



# TELECOMMUNICATIONS AND CYBER LAW

What is happening on your watch.

# WHERE WE ARE

- The National Arena
- The Regional Environment
- The Global Network

# THE NATIONAL & REGIONAL CONTEXTS

- Evolving National Infrastructures
  - Liberalisation, New Licences and New Market Entrants.

- CARICOM Connectivity 2003 - 2005

*The Action Plan*

*The Legal and Regulatory Framework*

*Georgetown Declaration 2003*



# GLOBAL CONTEXT

- The World Trade Organisation (WTO)
  - 1998 Agreement on Basic Telecommunications
  - Regulatory Reference Paper – Independent regulators

*(Liberalisation and Transparency)*
- The Free Trade Area of the Americas (FTAA)
- Convergence — the definition

# TELECOMMUNICATIONS

- ‘the transmission and reception of signals by electromagnetic means’

‘any form of transmission emission, or reception of signs, signals, text images and sounds, or other intelligence of any nature by wire, radio, optical or other electromagnetic system’ **ECTEL Treaty**

•[any form of transmission emission, or reception of signs, signals, text images and sounds, or other intelligence of any nature by guided or unguided electromagnetic, electrochemical or other forms of energy including by wire, radio, optical, electromagnetic spectrum or by way of any other technology, whether as between persons and persons, things and things, or persons and things]  
***Barbados Telecommunication Act CAP 282B***

# PLAIN OLD TELECOMMUNICATIONS

A few critical elements

- Analog voice.
- Single service providers.
- Universal Service and Access.
- Network evolution.

# NETWORK EVOLUTION



The point of entry for “*Cyber law*” is the evolution of the telecommunications network.

Analog to Digital

Voice to Data

In the language of Global Telecommunications

*“Value Being Added to the Network”*



# VALUE ADDITION

- Value Added Network Services

*'a service, other than a public telecommunications service, that, using a telecommunications service, modifies the form, content, code, protocol or other similar aspect of the communication, restructures, adds or supplies information or permits user interaction with information'*

Trinidad and Tobago **Telecommunications Act 2001**

- 'Electronic Data Interchange, E-mail, protocol conversion, access to a data base'

*South African Telecommunications Act 1030 of 1996*

- Value Added Network Services Providers



# “CYBER LAW”



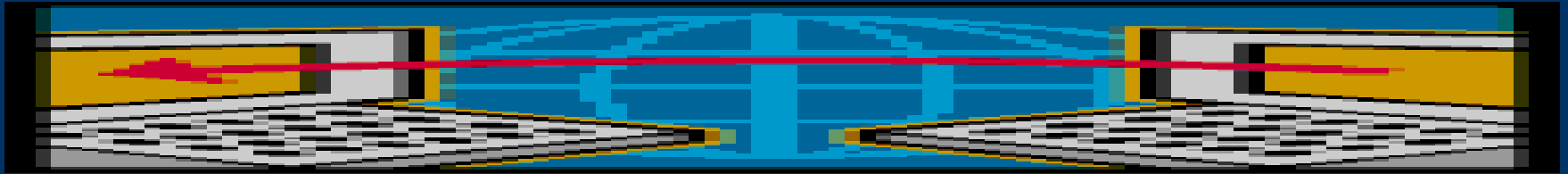
- Coined to describe the legal effects of value added activities. The legal response to new challenges and opportunities rooted in the new and evolving technology.
- The driver is the INTERNET.



# INTERNET

- *‘An international network of interconnected computers which enables tens of millions of people to **communicate** with one and other and access vast amounts of information from around the world’*
  - Pavlovich v Superior Court (2002) 26 Cal 4<sup>th</sup> 262
- *‘the basic infrastructure for the new economy over which information can be transferred, **transactions** made and work done’*
  - South African Green Paper on E-commerce 2000
- At the central of the definitions above are **‘Communications and Transactions’**





# INTERNET

What runs and what is happening on the network.

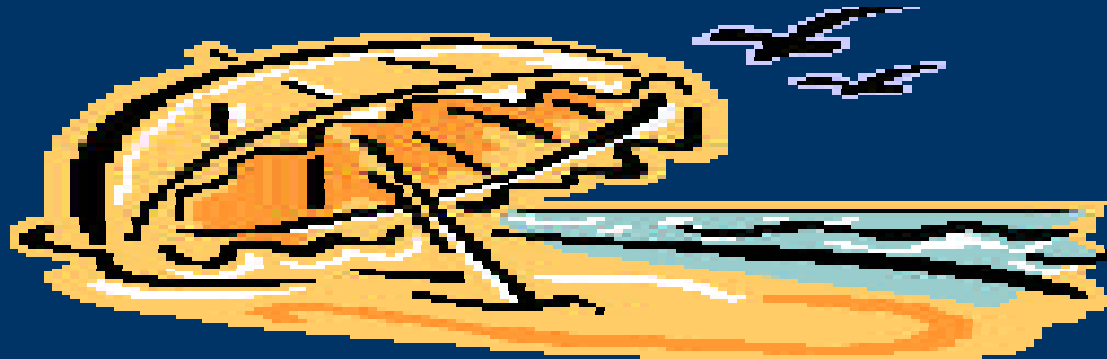
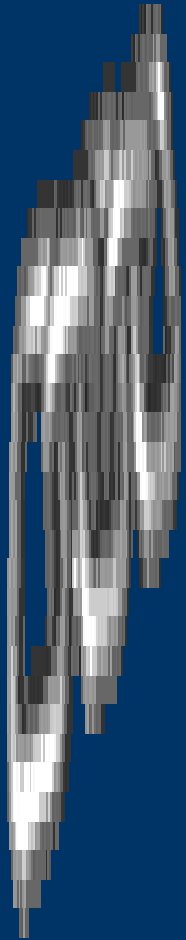
- **Evolving Communication** methods include :

E-Mail, The World Wide Web, Chat rooms, Bulletin Boards, Instant Messaging and Voice Over Internet Protocol.

- **Transactions** mark a migration from “bricks and mortar” to “clicks and mortar”.
  - *Business is a driver with new and E-volving business models “E-Business” B2B, B2C however anything with and E.*
  - *E-Learning; E-Government; E-Education; E-Gambling; E-Banking*

# “CLICKS AND MORTAR”

- Access – Bypass and Broadband
- Transactions – Business and Service
- Communications – World Wide Web  
Voice Over Internet Protocol
- Digital Intellectual Property - “*Digital Goods*”



# E-SERVICES & E-PROVIDERS

- Access - Internet Service Providers
- Transactions - Security and “*Encryption*”  
Identity and “**Signatures**”
- Communication - Online Service Providers  
“*Chat Rooms, E-Mail, Bulletin Boards*”
- Digital Goods - Hosts and File Sharers

Voice Over Internet Protocol



# THE RESPONSE

- No free roads – the borders of cyber space –  
The framework of operation.

# **E - COMMUNICATION & E - TRANSACTION REGULATION**

## **MODEL LAWS**

- **UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL) Model Law 1996**
- **Communications and/or Transactions Legislation – Barbados, The Cayman Islands, Bermuda Bahamas (Draft), South Africa.**

## **E-Commerce Guidelines**

# WHERE DO THE UTILITY REGULATORS COME IN?

What do you the Regulator do with these  
services and Providers ?

For what and to whom are you  
responsible?



# REGULATORY OPTIONS



- Self Regulation
- Registration
- Certifications
- Licensing
- Fees

# LESSONS

- Experience of Internet Service Providers (ISPs) in South Africa and Australia.
- Security Providers
- The New Baby - Application Service Providers (ASP)
- Technologically Neutral Answers

# SUGGESTED APPROACHES

- Consciousness of new services and service providers.
- Build capacity do deal with the technical uniqueness of evolving services.
- Remember that technology moves faster than the law.
- Creation of a enabling and supporting E-nvironment.
- Acknowledge the regional and global implications.
- Chart the clear future for the national and regional agendas.



# CONCLUSION



Regulators Are Critical to the Evolution of Information and Communications Technologies (ICTs) and Networks in the Region.



*“Carpe Dium”*



**THANK YOU**