

**COMPETITIVE TELECOMMUNICATIONS MARKETS,  
REGULATORY RISK AND CAPTURE**  
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<sup>[1]</sup> The views expressed in the paper are strictly those of the author and in no way reflect the views of the

Office of Utilities Regulation (The Office).

# Overview

- Background to the Jamaican telecom markets before liberalization
- Outline some of the key findings of the telephone survey (Dec. 2003 – Jan. 2004)
- Mapping of some of the changes in the mobile markets that resulted from competitive entry
- Potential problems in the mobile markets
- How to achieve a competitive outcome via Independent and Transparent Regulation

# Regulatory & Industry Situation Before the New Act

- The OUR (established in 1995), but was unable to effectively regulate CWJ until the OUR Act was amended in October 2000.
- Through a consultative process, the OUR & CWJ initiated the rebalancing of telephone rates

# Regulatory & Industry Situation Pre-Liberalization (1): Rate Rebalancing

## Approximate Share of Profit by Fixed line Service: OUR's Estimates in 1999

Service	Profit Share
Incoming international calls	110
Outgoing international calls	10
Access lines	-45
Intra-Parish calls	-10
Inter-Parish calls	5
Other services	30
Total	100

# Change in International call Prices and Access Service Prices (line rental and call), 2001 – 2004

Service Description	2001/2002	2002/2003	2003/2004
Direct Dialed Intl. Outgoing Calls - Zone 1 peak	- 9%	- 31%	- 8%
Intra-Parish calls peak	5%	64%	30%
Inter-Parish calls peak	5%	34%	5%
Intra-Parish Calls (toll free) peak	16%	18%	283%
Inter-Parish Calls (toll free) peak	13%	6%	100%
Access lines			
Business Exchange Lines Rental	12%	19%	14%
Residential Exchange Lines Rental	11%	23%	5%
Low User Exchange Lines Rental	18%	18%	15%

# Regulatory & Industry Situation Pre-Liberalization (2)

- Fixed line telephone penetration increased from about 5% in 1991 to 19% in 2000 but remained concentrated in the urban areas
- The waiting list for fixed line service in 2000 was 214,010
- Mobile penetration increased from 0.6% in 1992 to 9.6% in 2000 but remained low relative to liberalized markets, while prices remained high

# Regulatory & Industry Situation Post Liberalization (1)

- Two new mobile carriers commence operations in 2001 (Digicel & Oceanic Digital)
- Fixed line telephone penetration decreased from about 19% in 2000 to 16.9% in 2003
- The waiting list for fixed line service reduced from 214,010 in 2000 to 164,880 in June 2003
- Mobile penetration increased from 9.6% in 2000 to 56%-61% in 2003

# MOBILE MARKETS



# Retail Mobile: Subscribers

## Mobile Voice Service Market Concentration

DATE	HHI
◆ Mar-2001	10,000.00
◆ Jun -2001	7,261.28
◆ Sep-2001	6,240.20
◆ Dec-2001	5,482.26
◆ Dec-2003	6,159.83

Source: OUR

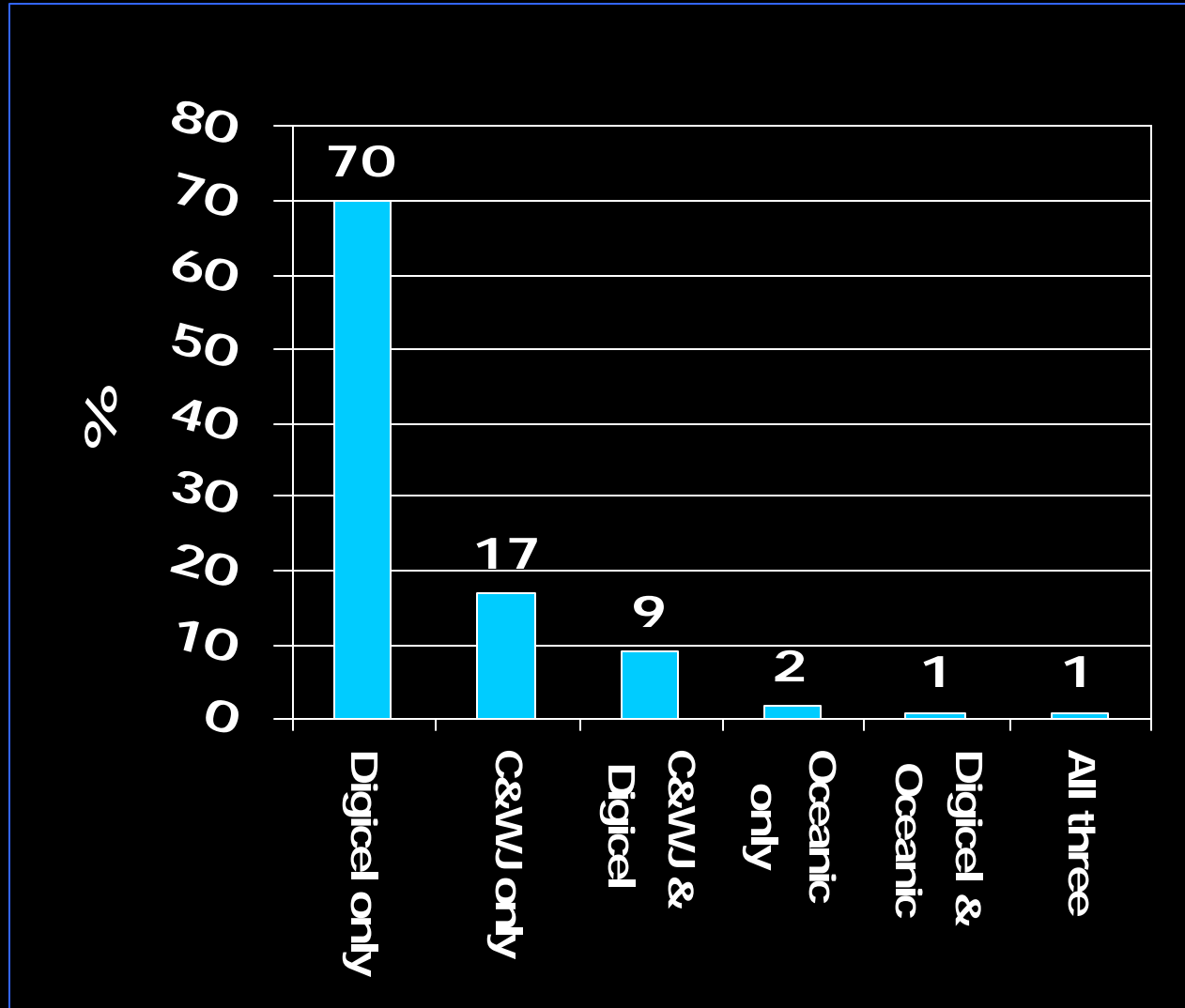
# Regulatory & Industry Situation Post Liberalization: Retail Prepaid Mobile Peak Charges (3)

		2000	2001	2002	Sept. 2003
<b>Registration Fee</b>					
<b>- 4 months</b>		<b>1500</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b><i>International Mobile Rates*</i></b>					
<b>CWJ to USA,</b>					
<b>Canada and UK</b>	<b>J\$/min</b>	<b>53</b>	<b>28</b>	<b>18</b>	<b>18</b>
Digicel to USA,					
Canada and UK	J\$/min	-	30	17.75	<b>17.75</b>

# Survey Findings

# SERVICE PROVIDER OF MOBILE PHONE 2003

SOURCE: OUR SURVEY 2003



# REASONS FOR USING MORE THAN ONE PROVIDER FOR MOBILE SERVICE

SOURCE: OUR SURVEY 2003

	%
■ To prevent cross provider calls	83
■ Received both phones as gifts	6
■ It's trendy	6
■ In case one provider's system is down	3
■ C&W not always clear	1
■ Cheaper overseas calls	1

# On-Net & Off-Net MTM Charges

		2000	2001	2002	2003
<b>CWJ to CWJ</b>	<b>J\$/min</b>	<b>18.00</b>	<b>10.00</b>	<b>10.00</b>	<b>10.00</b>
<b>CWJ to ODJ</b>	<b>J\$/min</b>	<b>-</b>	<b>17.70</b>	<b>17.70</b>	<b>19.70</b>
<b>Digicel to Digicel</b>	<b>J\$/min</b>	<b>-</b>	<b>10.00</b>	<b>10.00</b>	<b>10.00</b>
<b>Digicel to Other</b>		<b>-</b>	<b>17.70</b>	<b>17.70</b>	<b>17.70</b>
<b>ODJ to ODJ</b>	<b>J\$/min</b>	<b>-</b>	<b>7.00</b>	<b>7.00</b>	<b>4.00</b>
<b>ODJ to CWJ</b>	<b>J\$/min</b>	<b>-</b>	<b>15.00</b>	<b>15.00</b>	<b>15.00</b>

# Competitive Outcome via Independent and Transparent Regulation

# Regulatory Risk, Cost of Capital and Level of Investment

- Based on Rogoff's model of "Delegation to an Independent Regulator", there will be under-investment by a utility service provider unless the government is able to commit to a price rule before investment is made that guarantees a sufficient return to the firm.

<http://www.econ.surrey.ac.uk/plevine/lst2002version8%5B1%5D-4.pdf>

- According to Rogoff, revisions of the rule will be indistinguishable from renegeing unless the basis for these revisions is completely *transparent*.



# RISK OF REGULATORY CAPTURE

The capture theory of regulation defines regulatory capture as the ...“control of a regulatory agency by those entities, usually the businesses of a particular industry, that the agency is designed to regulate. Those industries subject to economic regulation that is intended to protect the public interest (consumers) invariably find it beneficial to exert influence over the regulatory agency. One common way of doing this is to have former or future employees in the industry ... work for the regulatory agency.” (<http://www.amosweb.com/cgi-bin/gls.pl?fcd=dsp&key=capture+theory+of+regulation>)

# MINIMIZING THE POSSIBILITY OF REGULATORY RISK & CAPTURE

- Transparency
- Transparency
- Transparency

# CONSULTATIVE PROCESS

- Before the OUR makes any decision or determination on an issue (price or otherwise), it issues a consultative document and invites responses from the public on the matters raised therein.
- Time is allotted for comments on these responses before any determination is made.
- The Office is obligated to give the reasons for its decision.
- The consultative document, responses, comments and the determination notice are all placed on the OUR's website. Also, copies are placed in the OUR's Information Centre.

# CONSULTATIVE PROCESS MAY BE SUPPLEMENTED BY:

- Public hearings
- Public meetings, seminars or workshops
- Individual meetings between interested parties and the OUR's staff; and
- Consultations with independent advisors

# PRINCIPLES OF PROPER DECISION-MAKING

- Decisions must be within the legal authority of the regulator;
- The regulator must consider all relevant matters and disregard all irrelevant ones;
- Decisions should be made in good faith and for proper purposes;
- Factual underpinnings of the decisions must be based on evidence;
- Decisions must be reasonable;
- Those affected by the decision must be accorded procedural fairness (including the right to respond to prejudicial arguments and evidence that may be taken into account);
- **Government policy must be taken into account;** and
- **Independent regulators must not act on the direction of other persons**

# CONCLUSION

- **To conclude, with transparency as the foundation, if guided by the principles of proper decision-making, the NRA will be well positioned to facilitate the growth of truly competitive markets and effectively regulate those markets where entry barriers are still significant.**

# THANK YOU

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