The regulation of undersea cables and landing stations

Ewan Sutherland

http://www.3wan.net/

IDRC CRDI
International Development Research Centre
Centre de recherches pour le développement international

P&DM LINK CENTRE
Learning Information Networking and Knowledge Centre
Wits University Graduate School of Public and Development Management

Contents

- Introduction
- Club systems
- Essential facilities
- Liberalisation
- Prices and costs
- Procedures
- Implementation
- Issues

Measures of success

- Increased competition in markets for:
  - telephony
  - Internet access
- More players
- Lower prices
- Greater affordability
- Increasing demand
- Increased national competitiveness

East Africa Submarine System

Land-locked countries

- No direct access to undersea cables
- Need to obtain access across intervening countries:
  - political risk
  - expense
- Often heavily reliant on satellite links
- Some important projects to build infrastructure to the coast

Small Island Developing States

- Small size of markets
- Remoteness
- Reliance on satellite communications
- Difficult to justify large investments for undersea cables

When is a club a cartel?

- Traditional undersea cables were built by a “club” of incumbent operators
- Each had a monopoly over landing in their own country
- This model was challenged by:
  - increasing liberalisation of telecommunications
  - increasing capacity of fibre optic cables

Essential facilities

- A term in antitrust or competition law
- Many cases where it has been applied
- Must give a long term advantage to the owner
- Must be difficult or expensive to replicate
- Often applies to both:
  - landing station
  - undersea cable

In Singapore the regulator added the undersea cable landing station to the Reference Interconnection Offer (RIO) of SingTel.

National leased lines

- Operators and service providers need to reach the cable landing station
- Need to be able to:
  - construct their own facilities
  - lease capacity from other operators on commercial terms
  - lease capacity from the incumbent operator on regulated terms
  - interconnect all of the above

Collocation

- Rivals need to collocate equipment in the undersea landing station
- They need access to install and maintain
- They need space
- They need electricity (with back-up)
- They may need roof space for microwave antennae
- All equipment needs to be secure

Liberalisation

- Steps to remove legal barriers to market entry
- Authorisation of additional undersea cables
- May not be the demand
- Can force the incumbent to open access to the cable
- Authorisation of reselling of international leased lines

The government of South Africa used the Electronic Communications Act to proscribe exclusive deals on undersea cables.

Price regulation

- Benchmarking with other countries
- Selecting an appropriate model:
  - historic costs
  - Long Run Incremental Costs (LRIC)
- Identifying data requirements
- Obtaining pricing data from the operator
- Validating the data and the model
- Revising the model

Consultation

- Preparing an analytical document
- Setting out the options
- Involving the general public
- Publishing a draft measure
- Making a reasoned case for the measure
- Reviewing the effects after a few years

Implementation

- Monitoring retail prices to ensure wholesale price reductions are passed on
- Obtaining regular reports from the incumbent operator
- Meeting with operators in an industry forum to understand day-to-day experiences
- Reporting to the public and to parliament on the effects of the policy

Conclusions

- There is an irrefutable political, economic and social case for intervention
- Although the essential facilities test is demanding, it gives a very strong basis for action
- An initial price cut can be followed by more sophisticated measures
- It is essential to have supporting measures to ensure access to national leased lines

Issues

- How do we ensure future investment?
- How do we ensure downstream competition?
- How does this relate to the creation of Internet eXchange points?

Thank you

Ewan Sutherland

http://3wan.net/

3wan [@] 3wan.net

+44 141 416 0666

skype://sutherla

http://link.wits.ac.za/