SWITCH to Competition - Regulatory Challenges for Namibia’s Telecommunication Sector

Since the beginning, Telecom Namibia has never had a de jure monopoly but only a de facto one. That Namibia is lagging behind Botswana and South Africa in telecommunication sector reform and performance is due to institutional weakness and lack of political will.

Introduction

The launch of Telecom Namibia’s fixed-wireless SWITCH products shuffles the cards anew. Due to the market constellation, Cell One’s entry into the Namibian market would not have moved prices downwards by much, the unexpected competition through Telecom Namibia on the other hand will get prices moving. Lowering ICT access costs is crucial for Namibia to catch up with its neighbours and benefit from the economic potential that ICTs offer for Namibia’s development. This policy brief aims at providing facts for the discussions taking place between policy makers and various stakeholders around the regulatory environment, and legality issues regarding Telecom Namibia’s SWITCH launch.

Market Dynamics in Namibia

Three operators will be offering telecommunication services at the beginning of 2007, Telecom Namibia, MTC and Cell One. Cell One will need to attract a sizeable amount of customers quickly if it is to succeed in Namibia. It is unlikely to start a price war with MTC since it would stand little chance of winning it as MTC has a well-established network and solid earnings. Its returns on equity (RoE)1 have been around 50% for the past few years, which is very high for international standards. MTC’s RoE is nearly five times higher than the industry average2 and higher than any of the Standard & Poor’s Top 10 telecommunication companies by sales/revenue. Telecom Namibia’s RoE is what can be expected from a state owned monopoly in being higher than industry average but not being excessively high.

Negotiated solution or true competition among three players?

Service and technologically neutral licences would be the ideal. An agreement between the three operators would be a second best solution.

Myth | Myth Buster
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Telecom Namibia has a monopoly by law | Telecom Namibia (TN) has never had a de jure monopoly. It only has a de facto monopoly for fixed-line services, international data and voice gateways because the NCC did not award any licences which it could have done at least since 1995. The monopoly is thus the consequence of a failure to implement government policy.
There is no mention of a five year exclusivity period in the General Notice No. 3676 / NCC No.234 Granting of a Telecommunications Licence: Pow erCom (Pty) Ltd of the 11th August 2006. Cell One might still be able to sue successfully though, if officials made commitments informally and if evidence can be produced.

Licence fees penalise new investors and protect the incumbent

Replacing license fees with a sales fee would be fair to all. New entrants would only pay once money is made and everyone has to pay according to what they turn over.

1 Return on Equity (net income divided by the shareholders’ equity) is equal to Profit Margin (Net Income / Sales) times Asset Turnover (Sales/Total Assets) times Financial Leverage (Assets/Shareholder’s Equity)

2 The industry average was dampened in 2005 by Deutsche Telekom, which wrote off the high license fee it paid for a 3G (UMTS) license.
for by profits from previous years, while Cell-One needs solid profits in the near future to finance theirs. Cell One is therefore more likely to try to win new customers with the promise of better services and strong branding. From this side, little relief in terms of lower retail prices can hence be expected. The main thrust in terms of fixed-wireless adoption would come from pre-paid customers. Namibia currently about 500,000 pre-paid mobile subscribers. The adoption of pre-paid fixed-wireless is directly related to the tariff structure. The wider the tariff-gap to pre-paid mobile is, the faster the adoption rate will be. It will also be attractive to those that could not afford a mobile so far since the handsets available from Telecom Namibia retail at rock-bottom prices.

**S**WITCH beats them all on price

Comparing Telecom Namibia’s fixed-wireless prices against the cheapest mobile contracts available in Namibia, Botswana and South Africa using OECD price benchmarking methodology shows that indeed it is the cheapest. The figure below shows the cost in US$ of the cheapest products available in these countries for each of the usage baskets defined by the OECD (February 2006 revision). For MTC only VAT excluding products were chosen while for Botswana and South Africa the prices include VAT.

Telecom Namibia’s fixed-wireless solution is cheaper than any mobile product in South Africa, Botswana or Namibia. Even though it is not a mobile system and has therefore less functions (not full mobility for example) it serves what most users in Namibia want, being reachable and being able to make a call or send an SMS at low prices.

**Regulatory concerns**

There is one snag in Telecom’s strategy though. Telecom Namibia is planning to offer roaming for its fixed-wireless products. Roaming between cells makes fixed-wireless effectively mobile. Currently Telecom Namibia does not require any licence but the one for the frequency spectrum that it already holds to offer fixed-wireless or even mobile telephony.

There are voices from the board of the NCC that threaten to revoke Telecom Namibia’s frequency license. But should they? The answer must be a clear no. For years we have been longing for competition in the telecom sector that will lead to lower prices and increased economic growth. Now that the first signs of a competition are on the horizon should we really try and prevent operators from choosing the most cost effective technical solution to provide telephony?

If it weren’t for Telecom Namibia…

Telecom Namibia is currently rolling out fixed-wireless services based on 800 MHz CDMA2000. Fixed-wireless is in principle a mobile technology and CDMA2000 is even EVDO ready (Evolutionary data optimised) and hence a 3G service. Fixed-wireless refers to mobile technologies that do not allow roaming between cells. A cell can be the size of 40 square kilometres and hence cover the whole of Windhoek or any other town in Namibia. In the Namibian context fixed-wireless would already be mobile for most of the population anyway, that only rarely leaves town.

Telecom will offer post-paid and pre-paid solutions. Currently it is only offering pre-paid ones called Switch Easy and Switch Time. The post-paid product will target current residential fixed-line customers and businesses and the pre-paid products current mobile pre-paid subscribers and currently un-served segments of the population.

Fixed-wireless has the advantage that Telecom would no longer be responsible for the cabling to the premises of the customer, the PABX or the telephone, potentially reducing maintenance and service costs. At the same time it is more convenient to the customer due to its mobility and it allows high speed Internet access.

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Fixed-wireless is a complementary service to mobile and fixed telephony and is used in many African countries that could not afford to role out fixed-line telephony on a wide scale (Ethiopia, Rwanda, and Uganda, for example).

Is fixed-wireless fair to PowerCom and Portugal Telecom?

One argument that is often raised is that it would not be fair to PowerCom/Cell One and Portugal Telecom if Telecom Namibia were to offer mobile services as well. MTC had been granted an exclusivity period when it first started (11 years in the end). However PowerCom and Portugal Telecom knew before they invested in Namibia that there would be competition. They must also have seen the draft telecommunication bills floating around and must have been aware of the regulatory situation Namibia is in. Their business concept could not have been based on the hope of extracting monopoly profits. Telecom’s service targets low-income groups and current fixed line users. MTC and PowerCom (Cell One) will face competition from Telecom Namibia in the low-income segment but are unlikely to face it in the high-income segment. The low-income segment is exactly where Namibia needs increased competition.

Will Telecom Namibia’s move into the fixed-wireless telephony scare foreign investors?

To the contrary, lower prices and a more competitive ICT sector will make Namibia more attractive to foreign investors. However erratic decision-making and weak regulatory environment are the best recipes to scare them off. Why was PowerCom the only applicant for a second mobile licence in Namibia? Celltel, Vodacom and MTN have been known for being hungry predators in that field.

Telecom’s De Facto Monopoly

The Telecommunications Policy and Regulatory Framework for Namibia of 1999 states on page 8: “It is envisaged that the market shall be fully open for competition by the year 2004 and during the period up to 2004 the government may defer competition in any segment for national and socio-economic reasons.” Pages 13 reads: “The need of the nation must supersede the need of Telecom Namibia and thus the monopoly of providing the services must be ended.” By January 2007 Telecom Namibia still holds a de facto monopoly and only one mobile provider is operational.

Contrary to what most people believe, Telecom Namibia has never had a de jure monopoly. It only has a de facto monopoly because the NCC did not award licences to break the monopoly, which it could have done, at least since 1995 with the Namibian Communications Commission Amendment Act 1 of 1995.

The NCC only partly eroded Telecom Namibia’s national backbone monopoly by allowing MTC, in specific cases, to build its own backbone infrastructure (including VSAT for national use in 2006). MTC’s application for an international data gateway license in 2006 was however declined, therefore maintaining Telecom’s de facto monopoly for international data and voice services.

The NCC states that it has been hampered in its work by the fact that it depends on the Ministry of Information and Broadcasting for funding. The second cellular licence, for example, was approved by Cabinet in May 2000 and the NCC was only able to solicit funds from the Ministry to contract a consultancy in 2003.

The monopoly is thus partly the consequence of lack of sufficient funding for NCC and its weak institutional set-up, having to serve two masters, its board and the Ministry. The delay in policy implementation is hence not due to legal limitations but institutional weakness and lack of political will.

4 Cubbay, C.J., Retrofit 1, 857D, 857G, H, 857J, and 858B
The whole picture needs to be considered when making policy decisions. The telecom sector is too important for the development of Namibia. The aims of the regulator and policy makers must be that Telecom Namibia, MTC and Cell One compete fairly in an ever more converging world.

Another measure that should be explored is to replace license fees for telecommunication licenses with a sales or turnover fee. It would be fair to all. New entrants would only pay once money is made and everyone has to pay according to what they turn over.

The best way would be to issue service and technologically neutral licences to all three operators, Telecom Namibia, MTC and Cell One to allow them to embrace global trends in a converging world. MTC and Cell One might lose some revenues to SWITCH. At the same time they will be able to gain new ones by building their own infrastructure and offer fixed-mobile converged solutions themselves.

A compromise could be if Telecom Namibia would refrain from allowing roaming. This would distinguish the fixed-wireless telephony clearly from mobile telephony. It would also allow Telecom Namibia to offer its services even cheaper. To allow roaming one needs to increase the number of cells dramatically to offer adequate quality of service. Roaming increases therefore the cost of service provision and requires therefore higher call charges.

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