



SERVICE – NEUTRAL

LICENSING FRAMEWORK

IN THE ERA OF CONVERGENCE

13 MARCH 2007

Introduction

In June 2006, the Minister of Communications Science and Technology issued a Policy Directive which introduced new reforms in the telecommunications market. The Minister's Directive largely aimed at removing policy and regulatory barriers in the telecommunications market in order to facilitate and promote effective competition. The Policy Directive has therefore necessitated, among other things, a review of the existing licensing framework.

Objectives

2 The objectives of moving from the old licensing regime to a service neutral licensing environment are as follows:

- 2.1 To implement the policy intentions announced by the Minister with as little disruption in the telecommunications sector as possible.
- 2.2 To open the market to more effective competition and more efficient operation.
- 2.3 To create forward compatibility to full market liberalisation in due course.

Current Licensing Structure

3 The present licensing structure in Botswana is designed, first, to authorise the operation of separate defined fixed and mobile networks, deploying standard fixed wire line and mobile radio technologies. Second, the framework authorises the provision of separately defined categories of internet and data services. Use of radio spectrum is authorised in separate licences.

4 This structure has the merits of simplicity and robustness. The licensees have clear, well defined rights and obligations and the regulator has a reasonable degree of regulatory discretion in the detailed application of the rules to deal effectively with changing circumstances. The structure has proved appropriate to the stage of telecommunications technology and market development that has so

far been achieved in Botswana. However, this structure is not adequate for the licensing of networks and services in the converged telecommunications environment that is now envisaged.

Approach to a New Licensing Structure

5 In the new licensing structure it is foreseen that integrated network platforms, deploying the most efficient advanced technologies, will carry all forms of communication, including fixed and mobile voice, data and moving pictures, originating from many different providers. The service and technology neutral approach that is now required necessitates a revised structure that will not constrain the efficient development of converged telecommunications services.

6 The new licensing structure needs to embody a broader, less prescriptive approach to telecommunications licensing. On the one hand this should seek to ensure that the telecommunications market continues to develop satisfactorily to meet the communications needs of users and the economy. On the other hand it should allow maximum freedom for commercial management in the industry to achieve this result in the most efficient way possible.

7 In the face of uncertainty associated with Next Generation Networks the new licensing structure should:

- 7.1 Avoid reliance on any one view of future market structure in a converged environment.
- 7.2 Avoid the convoluted convergence licensing structures that sometimes take a long time to develop and are complex to administer.
- 7.3 Take full account of the current market realities in Botswana. The strong market position of BTC (in fixed services) and of the present mobile operators, ahead of any further market entry from 2009, is clear, as is the strong trend towards infrastructure competition in Botswana. The present ISPs and data service providers have already been allowed to operate radio facilities, precluding confining service providers to non-network operation.

- 7.4 Remain as simple, robust and clear as possible.
- 7.5 Encompass service neutrality in the type of services offered and the technology deployed; and modify the licensing of services provision to minimise regulatory barriers to market entry and allow maximum freedom for services development.

The New Licensing Structure

8 The new licensing structure for Botswana would accordingly comprise the following main categories:

8.1 Public Telecommunications Operators (PTO) licences

8.1.1 The existing fixed and mobile operators, Botswana Telecommunications Corporation (BTC), Mascom Wireless and Orange Botswana, would be eligible for new service-neutral licences authorising them to provide national public telecommunications services, to a defined level of functionality, over fixed or mobile, wire line or wireless, network links, using any available technology, and to provide international telecommunications, including the operation of international gateways. In order to achieve this, the existing operators will be required to apply for new service-neutral licences, if they so wish, otherwise they may retain their existing licences for the remainder of their duration.

8.1.2 The operators would be required to maintain their existing network coverage and authorised to extend their coverage as they wished, subject to obtaining the necessary planning approvals and allocation of radio spectrum where needed. Rules for infrastructure sharing and mobile roaming would remain unchanged, although the BTA would have the option to consider making roaming available to new mobile operators in their entry phase.

8.1.3 The operators would also be licensed to provide a full range of services, the provision of which could be integrated with network operation, subject to the requirement, where the operator concerned had been determined by the BTA to be dominant in a particular market, to provide an exactly similar opportunity at wholesale level to competing service providers.

8.2 Value-Added Network Services (VANS) Licences

8.2.1 The existing licences, for the provision of internet services and data services, will also be replaced by service-neutral and technology-neutral licences, covering all forms of value-added telecommunications service provision, including VoIP or internet telephony at national and international level, and laying down minimum rules that the licensees would be required to observe. The objective would be to develop the services market and accommodate technological convergence as well as minimise regulatory barriers to market entry, while retaining sufficient control to regulate unacceptable behaviour.

8.2.2 As under the old licensing framework, the licensees would be able to operate telecommunications systems, or further telecommunications services, with the explicit written approval of the BTA.

8.2.3 Licensees would be required to apply at the BTA for any new types of services they intend to provide.

8.3 Private Network Licences

8.3.1 Private networks, providing services to licensee's for own use only and unconnected to other public networks, would continue to be licensed separately,

with appropriate minimum regulatory controls. Private networks shall not interconnect.

Interconnection

9 Interconnection between networks and between service providers and networks would remain, in the first instance, a matter of commercial negotiation between the parties, subject to regulatory intervention by the BTA in the case of dispute. However, the guiding principles on which any dispute would be settled would remain broadly consistent with BTA's Interconnection Guidelines and the Telecommunications Act [CAP 72:03].

Internet Telephony

10 The internet telephony guidelines would form the basis of regulations to be made by the Government, and would be based on the principle that internet telephony should be commercially available, without restriction, as a complementary service to public service telephony.

11 Where Internet service providers offer services using telephone numbers, they would be required to use numbers allocated for this purpose by the BTA. They would also be required to state clearly, in their service offering, the extent to which the service differs from full public service telephony.

Applications and Market Entry

12 Only the existing mobile and fixed line operators may apply for the PTO licences. This market segment shall only be considered for further liberalisation by the end of 2009.

13 The market for Value-Added Services and Private Networks is fully liberalised and any locally registered company is eligible to apply for a licence in these two categories. The BTA shall assess applications in accordance with the Act and based on the minimum licensing requirements. The number of licensees in these categories

may only be limited by service demand and/or scarcity of resources such as spectrum and numbers.