MINISTERIAL POLICY DIRECTIVES: THE CASE FOR AN APPROPRIATE FRAMEWORK

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[1] The views expressed in the paper are those of the author and should not be ascribed to the organization to which he works.

Abstract

This paper identifies a number of deficiencies to the current legal provisions governing policy directives issued by elected officials to regulatory agencies. Although the focus of the paper is on telecommunications the analysis and conclusions are equally applicable to the regulation of water, transportation and the electricity sectors. Two recent court cases in Jamaica and the Bahamas underscored the need for changes to the existing arrangements.

The paper offers suggestions as to how the existing provisions may be strengthened. It is suggested that before ministerial directives are issued there should be an open and transparent process of public consultation involving all stakeholders in the private as well as public sectors. Failure to consult in a meaningful way denies existing and potential stakeholders the opportunity to express their views and to influence the decision making process. It also encourages allegations of inappropriate behavior. Moreover, it removes regulatory certainty and brings into question the reasonableness and fairness of the process. Investors place great importance on regulatory certainty and its absence can frustrate entry and deny benefits to the national economy.

There should be an explicit requirement for policy directives to be made public. In the majority of Caribbean countries there is no obligation on the Ministers to give prior notice or to communicate policy directives to the wider public. Neither is the regulator obligated to make ministerial directives public. It is evident from the Bahamas case that communication is critical to the successful implementation of ministerial policy directives. Policy changes usually necessitate operational changes as well as changes to the assumptions underpinning business plans. Lack of awareness of policy changes means non-implementation or inordinate delays in implementation and may even trigger court proceedings. In short policies must be known and understood before they can be effectively implemented. While the lack of communication to a wider audience might have been acceptable in a monopolistic environment it is not appropriate within a competitive environment.

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A policy directive should only be issued if it appears to be in the interests of: (i) national security, (ii) to comply with external commitments, and (iii) in the absence of clear legislative provisions. Finally, once the regulatory body has commenced a process of public consultation on a particular matter then a policy directive should not be issued except where the matters relates to items (i) and (ii) above.

Section 1: INTRODUCTION

This paper identifies a number of weaknesses in the current provisions governing the formulation and implementation of policy directives issued by elected officials to regulatory institutions. Two recent court cases are used to highlight some of the shortcomings of existing provisions. Thus, while there are good reasons for elected officials to retain residual influence on policy there is urgent need for safeguards to minimize abuse or misapplication of the provisions.

This paper is segmented into five sections. Section 2 provides a synopsis of regulatory reform in selected Caribbean countries. Section 3 presents a more comprehensive discussion on roles and duties of elected officials as per the telecommunications sector. Using two recent court cases the weaknesses in the existing provisions governing ministerial directives are highlighted in Section 4. Section 5 advocates four changes to the current legal provisions governing ministerial policy directives. The principal recommendations are: broad public consultation in policy development, communication of policy, and restriction on the use of ministerial directive only in certain instances. The key findings are presented in section 6.

Section 2: REGULATORY REFORM IN THE CARIBBEAN

In recent years a number Caribbean governments have established specialized institutions for the regulation of the various network related sectors (water and sewerage, telecommunications, toll roads, and electricity). Between 1995 and the present, thirteen such agencies have been established to regulate the telecommunications sector. The list of agencies are set out in Table 1. The functions of these agencies can be split into five broad categories: policy and research; tariffs and economic regulation; licensing; monitoring and industry analysis, and enforcement (Table 2).

Modernization of the legal provisions governing telecommunications have also been a priority of regional governments. Since 2000 the Organization of Eastern Caribbean States (OECS), Barbados, the Cayman Islands, Anguilla, Jamaica and Trinidad & Tobago have all enacted new telecommunications legislation or have made amendments to existing statutes.

These institutional and legislative changes were necessary to bring these countries in compliance with commitments made pursuant to the WTO Basic Telecommunications Agreement.[2] Historically, regulation of monopoly utility companies, including telecommunications, was often done through ministerial departments which proved largely ineffective. There was also overwhelming evidence that political considerations exerted an adverse impact on regulatory decisions governing issues such as utility pricing, licensing, subsidies, etc.(Swaby, 1981; Hay, 2002). A key objective of the reform therefore, was to make clear distinctions between the roles of elected officials versus those of the emerging regulatory institutions. Changes in the institutional framework therefore became a major component of the reform process. Some countries also made changes in the institutional framework for regulation in anticipation of privatization of state-owned utilities. Jamaica in respect of electricity and the Bahamas in respect of telecommunications readily come to mind.

Notably, with respect to telecommunications, the laws governing its regulation in the region were outdated.[3] These laws were based primarily on exclusive contracts, largely with overseas multinationals, and so did not take account of rapid technological changes. The principal legislation governing the telecommunications in selected Caribbean countries are listed in Table 3. In these laws the roles and duties of regulatory institutions vis a vis elected officials are defined. They also set out provisions regarding the methods and processes to be followed by regulatory bodies in discharging their duties and responsibilities. For example regulatory institutions are required to consult with stakeholders before making decisions on critical issues and must have regard to the principles of natural justice and procedural fairness. At the same time provisions regarding the methods and processes to be followed by Ministers in discharging their responsibilities are for the most part non-existent.

There are some noticeable differences and similarities between these agencies. In terms of institutional structure all the agencies, with the exception of the OUR in Jamaica, are

[2] Several of these countries are members of the WTO and since 1996 they signed on to agreements to open up their telecommunication markets to competition.
[3] In the case of Jamaica the primary legislation (Telephone Act) was more than a hundred years old.

commissions and four of the thirteen countries (Jamaica, Bahamas, Guyana, and Anguilla) have multi-sector as opposed to single sector bodies.[4] It is also worthy of note that three of the four multi-sector institutions were established in the 1990s. By contrast all the agencies that have been created since 2000, save for the Fair Trading Commission in Barbados, and Anguilla's Public Utilities Commission, are single sector institutions. Notably however, within the single regulatory framework, broadcasting, telecoms and spectrum regulations all fall within the remit of a single agency.[5] The primary argument in support of this structure lies in its facilitation of the convergence of broadcasting, computing and telecommunications. The model adopted in Anguilla deserves close monitoring as it is the first regional case of broadcasting regulation falling within the ambit of a multi-sector regulatory institution.

The establishment amongst the Organization of Eastern Caribbean States (OECS) of a two-tiered regulatory structure provides another point of difference in respect of the regulatory arrangement. At the regional level regulation and policy coordination reside with the Castries (St. Lucia) based Eastern Caribbean Telecommunication Authority (ECTEL) while at the national level there is a National Telecommunications Regulatory Commission operating in each of the five member states. The OECS framework was motivated by the desire of these countries to establish a common telecommunications space amongst themselves by facilitating the harmonization of legislation and policies.

The recently established Telecommunications Authority of Trinidad & Tobago has taken over the regulatory duties previously carried out by the Regulated Industries Commission (RIC) and the telecommunications department within the Ministry of Public Administration and Information. In this regard, it could be argued that the arrangement with respect to telecommunications has moved from that of a multi-sector framework to a singular regulator model whilst at the same time reflecting the convergence phenomenon.

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[4] These multi-sector bodies have statutory powers to regulate water and sewerage, transportation, and electricity in addition to telecommunications.

[5] The regulatory bodies in Guyana and Jamaica were established in the 1990s, while those in the OECS and Trinidad & Tobago were established in 2000 and after.

Section 3: ROLE OF ELECTED OFFICIALS

The Jamaican minister with responsibility for telecommunications has the power to grant, revoke or suspend, and renew licenses, make regulations, appoint members of the Advisory Council and Appeal Tribunal, decide universal service obligation, etc. Ministers in other neighboring jurisdictions also have similar powers. However, the involvement of elected officials in the regulatory process varies amongst the group of countries. For example in Barbados and Anguilla administration of numbering resources resides with the Minister with responsibility for telecommunications and in the case of Barbados a declaration of dominance resides with the Minister. By contrast in Jamaica it is the OUR which manages the numbering resources. Decisions with regard to determination of dominance resides with the OUR following consultation with the Fair Trading Commission.

Rationale for Ministerial Directives

In addition, to those powers specifically cited above Ministers also have the power to issue policy directives to these regulatory bodies. It is quite in order for elected officials to have the powers to influence the behavior and actions of regulatory institutions.

Firstly, these organizations are not directly accountable to the general citizenry. At the same time these agencies carry out very important functions which have consequences for private investment and the wider national economies. Additionally, regulatory institutions are established by national governments and frequently obtain funding from the consolidated fund. Appointments, at least at senior levels, are done by elected officials. For these reasons the modus operandi of these institutions ought to be in sync with general government policies.

Governments frequently make international commitments and the power to give effect to those commitments is important if they are to fulfill external obligations. The WTO Agreement on Trade in Basic Telecommunications Services was predicated on the assumption that governments would be able to give effect to both the specific commitments and regulatory principles. For reasons of national security it is also important for elected officials to exert residual power over policy formation. Ministerial

policy directives may also be appropriate where a clear policy does not exist. In this regard a directive is nothing more than a "patch" or "band aid" to fix a problem.

Legal Provisions Governing Policy Directives

Policy directives may be of a "general" nature or a "specific". In Jamaica the law provides for the Minister to issue general policy directives to the OUR. There are similar provisions in Barbados' Telecommunications Act (2001)[6] and Fair Trading Commission Act (2000)[7]; at Section 11(1) of the Information and Communications Technology Authority Law (2002) of the Cayman Islands, Section 5 of the Bahamas Telecommunications Act (1999), Sections 24, 23 and 22 of the Telecommunications Acts of St. Lucia, Grenada, and St. Vincent & the Grenadines, respectively. It is also found at Section 19 of the Telecommunications Act, 2001 in Trinidad & Tobago. This has been historical practice in commonwealth countries and in the case of Jamaica is reflected in a number of legislations.[8]

In these countries, however, the provisions allow for general and specific policy directives and in all countries regulatory institutions are mandated to give effect to policy directives issued by elected officials.

With respect to Barbados the Minister *may consult* with the Fair Trading Commission before issuing a policy directive. In ordinary language the Minister *may* or *may not consult* with the Fair Trading Commission since consultation is discretionary. Neither is the Minister obligated to consult with other stakeholders. In the case of Jamaica, Trinidad & Tobago, member states of the Organization of Eastern Caribbean States, and the Cayman Islands there is *no legal obligation* for the Minister to consult with the regulatory bodies and other stakeholders. In other words Ministers *may* or *may not consult* with the relevant agencies and other stakeholder groups. A provision which is unique to the Cayman Islands only is that a policy directive cannot be issued once the ICTA has

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[6] Section 6(1)(a).
[7] Section 17
[8] These are the Bank of Jamaica Act, Jamaica Mortgage Bank Act; Port Security Regulation Authority Act; College of Agriculture, Science & Education Scheme (Approval Order); Sugar Industry Control Act; Transport Authority Act; Legal Aid Act; Pesticides Act; Tourist Board Act; Debentures (Local) Act; Toll Road Act; and Water Resources Act.

commenced a public proceeding on a matter. Publication of a policy directive issued to the ICTA is also a requirement of the Cayman statute. In the case of the Bahamas the Minister *shall consult* with the PUC with respect to the Telecommunications Sector Policy to be published but need not consult with other parties of interest.

Section 4: TWO RECENT COURT CASES

Two recent court cases in the Bahamas (Caribbean Crossings Ltd. vs Public Utilities Commission) and Jamaica (Office of Utilities Regulation vs Minister of Commerce Science and Technology) underscore the need for reform to the current provisions governing ministerial directives in the area of telecommunications.

Caribbean Crossings Ltd. vs Public Utilities Commission

The Bahamian case arose from the lack of consultation on a broad scale on the Sector Policy which came into effect in October 2002. The 'Sector Policy' refers to "……the strategic aims of the Government for the telecommunications sector, as published by the minister from time to time, which may include the scope of and requirements for universal service, the basis of licence fees, the efficient use and management of scarce resources and wider economic or social objectives in the Bahamas"(p.4, Telecommunications Act, 1999).

The facts of the case are as follows. In 2003 Caribbean Crossings, a privately owned company, made an application to the Public Utilities Commission (PUC) for a modification to its licenses granted in April 2001. The license restricted the services offered by the company to internet and data services only. Caribbean Crossings wanted to diversify its service offerings to include the transmission of voice traffic to any operator licensed to provide voice services. In July 2001 the telecommunications Sector Policy (SP)[9] stated that the state-owned incumbent (BTC) was to retain exclusivity on fixed voice telephony until December 31, 2003. The policy has been prepared after public consultation. In October 2002 the Government published an amended policy which changed the exclusivity period for fixed voice telephony, linking it to 24 months after the sale of shares in BTC. The government did not embark on a public consultation when determining this policy. At the time the application was made by Caribbean Crossing the

[9] Section 5.6.2.

privatization of BTC had not being carried out and to date BTC is still a wholly-owned government company.

Caribbean Crossings' application was denied by PUC and it is important to note at this juncture that under the Bahamian statute the PUC must implement the Sector Policy. It is not given any discretion even if it considers the policy to be injurious to the interests of customers and competition in the sector.

Caribbean Crossings filed an appeal with the Supreme Court of the Bahamas challenging the decision of the PUC. The case was heard by Justice the Hon. Longley, J who handed down judgment in favor of the PUC and its Executive Director. Excerpts from the written judgment are instructive:-

> *"…….there was no basis for this request other than the appellant was unaware of the change of policy."*

The October 2002 SP, unlike the July 2001 SP, was not subject to broad consultation. For whatever reason the government deviated from the past practice seeing that only the PUC was consulted. This was not in breach of the law since there is no mandatory stipulation for the minister to consult with other stakeholders. Since consultation was confined to the PUC other parties of interest had no knowledge of the fact that government was contemplating changes to the SP and for this reason did not have the opportunity to make representations. Furthermore, stakeholders may not have been aware that the policy had been amended and the sector was operating under a new policy. Although the minister published the new policy in accordance with the law some parties of interest could not have known of its existence.

Had the minister been required to engage in a formal and transparent process of public consultation involving not just the PUC but other stakeholders it is envisaged that this whole affair might have been avoided and very scarce resources expended both in terms of time and money could have been spared by all.

Office of Utilities Regulation vs Minister of Commerce Science & Technology

The Jamaican case was triggered by a directive from the Minister of Industry Commerce and Technology advising the OUR not to intervene in the mobile (cellular) market by "setting rates, tariffs or price caps on the interconnection or retail charges made by any mobile competitor." Furthermore, that the "OUR is to facilitate competition and investment for the new mobile carriers in Jamaica." The OUR had previously set the interconnection rates to be received by all three mobile operators for calls which originate on the incumbent's fixed network. These rates were set using international benchmarks. In a February 2001 Determination Notice the OUR indicated its intention to move to cost based charges as soon as the relevant costing data became available.

Upon receipt of the directive the Director General was advised by an eminent Queens Counsel that the directive ran contrary to the statutory powers granted to the OUR by Parliament. Moreover, the directive was *specific* and not *general* as specified in the legislation. The directive was not viewed as being in the public interest as adequate consideration was not given to the need for protecting consumers from extremely high fixed to mobile charges. In other words while the directive took account of the interest of carriers it did not adequately consider the welfare implication for fixed line subscribers.

Confident that it would withstand a legal challenge the OUR proceeded to issue a determination which required one of the three mobile operators to make a substantial reduction in interconnection charges for fixed to mobile calls and legal proceedings were initiated in the Supreme Court.[10] The Solicitor General argued that it was the minister's prerogative to issue policy and for OUR to give effect to such policies and furthermore OUR has no discretion even if it feels that the policy directive would be injurious to the public. The Court apparently agreed with the Solicitor General and issued a partial oral judgment upholding the minister's directive.

The OUR was not taken by surprise by the directive but found its timing to be instructive. According to Court documents the minister had initiated discussion with then Director General Winston Hay in a bid to influence the Office's decision but there was

[10] Legal proceedings were initiated by OUR challenging the legality of the ministerial directives. The other was initiated by Digicel challenging the OUR's decision not to comply with the directive.

disagreement. The directive therefore came only after the minister was unsuccessful in his "behind-the-scene" efforts to persuade the OUR not to intervene in the mobile market. It was significant that the directive was issued at the end of the public consultation without any indication during the process that the government had such a policy on mobile telephony.

In December 2001 the OUR commenced a process of public consultation on a mobile costing model developed by C&WJ while the ministerial directive was issued on April 9, 2002. It was corrected and reissued on April 11, 2002. The OUR's Determination Notice on the review was published on May 22, 2002. All operators were invited to make written submission and to provide the OUR with data to assist the OUR in its review including assessing the reasonableness of the charges derived from the C&WJ's model. The OUR also conducted a review of the earlier benchmark study using local traffic and operating data. Both methodologies point to the fact that the earlier benchmark termination rates were too high and so there was a strong case for lowering them. The directive therefore came more than three months after the consultation process had commenced and clear evidence was ascertained that existing termination charges were excessive.

Not all mobile operators knew of the directive as it was not communicated to the wider public. Indeed, even before the OUR was in receipt of the directive a party of interest wrote to the Director General advising him of the impending directive and that for this reason he should not proceed with the determination notice.

When the directive was issued Jamaica was ten months away from the liberalization of international voice and data facilities and potential entrants into this market would also have been interested in the framework governing their relationship with mobile operators. Given the legal and financial implications of the directive the DG requested that the Minister put it in the public domain. However, in his response to the DG the Minister opined that publication of the directive was not as important as its implementation.

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Although the issues of consultation and communication of policy, etc are relevant to the successful formulation and implementation of policy they have not being addressed by the Courts in the instances cited above. In the legal matters cited, the main, salient issue was whether the minister had the power to issue the policy directive, whether the directive was of a general nature, and whether the OUR had the power to refuse to implement it. The Courts ruled that the directive was of a general nature, the minister had the authority and the OUR had no discretionary powers with regard to implementation.

Some of the key objectives of the Act [Telecommunications] are listed below:-

(a) to promote and protect the interest of the public by-
- *(i) promoting fair and open competition in the provision of specified services and telecommunications equipment;*
- *(ii) promoting access to specified services;*
- *(iii) providing for the protection of customers*

(b) *to promote the telecommunications industry in Jamaica by encouraging economically efficient investment in, and use of, infrastructure to provide specified services in Jamaica.*

The minister argued that the policy directive was consistent with the public interest of encouraging and facilitating entry into the telecommunications sector. The OUR for its part argued that the interpretation given by the minister espoused a narrow view of what constituted the public interest, as it did not adequately consider the implications of fixed line subscribers. The OUR also argued that the Telecommunications Act provided a regulatory framework for identifying the public interest and the minister failed to take account of this. It should be noted, however, that the term "public interest" means different things to different people and that meaning changes over time depending on the situation at hand. Thus, the notion of "public interest" appears ambiguous, thereby lending itself to varying interpretations and even abuse and misapplication. What has been left unanswered in the Jamaican case is how to determine, other than by going to court, what is general or specific directives and what is in the public interest.

Section 5: PROPOSED FRAMEWORK FOR MINISTERIAL DIRECTIVES

This section sets out some proposed changes to the existing provisions governing ministerial directives in the telecommunications sector. The aim is to achieve the desirable objective of ensuring that there is scope for a legitimate political input by

elected representatives whilst at the same time ensuring a fair, transparent, orderly and accountable regulatory process. These proposed changes are based on the discussion of what has occurred in the Jamaica and the Bahamas cases presented in the previous section.

Scope of Policy Directives

To guard against abuse or misapplication of policy directives it is proposed that the issuance of directives be used as a measure of last resort. In this regard it is suggested that directives be issued only in instances in which the issue at hand relates to national security, relations with foreign governments, or where a clear policy does not exist.

Public Consultation

Regulatory best practice requires the widest possible public participation within the context of openness and transparency. In the majority of the Islands, ministers are not obligated to consult before issuing policy directives. In Islands wherein ministers are so obligated, as is the case of the Bahamas, the minister has the statutory duty to consult with the PUC, although there is no clear process or mechanism for doing so. The mode of consultation between regulator and policymakers is likely to take the form of either ad hoc telephone conversations or written correspondence, or a combination of the two. Written correspondence is subject to the Official Secrets Act, thus removing the policymaking process from public participation and scrutiny.

In the absence of a well defined process of public consultation, consultation may be done with regulatory bodies and other parties of interest. In other instances only regulatory bodies might be consulted and in the extreme there might even be no consultation with the regulatory body. Thus, even if there is a breach of statute by a directive, it might not be actionable because the directive remains outside of the public domain. Indeed, it is easy to envisage that a regulator, not wanting to embarrass the political directorate, might keep silent about an illegal or inappropriate directive. In the absence of a formal process of public consultation interested parties have no way of knowing the views and positions of the minister vis-à-vis the regulator and have no basis of knowing how those positions are arrived at. The process lacks transparency and lends itself to abuse,

including the tainting of the policy making process by way of the influence of special interests.

Regulatory institutions are essential to ensuring regulatory certainty and facilitating national development. Meaningful consultation with the regulator is also important. Such importance is paramount in light of the fact that the regulator is expected to give full effect to ministerial directives. From a public policy perspective it is important that the widest possible involvement of stakeholders in policy formulation be facilitated and obtained. This will engender certainty in the management and implementation of regulatory policy and enhance regulatory independence. The need for meaningful consultation with regulators is even more important in light of court rulings that they must give effect to whatever policy directive is issued even where there is the view that such policies are likely to be injurious to the public interest. The only exception to the obligation to consult lies where the policy directive is in relation to national security.

Communication of Policy Directives

Communication is required to delineate the actions of the minister from the regulator. Regulatory bodies are required to consult and have regard to the views of interested parties. Where a regulatory body acts on the basis of a ministerial directive it should be clear and unambiguous as to the source of the directive. Failure to do so may lead to court proceedings as stakeholders may think a particular decision merely reflects arbitrary action by the regulator. In such a case there would be grounds for court action on the basis that the agency failed to consult in the manner required by law. It is envisaged that such a publication requirement could be satisfied by way of notices carried in official government publications (e.g. gazette), discussions in Parliament, or advertisement in the press.

Timeframe

Policy directives should only be allowed where a clear policy does not exist (either the statute is unclear on whose responsibility it is to make the decision or it is not addressed) and when the issue at hand relates to national security and foreign relations. Where the issue at hand relates to national security and foreign relations the minister may issue a

policy directive at any time. At no other time should ministers allowed to issue policy directives.

Section 6: CONCLUDING REMARKS

The power to issue policy directives by ministers raises concerns about the independence of newly established institutions for regulation of the telecommunications sectors in many Caribbean countries. There is a strong case for safeguarding these newly established institutions from constant and inappropriate political interference. It is also the case that with liberalization and the presence of competitive operators in telecommunications, the statutory powers of regulatory bodies should be exercised in such a way as not to favor one group of investors over another. These new agencies were created with the purpose of guarding against such adverse developments. In this context, the absence of a framework governing ministerial directive can heighten such fears. In the same way that regulatory bodies are to be held accountable and decisions are to be made with transparency, policy directives issued by Ministers should also satisfy these conditions.

A survey of Caribbean Islands shows that current legislative provisions governing ministerial policy directives to regulatory institutions exhibit certain weaknesses. In the majority of countries, ministers are not obligated to consult with stakeholders including regulatory bodies. Provisions with regard to transparency and communication of policy directives are also not addressed by much of the existing legislation. The need for change is highlighted with the two aforementioned cases involving the telecommunication regulators in the Bahamas and Jamaica. The paper identified four major changes to current provisions governing ministerial directives:

a) scope of policy directive;
b) consultation on policy development;
c) communication of policy directives to stakeholders; and
d) timeframe governing when directives may be issued.

Table 1: Principal Regulatory Agencies in Telecommunications

Country	Name of Agencies
Barbados	Fair Trading Commission
Jamaica	Office of Utilities Regulation Fair Trading Commission Spectrum Management Authority Broadcasting Commission
Guyana	National Frequency Management Unit Public Utilities Commission
Bahamas	Public Utilities Commission
Cayman Islands	Information and Communications Technology Authority
Anguilla	Public Utilities Commission
Trinidad & Tobago	Telecommunications Authority
Organization of Eastern Caribbean States	Eastern Caribbean Telecommunications Authority
Grenada	National Telecommunications Regulatory Commission
St. Lucia	National Telecommunications Regulatory Commission
St. Kitts & Nevis	National Telecommunications Regulatory Commission
Dominica	National Telecommunications Regulatory Commission
St. Vincent & Grenadines	National Telecommunications Regulatory Commission

Source: Regional Survey by Author.

Table 2: Some Key Regulatory Functions

Function	Activities
Policy & Research	• General market & regulatory research • Developing general rules and guidelines • Promoting industry awareness • Coordinate with other agencies • Public education
Tariffs & Economic Regulation	• Price caps, • Setting interconnect charges • Administration and allocation of numbering resources • Service quality • Dominance and competitive safeguards • Regulatory Accounting, etc
Licensing	• Preparing invitation for license application • Receiving application • Collecting application and regulatory fees • Makes recommendations to Minister • Coordinating with other agencies
Monitoring & Industry Analysis	• Gathering information on market segments • On business practices and technology • Data collection • Identifying abusive or unauthorized behavior
Enforcement	• Investigate complaints • Breaches of legislation and abusive practices, etc

Table 3: Legal Framework in Select Caribbean Countries

Countries	Primary Legislation
Barbados	(i) Utilities Regulation Act (2001-31), (ii) Telecommunications Act (2001-36), (iii) Fair Competition Act (2002-19), and (iv) the Consumer Protection Act (2002-20).
Jamaica	(i) Office of Utilities Regulation Act, 1995 , (ii) Office of Utilities Regulation Amendment Act, 2000, (iii) Telecommunications Act, 2000, (iv) Radio & Telegraph Control Act, 1977, (v) Fair Competition Act, 1995
Guyana	(i) Public Utilities Commission Act (ii) Telecommunications Act (iii) Broadcasting Act
Cayman Islands	(i) Information and Communications Technology Authority Law (2002) (ii) Information and Communications Technology Authority (Amendment) Law (2003)
Bahamas	(i) Telecommunications Act (ii) Public Utilities Commission Act
Anguilla	(i) Public Utilities Commission Act (2003) (ii) Telecommunications Act (2003)
Trinidad & Tobago	(i) Telecommunications Act, 2001 (i) Telecommunications (Amendment)Act 2004
Organization of Eastern Caribbean Countries	Treaty Establishing the Eastern Caribbean Telecommunications Authority, 2000
St. Lucia	Telecommunications Act 2000.
St. Kitts & Nevis	Telecommunications Act,…
Dominica	Telecommunications Act,…
St. Vincent & Grenadines	Telecommunications Act,2001
Grenada	Telecommunications Act,2000
St. Kitts & Nevis	Telecommunications Act,…

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