

# Regulation in the Era of Convergence:

## A South African Perspective



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# 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

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- 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

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- 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

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- 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.*