The Organization of Eastern Caribbean States (OECS) Commission

Draft Paper on

Advancing Telecommunications Policy and Regulation in the OECS

Recommendations Based on Trends and Developments in the Regional Telecommunications Sector

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Advancing Telecommunications In the OECS

The Caribbean telecommunication sector and wider information and communication technologies (ICT) industry are in a state of transition. From evolving business models and acquisitions and mergers within the private sector, to the introduction of new technologies, and changing consumer behavior and expectations, the industry is experiencing unprecedented change. At the same time the region's governments and policy makers are being challenged to ensure a legislative and socioeconomic climate conducive to consumers and private enterprise alike. In this context, regulatory policy is being tested like never before.

Changing Digital Landscape

In developing regions such as the Caribbean, the emergence of the Internet-connected mobile device as the primary point of access to web-based information and services, is of tremendous strategic importance to education, commerce and broader socio-economic development.

For consumers as well as enterprises, the so-called Digital Age is being defined by a seemingly insitiatible demand for ditigally enabled information, communication and entertainment products and services. The double-digit growth in global IP consumer traffic of the past few years is expected to continue over the coming years. Mobile device proliferation, machine-to-machine (M2M) communications, diversification of video streaming services, file-sharing networks and other media-rich content is expected to drive growth. It will also be fueled by the rapid take-up of Internet protocol (IP) based messaging. Free-call services such as WhatsApp, Line and Viber, will be increasingly disruptive to the business of traditional telecom operators. And, as broadband speeds increase, video streaming, photo-sharing and bandwidth-intensive multimedia services will put further strain on mobile and fixed-line network operators, as well as on scarce spectrum resources. These trends put pressure on service providers to consolidate operations and product portfolios, diversify business practices, in order to maximize capital investments and increase profits.

These dynamic shifts taking place are all part of wider global developments fuelled by changing consumer and business consumption habits, and marked by extraordinary growth in data traffic. The technology and connectivity that enables this is now defining efficiency, competitiveness and productivity at an individual, corporate, national and regional level. Consequently, **the technical infrastructure that enables the modern economy is as critical to economic and social development as roads, power and water infrastructure were to the Industrial Age**. Today, fiber-optic cable lines are the new roads to a global digital highway; broadband infrastructure and mobile networks are the new power lines for cities and rural communities; and computers, mobile devices, wearables and other such gadgets are the pipes that bring digital data to the thirsty masses.

In this new order, market forces alone cannot be expected to generate the societally optimal level of ICT infrastructure buildout, information and communication technology (ICT) access, or even digital content development and user adoption. The critical role ICT now plays in national and regional development can only to be safeguarded through new, more collaborative approaches to development.

Telecommunications at a Crossroads

Telecommunications regulation in the Caribbean is at a crossroads. The advent of larger, more dominant players with converged services, alongside evolving priorities of regulators and governments, forces a reassessment of market boundaries. Defining market boundaries becomes even more complex when converged services, for example, are used as barriers to entry.

The changing environment, will not only require regulatory reform, but also increased regional economic analysis to inform decision making and better understand the implications and impact of changes in the sector. The adoption of a coordinated regional approach, combined with appropriate national regulatory mechanisms will be key to regional capacity to effective respond to the new landscape. In the process, policy-makers and regulators must balance the requirement to implement checks and balances to control improper behavior, with the need to create incentives and opportunities to stimulate market growth.

Opportunity for The OECS

Within this context of dynamic change, and in a bid to oversee the activities of multinational players in national markets, one thing is becoming clear: regional collaboration, coordinated action and harmonized policy are key to fulfilling national regulatory objectives, and safeguarding wider Caribbean development interests.

There now exists an unprecedented opportunity for policy-makers and regulators to utilize a combination of policy, regulatory and political mechanisms to the benefit of consumers and industry. **Decisive, well-coordinated action will be essential to safeguarding the interests of consumers and maintaining an environment conducive to investment**.

Consistent with regional discussion, the following have been identified as essential obligations for telecom providers operating within the OECS:

Benefits to Consumers

- In relation to mobile, data and fixed line roaming all territories in which the operator provides services should be treated as one market
- Entry-level broadband should be defined at a minimum network speed of 5 Mbps with a maximum pricing of 5% of the national average wage in each OECS territory. (lesser speeds can be offered but not marketed as broadband)
- Implementation of, and support for, fixed and mobile number portability
- Deployment of LTE or equivilant 4G mobile broadband
- Published quarterly reports on state and quality of customer service, based on defined standards and metrics common to all markets of operation

Strengthening Infrastrcuture

- Participation in, and support of, national Internet Exchange Points

- Infrastructure sharing to limit duplication, and gearing investment toward underserved areas, product innovation, market growth and improved customer service.

Transparency and Accountability

- There should be no restrictuion on sharing of operator information amongst CAIRCOM regulators
- There should be transaction transparency for market-dominant operators
- There should be open-use platforms for release of relevant national and regional market data

Fair Use Of Subsea Cable Infrastucture

- Subsea cable infrastructure should be deemed an "essential facility" as defined in telecommunications law, and regulated accordingly
- There should be full disclosure of capctiy; utilization; ownership; life; cost and wholesale bandwidth pricing of Caribbean cable sytems.

Social Development Support

The presence of large, multinational telecommunications service providers in the OECS is an opportunity to advance implementation of the OECS grant funding program to support local content development, entrepreneurship, innovation and technical capacity building.

Providers can be invited to

- State their policy for contracting of local providers to support service, integration and implementation, critical to local utilization and capacity building.
- Be voluntarilaly accountable for supporting local social development initiatives
- Guarantee global best practice and trasparency in treating with staff rationalization and related human resource management matters.

In addition, barriers to market entry should be sufficiently low to put pressure on mobile and broadband operators to diversify their service offerings and innovate in the areas of product packages, service quality and pricing. Together, these elements are fundamental to the competitiveness of national and regional markets.

The time to act is now. A real opportunity lies before regulators and policy makers to define a new model for regional regulatory oversight based on closer collaboration and better-informed decision making. The adoption of a coherent regional approach to sector oversight, can open the way to realizing the goal of a single ICT space, and in the process, safeguard the interest of consumers and national economies.

Appendices

Potential Risks of Telecom Sector Consolidation

The consolidation of players in the telecoms market presents several challenges for telecommunications regulation, and competition generally in the region.

The challenges are compounded by the fact that activities of the multinational players in the telecom space can exist outside the scrutiny of national regulators and beyond the sight of any regional competition-monitoring agency. For example, the benefit and financial rewards of recent acquisition deals are first to a handful of investors, largely external to the region. However, the brunt of the impact of the deals will be felt by Caribbean stakeholders. This is important to understand, as the region's social and economic development can be negatively impacted in the absence of effective oversight.

Some of the issues that need to be addressed include:

- spectrum allocations
- local loop unbundling;
- price bundling;
- consumer choice and
- service quality.

Several key areas of concern arise as a direct result of the consolidation taking place in the markets:

Regulations

A Trinidad Business Guardian article titled "Cable & Wireless acquisition ignites monopoly fears in the Caribbean", stated, "The deal exposes in the most extreme manner the limitations of the present situation of optional, ad hoc cooperation among national and sub-regional regulatory authorities. The acquisition agreement adds fuel to a growing debate on whether national regulatory bodies can stand up to the might and reach of firms trading at a multinational level. If the region's regulators are unable to put mechanisms in place to protect against anti-competitive behavior and safeguard the interest of consumers in a cohesive manner, the fallout can negatively impact the overall health of national and regional economies.

Competition

There is a risk that the dominant position of CWC in wholesale broadband or Digicel in mobile can lead to monopoly-like behavior in their markets of operation. The provision of converged services and associated bundled products presents a real potential for abuse of a dominant position, particularly through anticompetitive pricing and margin squeeze.

The potential for monopoly behavior is compounded by the absence of competition regulation in several countries, and lack of any effective regional body to regulate competition.

Nevertheless, none of these countries, individually, have the leverage to effectively impact a multinational provider by way of regulation on their own.

Employment

Generally, consolidation of the telecom space can trigger layoffs and related employee unrest. In the case of the CWC acquisition of Columbus, the deal would bring the more than three thousand Columbus employees into the CWC fold, almost doubling CWC's current staff. It is possible that this staff count will be reduced upon completion of the acquisition. If this were to occur in the region, particularly in the more vulnerable economies of the Eastern Caribbean, the negative ripple effect could impact the wider Caribbean.

Innovation and Economic Development

Loss of smaller, entrepreneurial players in the region's telecom sector could stymie growth and curtail innovation. Assimilation of small or niche players into larger conglomerates is a typical growth strategy in many industries. However, in small markets, such as those that characterize the Caribbean, niche players are particularly important as catalysts to market innovation, competitive pressure and growth. Industry acquisitions have to be counter-balanced by increased incentives for new entrants to ensure that innovation, competition and consumer choice is encouraged and not suppressed.

Business Continuity and Disaster Mitigation

Affordable options for telecommunications services is a factor used to assess the competitiveness and investment-worthiness of any market. On completion of the CWC acquisition of Columbus, several markets in the region will immediately lose the benefit of an alternate supplier for critical network services. The reduced or outright loss of options for network connectivity will be a major risk to communications services redundancy, business continuity, and disaster mitigation, particularly in territories prone to natural disasters.

Consumer Choice

TV viewers and Internet users depend on choice, competition, and diversity. The acquisitions can threaten these important market enablers, giving dominant providers the power to extract rents at vital chokepoints in the multi-play value chain. Consolidation may also lead to more vertical integration of service and content providers. This raises discrimination concerns if operators have incentives to deny access to other non-affiliated service providers.

In the case of CWC, which will wield a dominant position for cable TV in several Caribbean territories, its business interests would almost exclusively determine what Internet services, programming bundles, and devices people can access and use. The current competitive state of the broadband and cable markets is hardly ideal, but after consolidation could be dire.

Investments

It is uncertain whether the region will continue to benefit from the same level of infrastructure investment and all of its follow-on economic benefits, or see it lost as the major players consolidate their portfolios. For example, countries that were expecting direct funding for infrastructure modernization, access expansion and new service and technology deployment, may not see those promises realized anytime soon. CWC has already communicated to its investors that its priority will be on first realizing the synergies it expects from its investment in Columbus.

Potential Benefits of Telecom Consolidation

From a service provider perspective, there is an obvious attraction of combining network infrastructure to access products (fixed and mobile broadband), to access devices (mobile, landlines, television, computers), to IP-based content and services (such as television and video on demand). This value chain allows service providers to realize several times the revenue of a basic internet access service.

Such so-called quad-play plans allow service providers to lock in more customers by tying them into more services, making it more difficult for them to churn. For example, operators can promise consumers that the cost of four separate services combined into one bundle is cheaper than buying all four separately.

Cutting price to craft an attractive bundle can cost operators in the short-term, however, getting customers to commit to bundled service packages helps to mitigate churn, ensure longer lock-in and potentially drive up average-revenue per-user over time. It also helps keep out smaller operators who may not be able to effectively compete on such a scale for customers.

In the Caribbean, consolidation promises several benefits to the dominant providers:

Mobile

CWC can now leverage Columbus' extensive network to enhance its mobile services, leveraging improved resilience and capacity to better supporting customers growing appetite for digital content. Similarly, by acquiring subsea cable assets, Digicel is able to bolster is broadband services portfolio and expand its mobile and fixed line Internet services offerings. For both providers, securing broadband infrastructure would better monetize consumer appetite for digital content delivery, particularly via mobile devices. Globally, mobile data traffic is expected to increase 11-fold between 2013 and 2018, and is expected to exceed traffic from wired devices by 2018. Consolidating broadband infrastructure assets with strong mobile business divisions, better positions them both for this mobile-data future.

Converged Services

The acquisition will allow for convergence of fixed-line, mobile, broadband, cable TV and other IP services. The possibility for more bundles can mean more service and content choices for consumers. Offering cross-service discounting, loyalty benefits and other perks is a complementary way to get subscribers on board, retain them, and ideally, keep them satisfied.

Cable TV

The acquisition will increase the scale of pay TV offerings in the region, streamlining five cable TV markets. This could enable the company to leverage its broadened channel portfolio; strengthen its bargaining position with content providers; and accelerate the rollout of IP TV services to consumers in all of its markets.

Business and Government Services

CWC's ownership of the most extensive terrestrial and subsea cable network in the region, provides it with greater network resilience and route diversity. Its customers can benefit from a strengthened product and service portfolio for business and government customers.

The Major Regional Telecommunications Services Companies

Cable & Wireless Communications

CWC is a US$1.69bn revenue telecom services provider, based in Coral Gables, Florida and operating in 17 countries throughout the Caribbean, Latin America and the Seychelles. Publicly traded on the London Stock Exchange, CWC now makes US$1.12 billion in revenue each year from the Caribbean, or about US$48 per customer per month. The firm now serves 2 million customers in thirteen Caribbean countries with fixed telephony, broadband, cable TV, and mobile services. CWC also provides established and growing business-to-business and government telecom services in its regions, with an integrated portfolio from core telephony and connectivity (fixed and mobile), to managed network services, data center hosting, and custom IT solutions and integration.

About Columbus

Columbus is a privately-owned telecommunications and technology services company, registered in Barbados, with its operations coordinated out of Ft. Lauderdale, Florida. In the Caribbean, Columbus is one of the leading providers of triple-play cable TV and broadband enabled services. It also provides corporate data center services and managed networking services throughout the Caribbean and Latin America. Columbus controls more than 75% of the region's subsea fiber networks and provides backhaul connectivity to 42 countries in the region. For the six months ended 30 June 2014, Columbus had revenue of US$284m with EBITDA of US$118m and total operating profit of US$48m

About Digicel

Digicel is a mobile phone network provider operating in 31 markets across the Caribbean, Central America, and Oceania regions. The company is owned by Irishman Denis O'Brien, incorporated in Bermuda, and based in Jamaica. It has about 13 million wireless users.

In the Caribbean Digicel's markets comprise: Anguilla, Antigua and Barbuda, Aruba, Barbados, Bermuda, Belize, Bonaire, the British Virgin Islands, the Cayman Islands, Curaçao, Dominica, French Guiana, Grenada, Guadeloupe, Guyana, Haiti, Jamaica, Martinique, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad & Tobago, and Turks and Caicos.

Digicel has also been pursuing an aggressive acquisition strategy in the region and in each of the markets in which it operates. In addition they are acquiring regional fiber systems with connections to Miami. Digicel is broadening its services portfolio to compete in the quadplay market: cable TV, fixed line telephone service, mobile Internet and mobile cellular service.

