agreements (GATS, Information Technology)
- Regulatory principles
- Commercial presence (foreign direct investment)

### Not covered in WTO basic telecoms agreement
- Non-government measures (e.g., commercial contracts)
- Market areas not covered in individual commitments or stated as exemptions
- Rest of world (including China, Russia etc)
- Accounting rates and settlements
- Broadcasting and audiovisual industry
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What does it all add up to?

- **Philosophical**
  - Facilitating the transition to a competitive market environment
  - Birth of a global information society
  - Telecommunications as a traded service

- **Practical**
  - Shift from a revenue-sharing to a cost-oriented regime for international telecommunications
  - Market liberalisation now the dominant paradigm
  - Efforts to provide a “soft landing” for those countries likely to be hardest hit by changes
  - Lower prices creating opportunities for new services