

Legislation and Regulation to Encourage the Growth of ICT Access in Africa



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AFRINET 2005

Sustaining the Growth of ICT Access in Africa

22nd – 24th February 2005



Overview



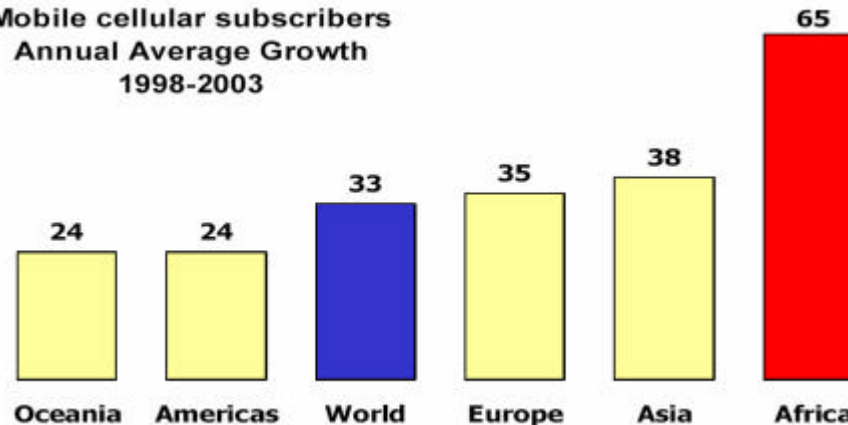
- **ICT & Indicators**
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ICT in Africa



- Teledensity growth in sub-Saharan Africa slow compared to other developing economies such as Europe and the Far East
- In the ITU's recent Digital Access Index, there were no African countries in the high or upper access rankings, 8 were in the medium access ranking and were prominent in the low access ranking. Highest in Africa: South Africa - 0.45 & lowest was Niger – 0.04
- However, Africa recorded the highest mobile penetration rates in the world with almost 70% of total telephone subscribers using mobile phon

Mobile cellular subscribers
Annual Average Growth
1998-2003



*African
Telecommunications
Indicators 2004*

Regional Trends in ICT



- **A move towards globalisation, regionalisation & ‘light touch’ regulation – regulating services and not technology e.g. Nigeria, Kenya & South Africa**
- **Privatisation**
 - Privatisation of state-owned incumbent monopolies and divestment of government holdings – studies indicate that less than 1% of African countries have reached full privatisation (Seychelles); about 30% have achieved partial privatisation and the rest - a vast majority are still going through the process
 - South Africa and Senegal show positive results: *improved teledensity; and increase in rural telephony penetration; a more reliable and efficient service delivery*
- **Liberalisation & competition – full or partial**
 - Proliferation of services such as high growth and penetration of mobile telephony and Internet services – ISPs and proliferation of cyber cafés
 - Incorporating convergence of technologies – VoIP, wireless technologies e.g. Wi-Fi

Regional ICT Harmonisation Projects



- Possible if supported by Political will and capitalises on economies of scale, market economies and regional strengths
- Harmonisation models vary in balancing national autonomy in telecoms matters with full integration under a supranational body :

Model	Features
Centralised Harmonisation	<ul style="list-style-type: none">▪ an independent supranational body, RTA, will make regulations, policies and determinations that are binding on Member States▪ Surrender of national sovereignty on ICT issues to an RTA
Separated Jurisdiction e.g. USA - FCC & state	<ul style="list-style-type: none">▪ RTA regulates telecommunications between the Member States, itself and the rest of the world & NRAs are responsible for regulating telecommunications within their respective countries
Centralised Policy / National Implementation e.g. EU	<ul style="list-style-type: none">▪ RTA makes policy, issues enforceable directives to be adopted/adapted by NRAs into their respective national laws
Decentralised Harmonisation e.g. Eastern Caribbean Telecommunications Authority (ECTEL),	<ul style="list-style-type: none">▪ RTA is a source of centralized expertise and analysis; has no authority of its own but may make non-binding recommendations to Member States▪ Gives objective advice and is independent

Regional ICT Harmonisation Projects – Key Issues (1)



- Determining which model suites the regional states – groupings: West Africa, North Africa & Southern Africa e.g. ECOWAS has opted for a modified Centralized Model which will enable Member States agree on what powers the RTA should exercise and those that will remain with the NRAs
- Agreement necessary on common regulatory issues:
 - Common Standardization of a universal licensing scheme with similar obligations and terms within the region & a technologically neutral licensing regime which allows the market determine the best uses for any technology or service
 - public-private partnerships to encourage private investment, removal of barriers to competition, deployment of modern ubiquitous networks, rapid development of convergent networks and adoption of new technologies and quantifying the benefits of harmonization
 - Interconnection protocols & harmonised tariff principles for cross-border traffic and settlements

Regional ICT Harmonisation Projects – Key Issues (2)



- The following challenges must be effectively surmounted for such projects to succeed:
 - Alignment of national policies and regulations with international benchmarks forming a common platform
 - Sufficient resources to garner the harmonisation – financial, human and material
 - Harnessing sufficient capital to employ ever changing ICT technologies
 - Low network penetration could be a barrier but creates a very large market that is attractive to investors
 - Government will & transparency to justify foreign investment in the regions

The Role of National Governments



- **Government has the primary responsibility for setting the investment climate:** *policies, legislation, regulation, incentives & concessions*
 - As enabler/catalyst while private sector operates an engine of growth
 - Intervening to improve operating environment & reduce cost of doing business
 - Improving economic efficiency and eliminate investment bottlenecks
- **Separate government from the regulator** – independence & impartiality
- **Revision of the legal & regulatory framework** – pro-competition & liberalisation of the economy
- **Promoting and balancing the interests of stakeholders** e.g. operators & consumers
- **A conducive legal & regulatory environment should cover the following:** Policy, Legislation, Regulatory reforms and Infrastructure Development

Key Elements of an Effective National ICT Policy



- Should set specific achievable goals in terms of teledensity, PC and internet penetration both in the short term & long term
- Should divest Government control over telecoms - the independence of the regulator
- Should cultivate universal access to ICT by encouraging enterprise in the production & manufacture of ICT products & services e.g. establishing duty concessions, tax holidays & rebates, reduction in official fees & tariffs tariff, subsidies for meeting universal access targets, etc.
- Should promote effective competition through liberalisation
- Minimal interference in market dynamics and a focus on creating a level playing field for all operators
- Encourage the integration of technological advancements – convergence – in national planning & develop a super-Highway through partnership with the private sector
- Encourage ICT companies to become global & create a conducive environment for foreign investment
- Should promote research, development and training in ICT – Silicon valleys and plateaus

National Legal & Regulatory Framework - Trends



■ Regulatory reforms

- Emphasis on independence, transparency & creating a level playing field
- Technology neutral licences to accommodate convergence
- Primary focus areas for African Regulators include:

■ Promoting the universal access to basic telecommunication services	■ Facilitation of investment in and entry into the communications industry
■ Ensuring that competitive markets provide affordable, efficient, reliable and qualitative services	■ Promotion of fair competition in the market place and the prevention of anti-competitive practices
■ Promotion of telecommunication connectivity through efficient use of spectrum and interconnection	■ Other regulatory functions such as licensing new services and transparent practices

Other Key Considerations



- Parties affected by regulatory decisions, orders, directions, etc. should have right to appeal such decisions, orders, directions, etc. through transparent, non-discriminatory and objective administrative and legal channels – **judicial review**
- A balanced **tax regime** that does not unduly burden stakeholders and investors
- The presence of appropriate **concessions/incentives** to encourage investment and sustain innovation and growth in the sector
- A **composite competition framework** and structure to regulate competition in all spheres of the economy
- The development of a **sustaining infrastructure** – power sector, transport
- Genuine **peer review mechanisms** between Industry and & public sectors - effective private-public partnerships
- Developing **ICT clusters**: centres of learning & Silicon Valleys where technology parks, enterprise centers, IT₁ incubators, biotech hubs fuel the local manufacture of ICT products and industry innovations



THANK YOU FOR LISTENING!
Q & A