



# **Importance of Independent Utility Regulators, with Special Reference to Telecommunications in the Caribbean**

**Presented at the Second Annual Conference of  
the Organization of Caribbean Utility Regulators,  
Montego Bay, Jamaica, September 15-17, 2004**

**Juan A. B. Belt, Director  
Office of Energy and Information Technology  
Bureau for Economic Growth, Agriculture and Trade  
US Agency for International Development**

# Outline

- **Requirements of a regulatory system.**
- **Definition of independence.**
- **Role of regulator.**
- **Discretion vs. rigid rules.**
- **Independence vs. accountability.**
- **Challenges of telecommunications regulation in the Caribbean.**
- **How USAID is assisting in Africa and other regions.**

# Objectives of a regulatory system

- Credibility with investors.
- Large degree of stability but with flexibility to adjust when fundamental changes take place, such as the deployment of new technology.
- Protection of consumer from monopoly power.
- Low cost for the government and for the regulated firms.
- Provision of incentives for allocative and internal efficiency.
- **An independent regulator can help ensure that these fundamental objectives are met.**

# Definition of independence

- **WTO:** regulator must be independent from any telecom service provider, a *de minimus* requirement.
- **CITEL (OAS):** independence of operators and free of “inappropriate political influence.”
- **More comprehensive definition (Warrick Smith, World Bank):**
  - a) arms length relationship with operators, consumers and other private interests;
  - b) arms length relationship with political authorities; and
  - c) and the attributes of autonomy, i.e. financial independence and ability to pay competitive salaries.

# Two main roles of the regulator

1. Protect investors from confiscation through lower tariffs (“creeping expropriation”).
  - **Very important because of some of the characteristics of utilities:**
    - **Sector specific, sunk investments.**
    - **Products massively consumed by captive customers with inelastic demand.**
  - **Time inconsistency of economic policy: once the investment is made, best policy may be to keep tariffs lower than costs.**
2. Protect consumers from firms holding substantial market power, at least in some segments of the industry.

# Discretion vs. rigid rules

- US gives the regulators a lot of discretion: the laws define pricing standards as “just and reasonable” but there is a well developed system of property rights. The fifth Amendment of the US Constitution includes several rights including “nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”
- This includes taking a property away through lower tariffs, the so called regulatory takings.
- Countries with less established track records of protecting property rights may need to have more specificity in their regulations: Guatemala and El Salvador are very specific in telecommunications, other countries have more flexible frameworks.
- **The more discretion, the more independence for the regulator.**

# Independence (1)

- Regulator established by law.
- Professional criteria for appointment.
- Fixed, staggered terms and removal only for well defined cause.
- The executive and legislative branches of government involved in selection.
- Reliable source of funding.
- Allowing the payment of competitive salaries.

Source: Warrick Smith, World Bank

## Independence (2)

- **In addition to the previous, Peter A. Stern has suggested some other measures to establish the degree of independence of the regulator. Among these are:**
  - Degree of structural separation of the regulator from the Ministry responsible for the sector.
  - Clear definition of who designates members of the regulatory body, who appoints its head and what are the terms of office.
  - Composition of the regulatory body reflecting to a certain extent the different stakeholders?
  - Sufficient flexibility in the regulator's decision making process?



# Independence Requires Accountability

- **“Sunshine” laws: open proceedings, publications of decisions with explanations.**
- **Strong provisions prohibiting conflicts of interest.**
- **Well established rules and procedures for appeal and overturning decisions of the regulator.**
- **Public availability of budget and scrutiny (usually) by Parliament.**
- **External audits.**
- **Permitting removal for just cause.**

# Challenges of telecommunications regulation in the Caribbean

- Until very recently virtually all basic and value added telecom services were provided by monopoly operators in all but one country (Dominican Republic) in the Caribbean.
- In the English speaking Caribbean it was a private monopoly, controlled by C&W, with many privileges often not available to others incl. exemptions from duties, taxes, respect of hiring rules; free use of spectrum; freedom to set prices.
- Even in a liberalized environment the former monopoly continues to dominate; new entrants, especially local investors are disadvantaged with respect to well organized and resourced multinationals including the incumbent.
- Regulators currently lack the resources and professional staff to regulate adequately in this situation.

# Caribbean Telecommunications Study

- **Funded by IDB; consultant Peter A. Stern**
- **Initial countries Trinidad and Tobago, Barbados and Suriname. Second phase Guyana, Bahamas, Jamaica and OECS.**
- **Peter A. Stern presenting study at CTU meetings in Barbados today.**
- **Some conclusions of study presented below:**

# Telecommunications situation today

- **Telecommunications markets have been almost completely liberalized in most countries and territories.**
- **Vibrant competition in cellular in most countries except notably in Guyana and Trinidad and Tobago. Most countries and territories have at least 3 operators.**
- **International calling rates are starting to decline in some countries but are still high by North American and European standards.**
- **Reduced revenues for international operators due to falling settlement rates. Impact on prices for local calls and universal service funds.**
- **International leased circuit costs and consequently the prices for Internet access are high because of the limited access to submarine fibre optic cables. Of 25 countries and territories in the Caribbean more than half have access to only one cable system (in most cases controlled by Cable & Wireless). Also has important implications for business requiring cheap circuit capacity (eg. off-shore).**

# Caribbean: High prices for international leased circuits

Route	\$/Mbps	\$/Mbps/mile
Transatlantic, Europe and Transpacific	1,039	0.18
T&T to Miami	7,124	2.74
Barbados to Miami	6,477	2.51
Jamaica to Miami	6,477	6.95

Distances “as the crow flies”

# Comparison of the price of high speed Internet access

Country	Service Provider	Service	Technology	Speed (Kbps)		Charge (US \$)	
				Down	Up	Month	Set-up
Dominican Republic	Tricom	Residencial # 1	Cable	128	64	8	0
France	Cegetel	ADSL 512	ADSL	512	128	18	
Argentina	Ciudad	Flash	Cable	512	128	27	0
Canada	Videotron	Haut Vitesse	Cable	4,100	820	28	73
France	Cegetel	ADSL 2000	ADSL	2,000	256	30	
Canada	Bell Canada	Sympatico	ADSL	3,000	800	33	0
Bahamas	Coralwave	Lite	Cable	512	128	35	0
France	Neuf Telecom	Tres Haut Débit	ADSL	2,024	256	39	0
Canada	Videotron	Haut vitesse extr.	Cable	4,500	900	44	73
Dominican Republic	Tricom	Residencial # 6	Cable	1,536	128	53	0
Bahamas	Coralwave	Groove	Cable	1,000	384	55	0
Jamaica	N5	Wireless	MMDS	256	128	55	300
Trinidad & Tobago	TSTT	High Speed	ADSL	128	64	65	78
Jamaica	C&W	Ultra	ADSL	128	64	66	50
Bahamas	Coralwave	Rock	Cable	2,000	512	70	0
Barbados	C&W	ADSL 256	ADSL	256	64	72	97
Jamaica	Kasnet	Residential Silver	MMDS	256	128	75	300-400
Barbados	C&W	ADSL 768	ADSL	768	128	87	97
Argentina	Ciudad	Flash	Cable	1,000	256	87	12
Jamaica	C&W	Select	ADSL	256	128	93	50
Barbados	C&W	ADSL 1544	ADSL	1,544	256	109	97
Jamaica	C&W	Premium	ADSL	768	256	129	50
Trinidad & Tobago	TSTT	Business 1	ADSL	128	64	187	142
Trinidad & Tobago	TSTT	Business 2	ADSL	256	64	291	142

# Possible Regional Activities

- Resource sharing and information exchange between regulators (create pool of experts; establish comprehensive data bases and sources of essential information, encourage ad hoc consultations and information exchange).
- A comprehensive executive and management training program for regulators (focused courses, on-the-job training, longer term courses, regional seminars and workshops).
- A virtual network of academics to support regulators on research and resolution of regulatory issues.
- A forum (public/private) to discuss new laws and regulation.
- A regional forum for consensus building on common practices, dispute resolution, and policy harmonization.

# Some Regional Training Needs

- **Economic regulation.**
- **Dispute resolution.**
- **Free trade negotiations (WTO, FTAA, CSME).**
- **Business planning and finance.**
- **PURC type, multisectoral courses (two weeks) in the Caribbean.**
- **Should there be a multisectoral university level training course?**



# Regional Regulatory Cooperation Supported by USAID

- TRASA-Telecom Regulators Ass. of Southern Africa—under aegis of Southern African Development Community.
- Trusted forum for review of new ideas, common problems in all areas of telecommunications regulation
- Regular meetings with discussion of guideline policies eases change at country level and focuses technical resource needs through understanding shared experiences
- TRASA model also used in West Africa (WATRA), Eastern and Central Africa (ARICEA), and the Middle East ( Network-AICTRN).

# NetTel@Africa

- A program supported by AID thorough the dot-GOV program of the DOT-COM Alliance
- Executive training and degree programs
- Peer to peer networking of regulators in Africa and the US builds shared knowledge base
- Contact points:
  - Dr. Maria Beebe, Project Director, NetTel@Africa  
Email: [beebem@wsu.edu](mailto:beebem@wsu.edu) or Dr. Sarah Tisch, dot-GOV Program Director, email: [stisch@internews.org](mailto:stisch@internews.org)  
tel: +1 202 833-5740 x 203

My colleague Noreene Janus can answer specific questions on NetTel@Africa.

# Questions

- **What is the scope for implementing regional activities of the type suggested here?**
- **Who should coordinate these? OOCUR? CTU? Both? Someone else?**
- **How should they be funded?**
- **To what extent do regulators in the Caribbean have resources (financial and human) to contribute to such regional activities?**

Thank you very much

Juan A. B. Belt

[jubelt@usaid.gov](mailto:jubelt@usaid.gov)

(202) 712-4137