

# THE CHALLENGE OF CREATING POLICY AND REGULATION IN A CONVERGED ICT ERA

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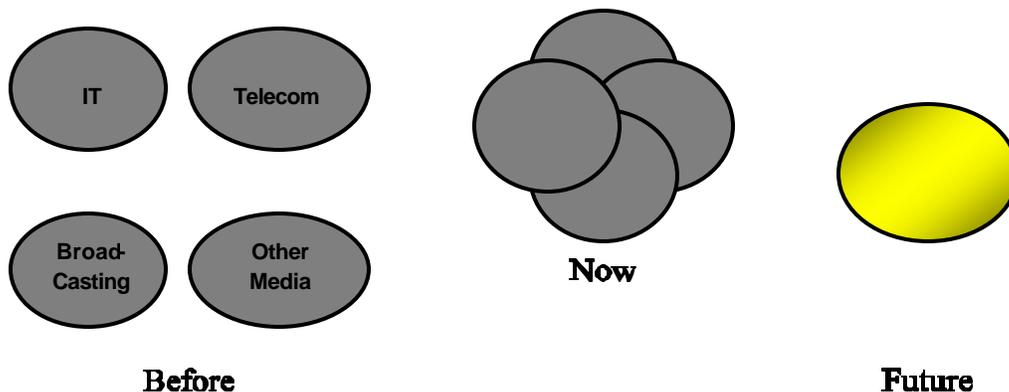
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## INTRODUCTION

Over the years, the term convergence has assumed very wide dimensions and in the context of ICT and media, refers to the coming together of IT, Telecoms, Broadcasting and other media, with respect to technology, market, policy and regulation. Historically, different forms of information components, namely voice, video and data were transmitted employing diverse delivery networks. Consequently, such modes of information were accessed through distinct end-user devices. Each service had been tightly linked to a specific form of infrastructure and end-user equipment.

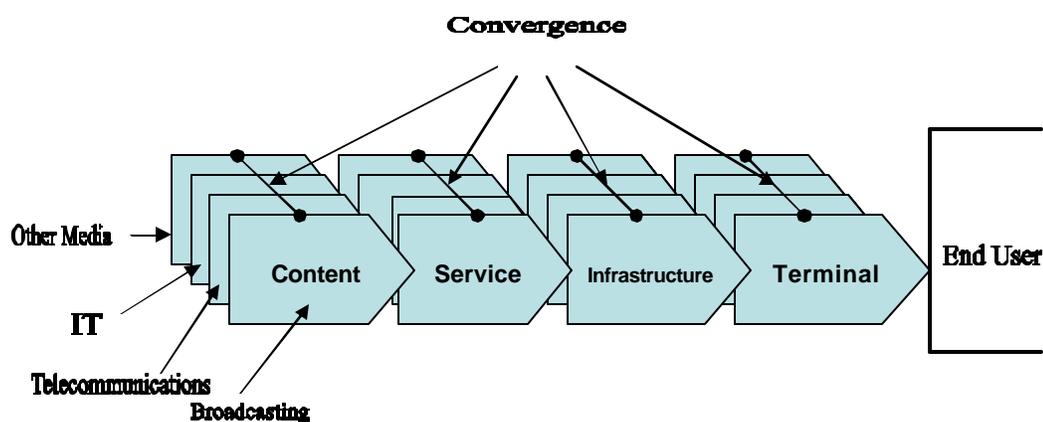
*Figure 5.1: Possible Steps in the Convergent Process*



However, owing to technological developments, driven by market demands and innovation, this scenario has experienced tremendous change over time with the technological borders between telecommunications, IT and broadcasting blurring at a very fast pace. The manifestation of this trend is evidenced by the:

- ✚ integration of customer terminal equipment or access devices such as the telephone, television and personal computer into one device;
- ✚ provision of various communication services like text, data, image, voice and video over a single infrastructure;
- ✚ the use of a single transmission technology to offer various services;
- ✚ the provision of multifarious service offerings by the same service provider;
- ✚ substitution of mobile services for fixed services; and
- ✚ Authorization to provide various services under a single licence.

*Figure 5.2: Convergence in the Value Chain*



Despite these far-reaching changes, the public policy objectives which underpin policy and regulation remain largely the same and still revolve around encouraging investment, serving the interest of the consumer, promoting universal access and facilitating availability of ICT services at affordable cost.

Therefore policy and regulatory measures must move in tandem with technological developments in order to guarantee that these policy objectives can consistently be achieved. In an era of ICT convergence, licensing policy must be such that it ensures that operators and service providers are able to take advantage of the opportunities that convergence present.

### **POLICY AND CONVERGENCE**

Advances in technology are gradually dismantling, the notion that different services must be obtained from different licensed providers. Although policy has always been slow in catching up with technological developments, it is clear that this shift to converged licensing, which is being driven by technology, offers the solution to a number of issues confronting regulators in the industry.

Several writers have defined a license in different ways but it is generally agreed that it is an official authorization to provide services or operate networks and a license document will usually contain the rights and obligations of a licensee or operator. Licensing is also used to meet the policy objectives of the government. The objectives of licensing in telecommunications sector can include any or all of the following;

- Allocation of scarce resources
- Expansion of Networks and Services
- Regulating market structure
- Generating revenue
- Consumer protection, etc

In Nigeria, the objectives of the Federal Government were clearly set out in the National Telecommunications Policy (NTP). Recognising that the availability of an efficient and reliable telecommunications system is a key ingredient for promoting rapid socio-economic development, the government declared its

overriding objective to “achieve the modernization and rapid expansion of the telecommunications network and services in Nigeria”.

The NTP also recognising the rapidly changing nature of technology set out some short term and medium term objectives such as;

- ✓ To promote widespread access to advanced communications technologies
- ✓ To promote competition to meet growing demands through the full liberalization of the telecommunications market
- ✓ To resolve with dispatch all licensing problems that are existing in the most transparent and equitable manner.
- ✓ **To provide a new regulatory environment that is sufficiently flexible to take into account new technological development and the international trend towards convergence**
- ✓ To ensure that public telecommunications facilities are accessible to all communities in the country
- ✓ To establish and meet aggressive targets for the installation of new fixed and mobile lines
- ✓ To create an enabling environment, including provision of incentives that will attract investors and resources to achieve all the stated objectives.

It is clear that the NTP actually recognizes the catalyzing role of technology for improving access to telecommunications services in the country. It is also instructive that even in the year 2000 when the NTP was adopted the issue of convergence already occupied a prime place in the thinking of the ICT community in Nigeria.

The roles of the different players were clearly set out. The NCC was assigned to be the independent regulator of the industry with powers to issue licences, assign frequencies, issue numbers and perform other regulatory functions as may be consistent with its mandate to promote the development of Nigerian

communications. These functions and powers were concretized in the Nigerian Communications Act 2003.

The government has gone a long way in achieving some of the objectives stated above. In Nigeria, the telecommunications industry has experienced exponential growth in the last four years with close to about 16 million telephone lines connected to date. Today, Nigeria is rated as one of the fastest growing telecommunications markets in the world.

However the Nigerian government is not unmindful of the fact that there is still a lot to be done to fully meet the objectives of ensuring that ICT facilities become pervasive all over the Federal Republic of Nigeria. One of the strategies that the government intends to employ in consolidating some of the achievements so far and further meet the stated objectives, include the converged licensing.

## **LICENCING AND CONVERGENCE**

Licensing is a continuously evolving process. It has been argued that if left unchanged a licensing policy may become an obstacle to the development of an ICT market. Preserving onerous and complicated licensing requirements creates artificial barriers to market entry and hinder competition. For example, the licensing practices of concessions and franchises have largely been abandoned in liberalized markets as they were incompatible with the principles of market diversity and open competition.

Licensing has started transiting from the era of granting individual licences for all conceivable undertakings to the issuance of class licences and general authorizations. Individual licences are now mostly limited to those seeking scarce resources or deploying particular networks on a significant scale.

As regulatory frameworks become better established, regulatory authorities are more willing to reduce regulatory intervention at the point of market entry. In the traditional licensing classification, a license is based on the type of service, facility or technology provided. However the exponential and continual advancement in technology has almost rendered this classification irrelevant. Additionally the phenomenon of convergence is placing increasing strain on such traditional licensing practices. Some of the licensing options that have been introduced and have become prevalent in recent times include; General authorization, class license, unified or converged license, facilities and service based licences, etc.

Historically, different networks were used to deliver voice, video and data and end users use different equipment to receive these services, however technological developments have radically changed this scenario and have also bred a multiplicity of ICT services and applications. A converged licensing is therefore a tool, enabling competing operators and service providers to rapidly deploy new services to meet market demand without having to seek new licences.

New technologies such as VOIP, Wifi, Wimax etc have gradually blurred the distinction between services. In jurisdiction where such new technologies have been banned or discouraged in one way or another, Regulators in those domains have found that such regulatory action was myopic in the long run and did not stop the usage of the technology but rather encouraged the users to go underground. Regulators are now opting for a more liberal approach to these issues and are discovering that in a converging world it is dangerous to adopt an ostrich position.

## **UNIFIED LICENCE**

There is no generally recognized or accepted definition of unified license, which is sometimes described as a “converged” license. It can best be described as an authorisation that allows an operator to offer several services in response to its capacity and technological changes. Most jurisdictions have taken the liberty of defining the scope of a unified license either in the license document or guidelines issued by the Regulatory Authority, taking into consideration their peculiar circumstances and the nature of the telecom industry in the country.

A unified license in essence means that an operator is authorized to provide more than one service under the same license or authorisation. This type of licences has been in existence in many African countries, and some examples include the national Carrier licenses. In fact most national monopoly operators that existed prior to the wave of sector liberalization across the world operated under authorizations that were in effect converged or unified licenses.

## **BENEFITS OF CONVERGED LICENCES TO ICT STAKEHOLDERS**

Converged licencing in the ICT sector has been identified as capable of yielding numerous benefits for all stakeholders of the industry – the economy/government, the regulator, the operators and the consumers:

### **To the Economy/Government**

- ✚ It will lead to a conflict free ICT environment;
- ✚ It would enhance quicker rollout and growth of both wireless technology, broadband and internet; and
- ✚ Faster roll-out would ultimately lead to the achievement of the objectives of universal access and extension of services to rural areas.

### **To the Regulator**

- ✚ It encourages free and easy deployment of new technologies and associated services in the ICT sector;
- ✚ It simplifies the procedure of licensing in the telecom sector;
- ✚ It ensures flexibility and efficient utilization of scarce resources;
- ✚ It encourages efficient small operators to cover niche areas, in particular, rural, remote and underserved areas as far as the provision of ICT services is concerned;
- ✚ It enhances easy entry and level playing field for all operators.

### **To the Operators**

- ✚ It would afford an operator the freedom to provide multiple services under a single authorization;
- ✚ It would enable the operator take advantage of new technologies faster
- ✚ It would enhance economies of scale and greater efficiency as a result of optimum sharing of infrastructure and resources;
- ✚ It would lead to cheaper cost of providing services; and
- ✚ Cheaper cost of services would increase market and profitability of operators.

### **To the Consumers**

- ✚ Consumer expectation of one-stop service availability would be met;
- ✚ Lower operating cost resulting from economies of scale would transform into lower tariffs;
- ✚ Reduction in set-up costs would significantly lessen access cost, making ICT services more affordable;
- ✚ Increased access would create enabling environment for the growth of other businesses, create employment opportunities and raise the standards of living of people.

- ✚ Savings from reduction in the number of devices that the consumer would require to own.

Unified licensing regime could therefore be a positive move to ensure that a favourable environment exists for robust competition in the telecommunications market and that service providers and end users alike take full advantage of technology and innovations. For many African countries therefore, the unified licensing approach can tremendously facilitate easy entry, promote healthy competition and improve access to ICT services significantly. Such countries can leapfrog various network developments that industrialized countries have gone through.

Since different services can be transmitted within the same network, developing countries can use convergence platforms to extend the penetration of basic community services. For instance, cable TV can be used to offer telephony and internet services. In many parts of Africa, one form of communications infrastructure or the other is still absent. The unified license allows the operator more freedom in the design of future networks that can capture the demand for all other services other than just telephony.

Mobile telephony has substantially more widespread coverage than fixed telephony. Such mobile networks can be utilized to offer mobile internet and other advanced services especially with the low penetration of PCs.

Also, in many countries, the broadcast frequencies are grossly under-utilized. Establishing digital TV networks in these countries gives service providers the capability of going beyond the traditional broadcast services to offer other ICT services.

One of the purposes of granting licences is to provide certainty to the investor and lenders therefore Licences should provide a balance between regulatory certainty and the flexibility to address future changes in technology.

## **CONCLUSION**

As the Telecoms sector continues to play a very important role in the economic and social development of Africa, Policy makers and Regulators must be committed to creating an environment for the widespread and successful implementation of new technologies and services.

To ensure that technology is adequately harnessed to maximize the deployment of vital infrastructure and services, regulators must pay special attention to enthrone regulatory framework that facilitate innovation

At the Global Symposium for Regulators in Geneva 2003, delegates adopted the Universal Access Best Practice Guidelines to achieving access to information and communications technology services. One of the guidelines stated that Regulators should adopt a technologically neutral licensing practice enabling service providers to use the most cost effective technology to provide services to end users.

Adoption of a unified licensing regime enables operators and investors take advantage of the gains that convergence of technologies and services offer in the sector.

Thank you

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