Telecommunications in Mzantsi: regulation and competition

PH Potgieter & MS Khosa

15 April 2009

Communications Science Seminar
UNISA
Outline of the talk

1. An overview of developments in telecommunications up to 1991
2. General background of utilities regulation
3. Commercialisation of the SA telecommunications market since 1992
4. Overview of competition and regulation in the market today
5. Prospects for the future - pitfalls and opportunities

Much of the talk relies on material in the draft MA dissertation of limited scope of MS Khosa.
Brief history of telephony

1876  Invention of telephone by Alexander Graham Bell
1878-9  Commercial phone services start in US and UK
1892  AT&T connect NY to Chicago at $9 for 5 minutes
1894  Bell patents expire, 6 000 new operators in US
1918  US nationalises AT&T and other operators
1934  Communications Act places AT&T under FCC
1956  AT&T limited to 85% of US phone market
1974  US DoJ files antitrust suit against AT&T
1982  DoJ suit settled and AT&T broken up
Telephony in SA

1878    Adolph Boettger privately imports first telephones to Cape
1882    Telephone exchange in Port Elizabeth
1890    Exchange ordered for Jo'burg installed in Pretoria
1894    Telephone link between Durban and Pietermaritzburg
1895    Cape Colony grabs monopoly over equipment
1911    PO Administration and Shipping Act Combinations Discouragement Act
1922    First automatic exchange, in Waterkloof
1947    Cable and Wireless Workers Transfer Act nationalises overseas cables
1958    Post Office Act solidifies post office monopoly over telephony
1991    Telkom split off from SAPO
Developments have not been received with universal acclaim
Why worry?

Africa Top 10 Internet Countries

- Egypt: 10.5 million users
- Nigeria: 10.0 million users
- Morocco: 6.6 million users
- South Africa: 4.6 million users
- Algeria: 3.5 million users
- Sudan: 3.5 million users
- Kenya: 3.0 million users
- Tunisia: 2.8 million users
- Zimbabwe: 1.4 million users
- Ghana: 0.9 million users

Copyright © 2009, Miniwatts Marketing Group
The big picture, from Perkins e.a. 2005

Figure 1. Real GDP and public-sector economic infrastructure investment (gross) and fixed capital stock
Table 8. Average annual growth rates in phone lines, electricity generated, and real GDP

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Fixed phone lines</td>
<td>7.7</td>
<td>5.9</td>
<td>6.5</td>
<td>4.0</td>
</tr>
<tr>
<td>Mobile phone lines</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>108.3(1)</td>
</tr>
<tr>
<td>Electricity generated</td>
<td>7.5</td>
<td>7.9</td>
<td>6.1</td>
<td>2.3</td>
</tr>
<tr>
<td>Real GDP</td>
<td>4.9</td>
<td>5.1</td>
<td>2.4</td>
<td>1.9</td>
</tr>
</tbody>
</table>

(1) 1992-2002

The result of publicly-driven investment in telecommunications in SA, 1920-2002 (Perkins e.a. 2005)
Developments in SA since 1991

The incumbent operator, Telkom, was licensed in 1997 with a legislated exclusivity period of five years (under the policy of managed liberalisation).

Currently, the country has two "fixed line" operators as Neotel was licensed in 2005 and only began rolling out services in 2007.

There are three mobile operators where Vodacom and MTN were licensed in 1993 while Cell C was licensed in 2001.

Further, there is one Mobile Virtual Network Operator (Virgin Mobile) and mobile telecommunications has seen better competition.

There are 27 under-serviced area licensees (USALs) and about 344 value added network services (VANS).

Even with all these players in the telecommunications market, the cost to communicate remains excessively high in South Africa, probably largely due to extremely high interconnection rates.

Another hindrance to competition in the South African telecommunications sector is state involvement as shareholder in several operators in different areas.
Orange Farm after ICASA raid
## Cost of basket of ICT services (ITU'09)

<table>
<thead>
<tr>
<th>Rank</th>
<th>Country</th>
<th>Relative</th>
<th>Real</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Singapore</td>
<td>0.4</td>
<td>13.0</td>
</tr>
<tr>
<td>2</td>
<td>United States</td>
<td>0.4</td>
<td>18.4</td>
</tr>
<tr>
<td>3</td>
<td>Luxembourg</td>
<td>0.5</td>
<td>37.9</td>
</tr>
<tr>
<td>10</td>
<td>Finland</td>
<td>0.6</td>
<td>27.5</td>
</tr>
<tr>
<td>17</td>
<td>Cyprus</td>
<td>0.8</td>
<td>20.0</td>
</tr>
<tr>
<td>18</td>
<td>Bahrain</td>
<td>0.8</td>
<td>15.5</td>
</tr>
<tr>
<td>36</td>
<td>Serbia</td>
<td>1.5</td>
<td>7.1</td>
</tr>
<tr>
<td>53</td>
<td>Tunisia</td>
<td>2.9</td>
<td>9.3</td>
</tr>
<tr>
<td>63</td>
<td>Botswana</td>
<td>3.8</td>
<td>22.2</td>
</tr>
<tr>
<td>67</td>
<td>Egypt</td>
<td>4.1</td>
<td>6.5</td>
</tr>
<tr>
<td>70</td>
<td>South Africa</td>
<td>4.2</td>
<td>24.2</td>
</tr>
<tr>
<td>71</td>
<td>China</td>
<td>4.4</td>
<td>10.4</td>
</tr>
<tr>
<td>86</td>
<td>Peru</td>
<td>6.9</td>
<td>23.8</td>
</tr>
<tr>
<td>87</td>
<td>Albania</td>
<td>7.1</td>
<td>23.4</td>
</tr>
<tr>
<td>95</td>
<td>Namibia</td>
<td>8.6</td>
<td>28.9</td>
</tr>
<tr>
<td>98</td>
<td>Pakistan</td>
<td>11.0</td>
<td>9.6</td>
</tr>
<tr>
<td>104</td>
<td>Morocco</td>
<td>12.4</td>
<td>27.9</td>
</tr>
<tr>
<td>116</td>
<td>Angola</td>
<td>30.6</td>
<td>78.3</td>
</tr>
<tr>
<td>150</td>
<td>Niger</td>
<td>72.4</td>
<td>20.3</td>
</tr>
</tbody>
</table>
The regulatory environment in SA

The South African model for competition regulation entails a sharing of jurisdiction between the sector-specific regulator (ICASA) and the competition-wide regulator (the Competition Commission), governed by the Electronic Communications Act of 2005 (ECA) as well as the Competition Act of 1998, as amended.

The concurrent jurisdiction is managed through an agreement (provided for in the Competition Act) signed in 2002 between the sector regulator and the Commission.

This MoA establishes the manner in which both parties will interact with each other in respect of regulation of telecommunications and broadcasting.

The MoA governs issues such as procedure in respect to application for approval of merger transaction; mechanisms for dealing with complaints; sharing of resources and exchange of information.

The MoA generally worked well until the enactment of the Electronic Communications Act in 2005 which brought about uncertainties in the regulation of competition in the telecommunications sector.
The ECA is supposed bring about competition in the telecommunications sector thereby empowering ICASA with an increased responsibility in the regulation of competition in telecommunications.

A precondition for enforcing competition regulations provided for by the ECA is the promulgation of such regulations which is a time consuming and resource intensive exercise.

The under-resourced ICASA has so far failed to promulgate the necessary regulations for competition in the sector.

ICASA is funded by the DoC, which has commercial interests in the sector.
The ECA versus Competition Act

A more contentious provision of the ECA with regards to competition matters is Section 67(9) which provides that the Competition Act is subject to the Electronic Communications Act.

ICASA is not as yet in a position to fully exercise its powers under the ECA while the somewhat more capable Competition Commission is subject to the ECA. The following corrective measures are required.

- The promulgated Competition Amendment Bill upholds the management of the concurrent jurisdiction through an agreement but proposes that the Competition Act should prevail should there be a conflict in legislation (ECA & Competition Act) not in the agreement.

- The MoA signed in 2002 is being revised, largely to cater for provisions of the ECA, and is it likely to come into force once the Competition Amendment Bill has been passed.

- Once the Competition Amendment Bill is passed, an Amendment of the ECA will be necessary.
How the conflict plays elsewhere

The institutional frameworks for fostering competition in the telecommunications sector differ from country to country.

- The most common scenario is where countries have both a telecommunications regulator and one or more entities with jurisdiction over economy-wide competition matters (e.g. South Africa, United States, and Australia).
- A model where there is only a sector specific-regulator with competition mandates and no competition authority (e.g. Hong Kong and Namibia).
- The least common model is the one where a sector-specific commissioner is part of the general economy-wide competition authority (adopted by New Zealand) and the one where there is neither a sector-specific regulator and a competition authority.
<table>
<thead>
<tr>
<th></th>
<th>Hong Kong (private)</th>
<th>Australia (quasi-public)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1995</strong></td>
<td>HKTC monopoly expires and three new operators licensed</td>
<td>1992 Commercialisation leading to forming of Telstra. Single competitor, Optus, introduced.</td>
</tr>
<tr>
<td></td>
<td>Currently has 11 fixed-line providers and 5 mobile networks. Light regulatory regime.</td>
<td>Slow liberalisation, Optus and Telstra both operating mobile networks. Aggressive intervention by regulator has brought down prices.</td>
</tr>
<tr>
<td></td>
<td>162% mobile penetration rate, 53% fixed-line, very low cost.</td>
<td>2006 Telstra fully private.</td>
</tr>
<tr>
<td></td>
<td>No restrictions on foreign ownership, pro-consumer and pro-competition.</td>
<td>2009 Government announces $5000/household scheme to expand broadband network.</td>
</tr>
</tbody>
</table>
Competing postal services in NZ
Selected references


Acknowledgements and license

The presentation makes use of Flickr photographs uploaded by the following users: coda, Paul Jacobson, iphilipp, find eric.

This work is released under the Creative Commons Attribution 3.0 Unported Licence.

You are free:

* to Share — to copy, distribute and transmit the work
* to Remix — to adapt the work

Under the following conditions:

* Attribution. You must attribute the work in the manner specified by the author or licensor (but not in any way that suggests that they endorse you or your use of the work).

Also see: [http://creativecommons.org/licenses/by/3.0/](http://creativecommons.org/licenses/by/3.0/)