

# COMPETITIVE SAFEGUARDS: THE NEED FOR ACCOUNTING SEPARATION FOR DOMINANT OPERATORS

*Paper to the 3rd OOCUR Conference, November 2-4, 2005,  
Nassua, Bahamas.*

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[1] The views expressed in this paper are strictly those of the author and do not necessarily reflect those of the Office of Utilities Regulation (Office).

# Functions of Office

Amongst its duties and functions,  
the Office should:

- promote the interests of customers while having due regard for the interests of carriers and service providers; and
- promote competition among carriers and service providers.

# Market Structure

## Operators' Market Share

Date	1988-2001	Dec'2002	Jan' 2003	Feb'2003	Mar' 2003
C&WJ	100.0%	99.5%	99.3%	99.1%	99.0%
GoTel	0.0%	0.5%	0.7%	0.9%	1.0%

Source: OUR calculation based on data from Cable & Wireless and GoTel

# Incumbent's Conflict of Interest

A dominant firm is typically both:

- a supplier of critical inputs (interconnection and other wholesale services) to downstream service providers; and
- a competitor against these service providers in downstream retail markets.

# Interconnection Principles for Dominant Carriers

These principles are: -

- the terms and conditions under which it [interconnection] is provided shall be
  - "on a non-discriminatory basis;
  - reasonable and transparent, including such terms and conditions as relate to technical specifications and the number of locations of points of interconnection; and
  - charges shall be cost oriented and guided by {certain cost causation}...principles... (Section 33);
- no unfair arrangements for cross-subsidies shall be made; and
- where technically and economically reasonable interconnection services shall be so diversified as to render it unnecessary for an interconnection seeker to pay unreasonably for network components or facilities it does not require."

# Competitive Significance & the FCA

In the Jamaican context, under Section 5 of the Fair Competition Act (FCA):

Where after consultation with the Fair Trading Commission the Office determines that a matter or any aspect thereof relating to the provision of specified services –

- (a) is of substantial competitive significance to the provision of specified services; and
- (b) falls within the functions of the Fair Trading Commission under the Fair Competition Act, the Office shall refer the matter to the Fair Trading Commission.

# Objectives of Separated Accounts

- ensuring non-discrimination,
- identifying unfair cross-subsidies,
- setting or assessing interconnection charges,
- retail price control.

# Imputation Test

The test is conducted by comparing:

- the retail price charged by the dominant operator for a particular service with
- the wholesale access price charged by the dominant operator for access to its network, plus the additional expenditure needed to transform the essential input into the retail service.



# Imputation Test: ACCC

	Unconditioned Local Loop Service			
	ADSL Service		ADSL, local calls, line rental, domestic long distance, International and FTM	
	Business	Residential	Business - 1 x ADSL Service + 4 x Voice Lines	Residential - 1 x ADSL Service + 1 x Voice Line
<b>Revenues</b>				
retail	19,632,269	49,786,880	97,097,297	110,613,684
other	0	0	0	0
total	19,632,269	49,786,880	97,097,297	110,613,684
<b>Retail Costs</b>				
organisation	5,162,743	18,067,870	10,498,202	22,784,581
product and consumer	9,906,989	34,671,143	25,538,440	45,450,681
total	15,069,732	52,739,013	36,036,642	68,235,262
<b>Other Costs</b>				
organisation	1,395,588	4,884,090	6,161,982	9,056,484
product and consumer	990,609	3,466,799	2,328,874	4,842,580
network expenses	4,224,487	14,784,290	17,041,744	27,028,291
total	6,610,684	23,135,180	25,532,601	40,927,355
<b>Ancillary Charges (TEBA)*</b>	1,368,689	4,789,952	1,390,328	4,887,169
<b>Cost of Capital</b>	4,597,817	16,090,818	19,786,921	29,934,748
<b>Retail Volume**</b>	100,863	352,987	100,863	352,987
<b>Retail price</b>	194.6428	141.0445	962.8646	313.3648
<b>Access price</b>	68.0065	68.0065	127.2178	92.7780
<b>Unit cost</b>	274.1035	274.1035	820.3845	407.9033
<b>Imputed margin</b>	-147.4673	-201.0655	15.0623	-187.3165
<b>Imputed margin %</b>	-75.7630%	-142.5546%	1.5646%	-59.7759%

# Proposed Structure of Accounting Separation

## Annex III: Main Businesses & Disaggregated Service Categories

<i>Main Business Areas</i>	<i>Disaggregated Service Categories</i>
Fixed Access Business	-
Fixed Network Business	-
Fixed Retail Services Business	Intra-Parish Calls Inter-Parish Calls Fixed to Mobile Calls Public Payphones International Outgoing Calls International Incoming Calls Directory Enquiries (DQ) Data Communication Services Internet service provision (dial-up, and ADSL) Supplemental Retail Remaining Services
Mobile Business	-

# Transfer Charges

## Annex X: Statement of Transfer Charges

Costs/Services	<b>Fixed Retail Services</b>	Intra-Parish	Inter-Parish	Calls to Mobile	Public Payphones	Directory Enquiry	International Outgoing Call	International Incoming Call	Data Circuits	Internet Serv.	Supplemental Retail	Remaining Services	<b>Mobile Business</b>
Fixed Access	X	X	X	X	X	X	X	X	X	X	X	X	X
Fixed Network	X	X	X	X	X	X	X	X	X	X	X	X	X
Fixed Retail Services	X	X	X	X	X	X	X	X	X	X	X	X	X
Mobile Business	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>Total</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

# Challenges of Establishing an Appropriate Regulatory Framework for Accounting Separation

These include, but are not restricted to:

- *What is the Appropriate Level of Audit Assurance?*
- *Who bears the cost of auditing?*
- *What is the appropriate relationship between the regulator and the Auditor?*
- *What is the cost basis of separation?*

# Accounting Separation vs. Structural Separation

- Structural Separation of AT&T
- UK regulatory experience
- Regulation in Jamaica

# Conclusion/Recommendation

- Competitive safeguard rules and accounting separation are likely to enhance the competitive environment in the telecommunications sector.
- But this is a second best solution that is likely to yield less than the desired results if not crafted with meticulous detail.
- Caribbean regulators that have started the process of implementing competitive safeguards based on the existing legal framework must see this process through.
- However, since these regulations may not yield the desired results, it is strongly recommended that structural separation should always be kept as an option.

Thank You