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TELECOMMUNICATION REGULATION IN CAMEROON:
PRESENT SITUATION AND OUTLOOK

INTRODUCTION

Cameroon's telecommunication regulatory body, the Agence de Régulation des Télécommunications (ART), became operational in November 1999. In Cameroon, telecommunication regulation is not in fact simply a matter of drafting new rules or legislation, setting up a regulatory body, devising an interconnection system, or introducing competition. Our concern is not merely to implement regulations, but also to establish tariff principles for the services of the dominant operator and interconnection, with a view to both consumer protection and effective and appropriate regulation of true competition.

A. PRESENT SITUATION

I. BACKGROUND

Before 1990, telecommunication services were run as a state monopoly, as was the case in most African countries. The administration in charge of telecommunications laid down the rules of the game, ensured they were applied and acted as an operator. The results did not always come up to expectations.

In June 1990, the President of the Republic signed an ordinance on the privatization programme for public and semi-public enterprises.

In June 1995, the privatization programme was extended to the telecommunication sector.

In July 1998, the Telecommunication Act was promulgated, establishing ART. Under the Act, responsibility in the telecommunication sector was assigned at three levels: operation, regulation (i.e. application of the rules) and the establishment of sector policy and rules.

In September of the same year, two public enterprises, CAMTEL (fixed telephony) and CAMTEL MOBILE (mobile telephony), were set up to take over from the telecommunication section of the Ministry of Posts and Telecommunications and the public enterprise INTELCAM, which had been in charge of operating and developing international telecommunication installations. ART was organized at the same time. The sale of a mobile telephony licence and the privatization of CAMTEL and CAMTEL MOBILE got under way shortly thereafter.

In June 1999, a mobile telephony licence was granted to a private firm.

In February 2000, CAMTEL MOBILE was privatized.

The privatization of CAMTEL should be completed in October 2000.

In less than two years the sector has undergone sweeping changes. Suffice it to consider mobile telephony: in January 2000 there were about 5 000 mobile telephone subscribers and one mobile telephone operator; at present there are over 55 000 subscribers and two operators.

The sector's rapid and in-depth transformation has taken place in a constantly improving legal framework.

II. A LIBERAL LEGAL FRAMEWORK

The development of new technologies has given rise to new telecommunication services, which require appropriate regulation in the light of their specific features.

Cameroon's Telecommunication Act sets out a new regulatory framework. This framework, which distinguishes between networks open to the public and private networks, provides for three legal systems: concession, authorization and declaration.

1. Concession

The State can grant one or more legal entities in public or private law all or some of its rights to establish and/or operate telecommunication networks. The concession is granted subject to compliance with the strict conditions set forth in the specifications.

This system allows the State not only to keep a careful watch on the harmonious development of modern telecommunication infrastructure, but also and above all to control more closely the development and supply of the basic services usually demanded by most users.

2. Authorization

The prior authorization system applies to the establishment and/or operation of networks by individuals or legal entities with a view to providing the public with basic telecommunication services, value-added services, support services or any other services by means of radio relay links. The licence granted to the bearer of the prior authorization specifies the undertakings to be respected. The authorization is granted for a limited period and may be withdrawn in certain circumstances.

3. Declarations

Declarations apply to the establishment of internal private networks, short-range and low-capacity independent private networks (other than radio), short-range and low-capacity radio installations (determined by the Administration), and telecommunication services provided to the public other than those governed by the concession and authorization systems.

Telecommunication terminal equipment may either be supplied freely or be subject to certification.

Certain provisions of the framework law are spelled out in greater detail in decrees and orders setting forth measures for their enforcement. We are not going to discuss all these texts here, and indeed some of them are still being drafted.

The reform process in Cameroon has established the separation of the regulatory and the operational functions. The idea is that operators should be entities controlled by private capital.

The general framework for competition is covered by the Competition Act.

The legal framework is supplemented by institutions.

III. A SPECIFIC INSTITUTIONAL FRAMEWORK

1. The administration in charge of telecommunications

The State has exclusive responsibility for regulation: the administration in charge of telecommunications is vested with general competences for the sector, on behalf of the Government; it performs the general regulatory function. Alongside it is ART the specialized body responsible for facilitating practical application of the rules issued.

In addition, the administration in charge of telecommunications draws up and implements telecommunication policy, which should aim to ensure the fulfilment of the public service function, the harmonious development of networks throughout the country, the development of effective private sector participation in wealth - and employment - generating activities and compliance by all operators with telecommunication treaties, laws and regulations.

The new regulatory framework relegates the ministry in charge of telecommunications to the role of regulator and supervisor of the sector's enterprises.

The administration in charge of telecommunications endeavours to set new rules for the sector and ART then ensures that they are applied in practice.

2. The Agence de Régulation des Télécommunications (ART)

ART, the telecommunication regulatory body, was established by Law 98/014 of 14 July 1998 on telecommunications in Cameroon. Its organization is governed by Decree No. 98/197 of 8 September 1998.

ART has three major functions:

- To ensure the regulations are implemented.
- To ensure compliance with the regulations and effective competition.
- To settle certain disputes between operators.

It exercises a subordinate regulatory power by performing the following activities:

- Formulating principles governing tariffs for services.
- Examining authorization and declaration request and applications for certification of terminal equipment to be connected to networks open to the public.
- Formulating principles for calculating the cost of interconnection.
- Establishing and managing numbering plans.
- Managing the frequency bands allocated to telecommunications.
- Submitting proposals to the Government for the development and modernization of the sector.
- Giving opinions on telecommunication bills and draft regulations.
- Ensuring compliance, with punishment of offenders.

ART has special competence to deal with disputes: it settles disputes concerning interconnection, access to networks open to the public, numbering, harmful interference and the sharing of infrastructure.

The Telecommunication Act provides for the Agency to have jurisdiction, and in the event of a challenge by either party, the arbitration procedure can be set in motion. The parties can also file suit in the appropriate court.

IV. PROBLEMS

1. The difficulty of ending the State monopoly, or the slow adaptation to a new environment

Until the late 1970s, the telephone and telex services provided by the telecommunication administration met users' expectations, although they were not always fully satisfied in terms of quantity and quality. The market was relatively stable. The same administrative entity was in charge of operating and regulating telecommunications.

The technological changes that resulted in the 1980s in the digitization of telephone networks and the explosive growth in satellite telecommunications opened up new perspectives and gave rise to new services and new needs among users. Business people and professionals, who wanted modern and in some cases specially tailored services, were no longer satisfied with the performance of an inefficient administration that was slow to adapt and innovate. This situation lasted well into the 1990s.

It was in this context that the Telecommunication Act was passed. This was to change everything: a variety of private operators offered innovative telecommunication services to businesses and professionals. The advent of the Internet did not simplify matters, as the users of standard telephone services also sought to take advantage of the new facilities. The growing demand for standard and new services fuelled supply: service providers set up shop without authorization. The ART started operating at the same time as certain network operators and/or

telecommunication service providers. Very quickly, it had to meet the needs and requirements of the new environment and solve problems that had already arisen. What resources did it have? How well prepared was it?

At the outset, ART had only the Act and the decree defining the interconnection system to fall back on. No other text containing measures for the application of the law was ready. Moreover, the fixed telephone service was provided by a public enterprise which had a subordinate regulatory authority in some fields, in particular the establishment of satellite infrastructure and links.

In order to adapt rapidly to the new environment brought about by the Telecommunication Act, the ART should have been able to work not only with texts specifying measures for the application of the law, but also and above all with experienced staff to enable the many service providers to set up lawfully and ART to shoulder its responsibilities correctly. It would have been desirable even for the State enterprise, an operator like any other, to sign an agreement with the State.

2. Human resources

When institutions in charge of issuing regulations and of their application start work, the persons responsible for drawing up the legislation rules to give effect to drafting and implementing sector policy, implementing the regulations, monitoring compliance with the regulations, ensuring effective competition, and settling disputes between operators must be experienced staff with well established skills. If that condition is not met, the institutions concerned will find it a long and difficult task in adapt to the new environment and seeking to respond promptly to operators' requirements and demands. It is not always easy to find such staff.

We find that it is in this area that much remains to be done in Africa. The risk is that the operators will make up for the lack by themselves regulating the telecommunication sector in Africa.

Outside assistance is essential to help the developing countries train men and women with a view, not only to getting regulatory bodies off to a better start but also and above all to improving existing regulations and to implementing the interconnection system that sets the framework for competition in the sector.

B. THE OUTLOOK

In the current world context, liberalization is indispensable, but it is not an end in itself. It is only worthwhile if citizens or consumers benefit. No matter where they may be, citizens must benefit from the advantages of the new information technologies. There can be no excluding anyone. This is why attention must be drawn to the following:

- The essential role of the public authorities in promoting the development of a local telecommunication industry (products, services); political objectives must include the defence of African economic interests, i.e. the creation of successful African companies.
- The need to take account of the convergence between telecommunications and the audio-visual world.
- The need to issue legal rules suited to the specific conditions of the African market, in particular as concerns the regulation of interconnectivity and scarce resources.
- The need to achieve greater African unity in international negotiations, in particular by creating groups of African experts. Language should not be an obstacle.
- The need for an African approach to "IP telephony" and IMT-2000.
- The need to set out simple and suitable methods for assessing interconnection and access costs.

- The rapid spread of second-generation mobile telephony in Africa calls for urgent reflection on the part of African regulators with a view to ascertaining if it is necessary nowadays to separate the fixed from the mobile telephone service. In other words, is there any reason to issue operators with different licences for fixed and mobile telephone services when most African countries do not yet have any modern telecommunication infrastructure?
- A question: should not good interconnectivity regulations promote the development of the backbone of networks (open to the public or private) and permit better use of the territory and greater control of tariffs for fixed-mobile and mobile-fixed interconnection by African regulators?

It is realistic to have a regional approach to telecommunication regulation problems in Africa, but that approach should be temporary and short-lived. The five regions should be considered subsets of the African whole. The main objective should be to build the whole. It is obvious to us that neither language nor differing legal systems should prevent African countries from reaching an understanding on fundamental principles and speaking as one at international meetings. An African from any country is a "citizen" of the world like anyone else. Will Africans allow language or the legal system to cut them off from the global telecommunity?

CONCLUSIONS

Our brief experience in launching the activities of Cameroon's telecommunication regulatory agency compels us to observe that developing countries need expertise not just to draw up texts on the structural organization of the sector. The implementation and improvement of existing legislation and regulations undoubtedly require "outside" help, which should be well defined if we are to expect good results.

Countries that have not yet drafted new legislation or established a telecommunication regulatory body may find it useful to answer the following questions:

- Does the regulatory body need to be separate from the one in charge of issuing regulations?
- When should the regulatory body start work in relation to the timetable for opening up the market to competition?
- How is the transitional period to be managed, i.e. the move from a monopoly to a competitive environment?
- Whom (what human resources) will the regulatory body have to start up its activities with?

These questions are interrelated and merit the close attention of political decision-makers and specialists drafting texts to restructure the telecommunication sector. Any differences between individual countries should lie basically in the pragmatic answers to these practical questions answers which may give rise to particular solutions in the establishment of the institutions responsible for issuing or applying regulations. But the actual practice of those activities should vary very little from country to country.
