
National Convergence Policy Colloquium

Contents:

1. Introduction
2. Background
3. The Convergence Policy Programme
4. The Convergence Colloquium Process

Detailed Reports from the Colloquium Commissions:

5. Infrastructure Commission Report
 6. Services Commission Report
 7. Content Commission Report
 8. Applications Commission Report
 9. Summary: Areas of Consensus / No Consensus
 10. Communiqué Issued by the Convergence Colloquium
-
-

1. Introduction

The convergence of technologies has challenged current legislative and regulatory frameworks. There is a need for policy makers to respond, to ensure that regulations and policies enhance the development of cross-sector applications, services and businesses. Technological advances over the last 10 years have brought about major shifts in the role that information and communications technologies play in our lives and society.

The development of computing capacity in the 70s, the creation of the world wide web in the 90s and the proliferation of satellites, broadband and high-speed communication tools has given rise to global networks that access and transmit information instantaneously.

This has fuelled globalisation, giving communications activities a global reach. Countries and business entities no longer stand aloof but are perceived as part of global developments challenging traditional competitive advantages.

In the new global order, performance is determined by the ability to develop knowledge, the dissemination of information, the generation of new ideas and the roll-out of new applications and services. Meeting the development challenges requires policies that position South Africa as an innovative player and active participant.

The Department of Communications is committed to a successful sector that attracts investment, skills and technology and enhances the economic performance of the country and the region.

2. Background

The need for a policy review

- Need for policy makers to respond to ensure that old regulations and policies do not hinder the development of cross- sector applications, services and business
- Convergence of technologies and services challenges existing legislative and regulatory frameworks
- Technological advances of the last 10 years have brought about a major shift in the role information & communications technology plays in our lives, the economy and the future

Why do we need a convergence policy?

- Globalisation
- Growth of diverse technology
- Digitisation
- Regulatory reform is imperative
- Addressing the development gap and addressing universal service
- Black Economic Empowerment
- Stimulate investment in the sector

Key Growth Drivers

- Growth of Internet
- 14 million mobile subscribers
- 5 million fixed subscribers
- High data growth
- Demand for high-speed Internet
- Increased broadcasting footprint
- Increased computing capability
- New services eg. Wi Fi
- Skewed development

Economic Benefits

- Achievement of economies of scale to enable operators to reduce cost structure & therefore lower consumer price
- Lower capital expenditure
- Greater choice, range and quality of service for consumers
- Broadband access to historically disadvantaged communities
- Achieve efficient & effective utilization of existing infrastructure
- Lower cost of production
- Open access environment to develop ICT role markets.

Social Benefits

- Universal access to broadband and all its inherent information and communication benefits
- Improvement of government service delivery
- Greater opportunity for learners by development of skills through the use of knowledge systems that will improve their lives
- Greater opportunity for entrepreneurship and for economic development
- Job creation and empowerment of SMMEs

3. The Convergence Policy Programme

Time-frame	Plan of Action
3 July 2003	Stakeholder Briefing held by the Director General, DOC
15, 16 July 2003	Convergence Colloquium held
Asap after the Convergence Colloquium	The chairpersons and rapporteurs of the four commissions to prepare and present a report on the colloquium to the Minister of Communications as soon as possible
Three weeks after the Colloquium	A committee consisting of chairpersons and rapporteurs will be established to focus on the preparation of the Convergence Bill, and will include Government, the Regulator, Industry, Labour and Consumers.
August 2003	Convergence Bill to be tabled in Parliament

4. The Convergence Colloquium Process

A “Convergence Colloquium” for the ICT industry was hosted by the Department of Communications from 15 to 16 July 2003, to develop a convergence policy, ensuring that the evolving needs of the ICT sector in South Africa are properly addressed.

The colloquium focused on policy and other issues arising out of the convergence between telecommunications, broadcasting and information technology.

The colloquium, which was attended by a broad spectrum of stakeholders from the ICT sector, was an outstanding success. The contribution from the delegates has been of the highest order and will go a long way in informing the policy and legislation development process going forward.

The discussion at the Colloquium was organised into the following four Commissions:

- ❑ Infrastructure Commission
- ❑ Services Commission
- ❑ Content Commission
- ❑ Applications Commission

Detailed Reports from the Colloquium Commissions:

Infrastructure Commission Report

Introduction

Convergence in the ICT industry means the migration from separate service sectors with separate infrastructure to a spectrum of services provided on multi-service general-purpose network infrastructures. The members of the Infrastructure Commission strongly felt that new frameworks needed to be developed for the provision of infrastructure in line with new technological advances. Policy issues regarding infrastructure will have a significant effect on the shape and growth of the ICT industry. New technologies have made present approaches to infrastructure outdated. The traditional approach to infrastructure is hampering further ICT developments which have significant impact on consumers, communities and the South African economy.

The goal of bridging the digital divide means providing access to the latest ICT infrastructure and a wide variety of communication services for the largest number of, preferably all, South Africans. To achieve this, a paradigm shift is required from old structures to new innovative frameworks which fully utilize the potential presented by the technological revolution of convergence.

In light of the need for change in the provision of ICT infrastructure, the Commission looked broadly at basic principals which should guide this transformation. Who will build these new networks, who will pay for it and how will access to the networks be regulated? If operators were able to build as many networks as they want, would that not lead to duplication of facilities? If owners are required to share their infrastructure would the resulting lack in competition in the type of infrastructure being implemented lead to stultification of technological innovation? These broad questions regarding infrastructure were discussed by the Commission as follows:

- The legal framework for providing and using ICT infrastructure
- Objectives for Infrastructure Policy
- How changes in the present Framework should be implemented
- The Role of the Regulator
- Characteristics of Infrastructure
- Resale of Infrastructure Capacity
- Spectrum management
- Governments Role in Facilitating the Building of New infrastructure
- Universal Service Obligations

There were areas of discussion where the Commission was able to achieve consensus and certain issues where there was no consensus view. These are presented separately.

AREAS OF CONSENSUS:

The Legal Framework for providing and using ICT infrastructure; Objectives for Infrastructure Policy

The Commission agreed that the provision of infrastructure should be within a legal framework. Rather than allowing anyone to build ICT infrastructure anywhere, there should be legal requirements in order to ensure, among other things:

- Compliance with essential technical standards (EMC and others)
- Coordinated frequency use for radio based equipment
- Human safety
- National Security
- Environmental impact
- To provide certainty on rights and obligations
- To specify rollout obligations and to promote Universal Access and Universal Service
- To promote for BEE in terms of national policy, especially within the context of the ICT Empowerment Charter

The Commission agreed that the licensing process, if implemented, should be simple and not cumbersome and time consuming. While maintaining the stated standards and objectives, licensing should unleash market forces to promote the building of new infrastructure.

The terms of the license/regulations should take cognisance of the socio-economic impact (cost/benefit) of the infrastructure to be provided. These considerations should guide the regulators to either curb or promote certain practices in view of the public interest and impact.

Policy should promote a dynamic and flexible approach to ensuring affordable access to infrastructure for community and other social ICTs and media including Public Service Broadcasting and postal services.

Convergence policy should promote orderly migration from a vertical to a horizontal licensing regime.

Type of Infrastructure

The Commission recommends that the provision of ICT infrastructure over any appropriate platform should be permitted. This includes the use of existing water, sewerage and/or electricity infrastructure to provide services by municipalities or others. It is important, however, to align sectoral approaches and encourage policy coherence.

- Use of these other types of infrastructure would require that issues on co-jurisdiction between the sector specific regulator and other authorities would need to be resolved.

The Commission was in favour of the promotion of interoperability of infrastructure

Infrastructure provision/licensing should be technology neutral. Therefore the distinction between voice and data needs to be eliminated (VOIP). Technological neutrality means that any license should define the service to be provided rather than the use of a particular type of technology or infrastructure to be used as the delivery mechanism. Convergence allows the same services whether broadcasting, telecommunications or data to be delivered over fixed or wireless technologies, which previously had been regulated separately. These technology distinctions should be discontinued.

Regulator

Essential to achieve a sustainable Convergence policy outcome is a well-resourced and independent regulator. The policy should separate the roles and jurisdiction of government, the regulator and other authorities with regard to licensing and regulatory functions. The regulator should have final determination with regard to licensing and regulation.

Spectrum Management

Spectrum management is in the public and national interest. Spectrum management includes allocation, assignment and other functions. Even with improved efficiencies of digitisation, spectrum is still a scarce resource therefore regulation is justified

Government Facilitation and Funding New Infrastructure

All spheres of government should take a strong role in facilitating the rollout of ICT infrastructure (specifically infrastructure that facilitates convergence). Beyond this, there was little agreement among the Commission as to a potential role for government in providing funding or otherwise facilitating the finance of infrastructure roll-out.

Universal Service Obligations

The Commission felt that there should be a review of the present approach to Universal Access and Service including the obligations required. Universal Access and Service should be more than just access to basic telephony; it should include access to advanced services such as broadband infrastructure, broadcasting, multimedia and postal services.

There should be better targeting of funds to under serviced areas. This implies the use of market mechanisms, in the first instance, to improve on service delivery for certain services.

Subsidies should be provided through a Universal Service Fund where market mechanisms fail.

ISSUES ON WHICH NO CONSENSUS COULD BE REACHED:

The Legal Framework for providing and using ICT infrastructure; Objectives for Infrastructure Policy

There was no consensus on the principle of whether the provision of infrastructure should require mandatory licensing.

The Commission agreed that equitable rights to all network operators should be based on sustainable demand to optimise use of network facilities.

There was a view that operators should provide these facilities only within the rights of their existing service license.

Promotion of Competition, including Unbundling the Local Loop

Convergence policy should provide for an enabling licensing regime that promotes competition and the rollout of infrastructure. The Commission strongly advocated in favour of vigorous competition being introduced in the provision of infrastructure. A general principle was adopted that if a company could build a business case to build infrastructure then they should be allowed to proceed.

Convergence policy should provide for an enabling licensing regime that promotes competition and the rollout of infrastructure. Two opposing views were expressed:

- Existing infrastructure should be optimally utilised.
- Anybody should be allowed to roll-out infrastructure anywhere provided that there was a viable business case.

In accordance with this principle, the Commission recommended that the local loop should be unbundled as a means of promoting competition in infrastructure provision.

Whilst there was a view expressed that existing infrastructure should be optimally utilized, rather than promoting the building of new infrastructure, there was another view expressed that market forces should determine the provisioning of infrastructure.

Some members of the Commission felt that cognisance should be taken of the fact that the current market structure isn't a level playing field and that this may give unfair advantage to some current providers. They felt that in order to promote competition, and a level playing field, asymmetrical regulation is required.

How should the New Policy Framework be implemented?

The implementation of a converged legislative and regulatory regime is a matter of urgency. Phase one of the transitional arrangements should trigger the existing provisions in the Telecommunications Act that will facilitate convergence.

There was a view that this process should be gradual, and there was an opposing view that this process should be rapid.

There was a view that there is a need for a market study to inform policy development. However, there was also a view that a requirement for a market study can delay the process of Convergence policy development. There was also a view that there is no need for such a study – this should be left to the operators.

Resale

The Commission felt that any new convergence policy should promote the simple resale of infrastructure facilities on negotiated terms, such negotiated terms must not dictate subsequent resell price. Current legislation provides for the Minister to remove this prohibition immediately.

There was a view that negotiation must be on reasonable and commercial terms.

Government Facilitation and Funding New Infrastructure

There was a view that government should provide financing or funding for such infrastructure or, in the alternative, other incentives. Some of the incentives discussed included guarantees, tax and other commercial incentives. The Government could also assist with approaches to the World Bank and other Developmental funding by entrepreneurs.

There was a view that such funds should be derived from license fees where appropriate. The allocation of these funds should recognize BEE policy.

There was a view that government facilitation should focus specifically on the provision of broadband infrastructure

Services Commission Report

Recognising that at the colloquium, there were many opinions questioning (- see stakeholder inputs/presentations) the:

- (i) need for a new convergence policy at all;
- (ii) need to amend the existing Act;
- (iii) need to amend existing licenses;
- (iv) need for a transition period to a new licensing model;

The services commission worked under the assumption that, there will be a transition to the horizontal model of licensing. Anyone permitted to provide any of the converged services to the customers:

- (i) may or may not need a network infrastructure license.

AREAS OF CONSENSUS:

The provision of voice, data and image for information and education must be treated seamlessly. It will be necessary, to differentiate between market players in order to give due consideration to socio-political aspects that affect some services and some markets, such as the role of public broadcasters and community broadcasters to ensure that these services continue to receive the mandatory attention for delivery and financing.

Rationale : technically , it is difficult to differentiate between voice, data and image communication and impossible to police and regulate them separately.

Each service provider may chose to either provide the services directly to the end users, to other service providers on a wholesale basis, to Government, or to all , at their discretion, subject to licensing conditions. The monopoly restrictions in the SITA license should be removed.

Rationale: At the services layer, it is not necessary nor desirable to regulate whom the recipient of the services should be. This would largely be driven by market forces. The only restrictions should apply only to those services solely provided to national security agents.

Service providers should have no technology restriction, as they will be able to lease network infrastructure to those licensed as such , irrespective of underlying technology.

Rationale: All licensing should be technology neutral.

Where broadcasting services are received via devices , other than a television, there is no need for a television license fee. The SABC license collection method needs review to make it fair and efficient.

Rationale: The TV content on devices such as internet and mobile terminals should be charged for by the service provider on a transaction basis. The service providers may or may not have a commercial arrangement with content owner on a revenue sharing basis.

In the case of service types that require licensing, a “class license” should be defined. The process should be simple. A service provider must only be required to give notification to the Authority, for certain types of services.:

- Tariff regulation for services should be abolished.
- There should be flexibility to cater for inclusion of future services.
- A transition period should be given to allow amendment of services and existing service licenses to ease the burden on the regulator.
- There should be differentiation between network services (light-touch regulation required) and application services (only notification required).
- Simplicity should underpin all licensing.

Pay-per-view services do not need a license , if provided from a platform. Self and co-regulation should be encouraged.

Rationale: the only justification for licensing content providers is for the use of the national spectrum.

Postal service must adapt to take advantage of the converged environment either by offering some of the services or by being a channel for others to provide the services, on a commercial basis.

Rationale : Postal services do not necessarily fit in the convergence services , but are essential to the development of the country. They are affected by the convergence through substitution by email, fax, telegraph etc.

ISSUES ON WHICH NO CONSENSUS COULD BE REACHED:

The need for licensing service providers. There is a view that the class license at most is all that is required and an opposing view that licensing should be restricted only to infrastructure licenses and there should be no licensing necessary for service providers.

There is a view that any future services not catered for in the class license, should be defined by the Authority and a view that that process would still be cumbersome and all that is required is simple notification to the Authority by the service provider.

The role of the community broadcasters, in the services class, need further attention especially the :

- a. Financial restrictions to plough back profits to the community
- b. Relevance of the area restrictions versus “the community of interest” approach.

Differing views as to whether to maintain the fixed vs. mobile differentiation in the convergence era.

Rationale: It is acknowledged that there is ongoing convergence of fixed and mobile services but there is also a concern expressed that if the transition period is too short, it will erode value in especially the recently (or shortly to be) licensed players.

There is acknowledgement that “light touch” regulation is necessary and may require that regulation of tariffs be left to market forces, there is an opposing view that this approach may make services unaffordable to the poor people and therefore that universal service contribution intervention may still be necessary.

[7. Content Commission Report](#)

7.1 Introduction:

Convergence is taking place regardless of the technology used and the channel through which it will finally be received by the end user. The Commission noted that it is difficult to define content. However, it noted that content can be regarded as “information inserted, moved through, stored within, delivered by, any communications channel”. Content is a right, however when it is converted for sale it becomes a commodity and therefore content should be sensitive to consumer rights. The Commission further said that it is important to refer to a communication channel as “a distinct mechanism for transferring information from an originating location to one or multiple destination locations”. Generally, there are two streams of content – broadcast and telecommunications.

The Commission noted further that a content provider is an entity that provides content for distribution with editorial control over content, that also adds value or repackages content and may include a content originator, content owner, the host of content, including an enabler and a portal information aggregator.

There are different segments within the content value chain and the content provider is found in the middle of this value chain, which can be regarded as originator, host/publisher and distributor. Within the value chain there are also access providers such as ISPs who are also

content providers. A publisher is also somebody who commissions or produces content with the intention of distributing to the public.

7.2 Areas of content regulation

The Commission agreed that the fundamental principle for licensing and regulating content is as enshrined in our democratic Constitution, especially the Bill of Rights and Section 192. It was agreed that content regulation be based on the following underlying fundamentals:

- Moral acceptability (censorship)
- Legality (IPR, privacy, security, libel)
- Social issues (local content, language, culture, access)

In regulating content, a distinction must be made between public content and private content and also between active content (e.g. content that is subjected to conditional access) and passive content, which is free-to-air. The licensing and regulation of content must encourage innovation and not stifle creativity. There must be some form of regulation regarding public content and broadcast. In addition, the Commission agreed that overall “light touch” regulation, self-regulation and co-regulation should be encouraged and that the more significant the levels of penetration, the greater the degree of regulation.

Spectrum usage in respect of content provision should be regulated as spectrum is scarce and is a national asset. Any content provider utilising spectrum must require a licence to do so.

All Content providers licences must be independent of the medium used to provide content (e.g. TV, Webcast) and must be technology neutral. However it was noted that the ability to regulate content is very dependent on the technology platform. It is therefore necessary for the Regulator to provide guidelines in this regard. Network providers should be immune from any liabilities as they are not responsible for the quality of content carried over their network.

Although there are compelling reasons to merge the Film and Publications Board with ICASA, the Commission did not agree but encouraged a closer working relationship between the two Regulators.

7.3 Local Content Regulation

With regard to local content, the Commission noted that connectivity directly relates to content demand. The Commission noted that lack of infrastructure / limited access inhibits local content development.

The new policy should with regard to content address issues of accessibility and affordability, the promotion of content rights, content integrity and quality management of content. It should also increase the capacity of South African content providers to be exporters of content and to encourage local and African content development. Organise reciprocal arrangements with other African countries to promote and develop content. The new policy should also

encourage communities to develop websites, Internet addresses, and domain names and also to develop skills to enable communities to access content.

7.3.1 Proactive Regulation

Proactive regulation is needed to enhance local content through, amongst others, the use of subsidies and by encouraging education and development. Government intervention in local content development is necessary.

A national content strategy is needed to promote local content and to facilitate broadband technologies, which impacts on content. South African content providers should provide local content.

7.3.2 Promoting language, cultural and social issues

Content should be available in all official languages and there must be equal treatment of language content on different platforms. We need to enhance quality in local content and create content of the highest standard. Promotion of South African culture and national symbols should be included in the development of local content especially in the school curriculum.

It should be an obligation for all local content providers to promote local content and all content providers should be encouraged to use existing incentives to develop, research and promote local content and existing incentives must be expanded to support local content production regardless of the platform, e.g. online content. There must be a carrot and a stick approach to increase access and enable local content. Existing agreements must make incentives more relevant and focussed on content production – i.e. Nedlac. There is a need to set up a local content incentive task force to engage with DTI and to promote inter-governmental co-operation in local content production and for Government to provide and enable E-government services.

7.3.3 Enhancing impartiality, equality and content diversity

Existing institutions that create local content must be boosted to fund local content. Government and industry must work together to fund, create and promote impartiality, diverse and equality in local content production. In this regard, local content funding could also come from licence fees. Existing institutions must be co-ordinated and boosted to provide additional support to create content. International benchmarks should be used in the promotion and funding of local content.

SA content not a luxury but central to the economic well being of the country. Financial institutions must also be encouraged to play an active role in funding local content. Support for local manufacturing is a priority, especially in the manufacturing of receiving devices. The rights of indigenous people with regard to local content development must be included in the Intellectual Property rights regime

Local content must be included in the ICT empowerment charter. Steps should be taken to encourage support and promote previously disadvantaged individuals to produce local content.

7.4 Other issues discussed:

7.4.1 SABC Spectrum Rights: On the question of whether the SABC will carry existing spectrum rights going forward, the Commission noted that the following issues need to be taken into consideration:

- The capacity of the regulator to carry additional convergence burden
- Content interconnection and Content market structure in new convergence regime
- Intellectual property rights
- Regulation of terrestrial broadcasting versus digital broadcasting

7.4.2 Broadcasting rights: It was noted that current broadcasting legislation inhibits content convergence.

7.4.3 Content packaging and Resale: The Commission agreed that Content packaging and resale should be allowed on the basis that:

- The distributor / disseminator has the rights to disseminate content on the particular medium and
- content rights are medium specific

7.4.4 TV Licence fees: The Commission agreed that public broadcasting should continue to be funded. Some of the funding options for public broadcasting to be decided on are:

- Municipal taxes
- Device tax
- Access fee
- USO

Targeted usage fee

8. Applications Commission Report

8.1 Market Structure

There was general consensus that the current, vertically integrated market structure would, in line with international trends, migrate to a horizontally organized and integrated structure. The following divergent views were expressed as regards the potential for new vertically integrated licences (Licensees issued with rights in the infrastructure, services, facilities and possibly content areas).

View 1: New vertical licences could be issued on the basis of a market study by ICASA.

View 2: There should be no new, facilities-based vertical licences excluding the SNO and USAL's. The proponents of this view believed that:

- Optimal use of existing facilities provided by current holders of licences should be ensured.
- Service- and facilities-based licences must include the automatic right to lease facilities, at wholesale prices, for the purposes of resale or provision of facilities/services.
- There was a need to develop SMME's and BEE-based groups which could be facilitated by ensuring access to wholesale prices from facilities providers in the business model.

The Commission agreed that, in the future, all market tiers must be opened to new licensed entrants on a horizontal, rather than a vertical basis.

There was a need to define what must be done with existing vertical licences, which had to be converted into the new horizontal framework. It was agreed that existing licensees should have equivalent rights, including the rights to spectrum.

The broadband market should be unlocked in all the license tiers. The regular should also be in a position to set the terms of trade in the vertical market, between the tiers and specifically in respect of the infrastructure segment. This was to ensure fair-trading and equal opportunities for new and existing entrants.

The regulator should determine if issuing new licences in the future horizontal structure is feasible. Pre-requisites for issuing new licences should include Universal Service Obligations, BEE, and skills development, although all of these should be scaled for size (larger operations carry tighter requirements). The ICT charter must be taken into account. Existing, unlicensed infrastructures should be included in the licensing process, taking small players into account as well. In the area of broadcasting licences, community participation must be taken into account, potentially taking the place of the BEE requirements for the organization applying for the licence.

8.2

Regulatory Structure

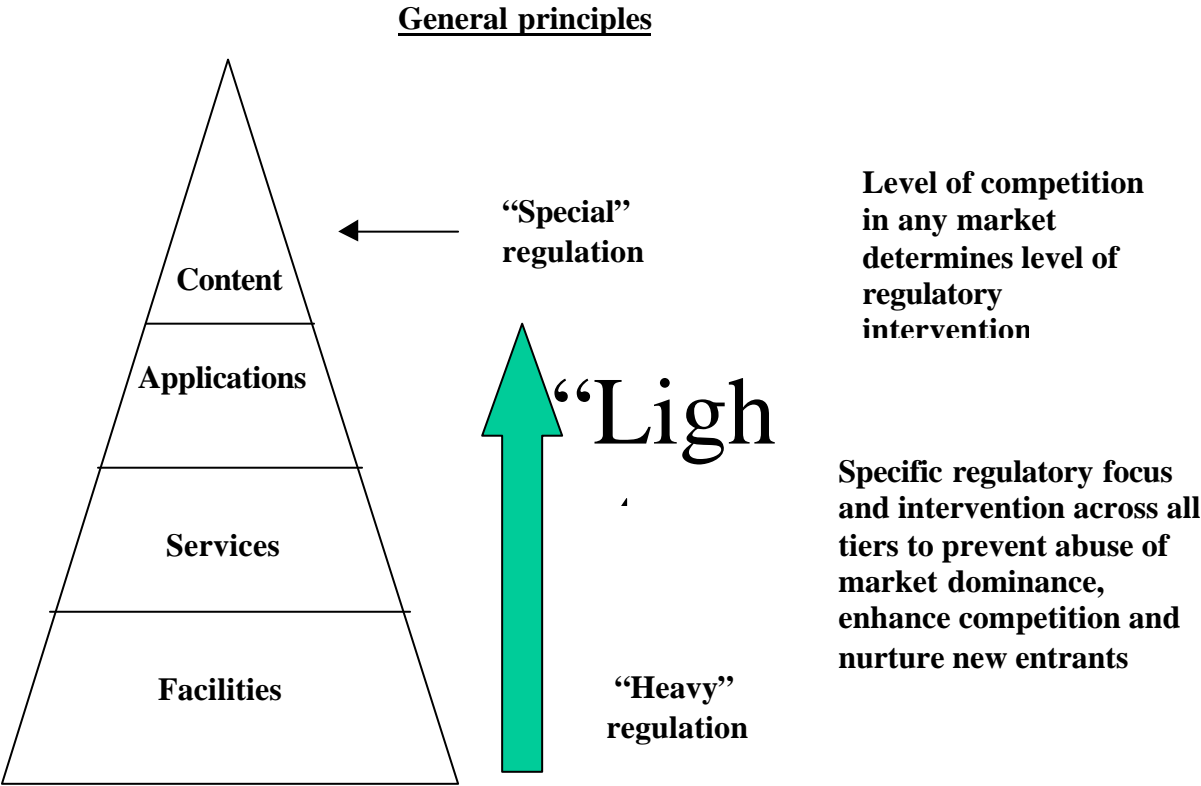
The commission recommended that there should be an independent, single sector regulator, addressing issues of content, technical regulation, cross-ownership and licensing. The regulatory body should be independent of any state organ with interests in the telecommunication sector and must be adequately funded and resourced. The regulator should

be accorded greater autonomy across the converged sector and empowered to make regulations, carry out feasibility studies, make decisions to grant licence types in line with policy, which remains an Executive function.

The commission heard a proposal that the postal regulator should be merged and integrated with the regulator of the converged sector. Questions were posed as to the additional burden that this would impose on the resources of the regulator as well as the relevance of the proposal in terms of convergence. The Commission heard that the Postal business is transforming and agreed that it was necessary to carry out a feasibility study into the concept as well as the timing of integrating the regulatory functions.

All agreed that the role of the Competitions Commission would remain vital in terms of examining and ruling on competitiveness issues as well as abuse of position by dominant players. The Commission recommended that a specialized task group should be established to clarify the roles of the Regulator and the Competitions Commission, including their cross-functional roles and to recommend amendments to the MOU between the two parties.

The following diagram illustrates the general principles of market regulation agreed by the commission.



8.3 Cross-Ownership

It was agreed that convergence would change the rules of the game as far as cross-ownership is concerned. It was agreed that cross-ownership is generally acceptable. Foreign-ownership rules would be required and the role of the Competition Commission would remain vital.

As far as the mass media is concerned, the commission agreed that the rules related to cross-ownership should reflect the current ICASA process, but would have to be amended to provide for convergence. The caveat was that public interest issues had to be taken into account and that the continued protection of the diversity of views was essential.

8.4 Spare Capacity Resale

This was and would remain a competition related issue between facilities providers and wholesalers.

The Network Operators present during the workshop do not support resale of capacity without a value added component. They felt that this was contrary to the licensing structure and rights of facilities licence holders.

All other delegates supported the opposing view that resale of capacity should be allowed. It was felt that service-based network licensees would only be able to operate on this basis, but that they must be licensed. There was a need to foster the entrepreneurial spirit within the ICT sector in the area of application development, and that allowing spare capacity resale would facilitate this. It was strongly felt that facility providers should be required to resell to service-based licensees, at a regulated price, but must be allowed an economic profit. Finally it was felt that pure resale should be allowed and that value-added restrictions should be removed.

8.5 Licensing

It was agreed that the following types of licences should be granted – individual, class, notification and frequency. There should be four tiers, infrastructure, services, applications and content, each with different classes.

There should be faster, more efficient licensing processes with timescales attached to the issuing of each licence type. A make analysis should precede licensing, especially for infrastructure licences. The frequency license application process must be more efficient. The barrier to market entry should not be raised through excessive licence fees and such fees should be based on sound economic principles.

The commission agreed that there must be a monitoring/compliance process for all issued licences.

8.6 Existing Licences

There should be an orderly transition from vertical to horizontal licensing structures. There should be set timeframes for the process and the rights of existing licence holders should be reviewed in the light of the new licensing regime.

Due regard should be given to the rights of existing licence holders, including frequency spectrum licences and rights provided that

- Maintenance of rights is not to be a tool to maintain exclusivity
- Maintenance of rights to be fair and equity-based
- Scarce resources (e.g. frequency spectrum) are fairly allocated
- Additional licences/rights to be granted to other existing players to ensure competition

It was recommended that the regulator should develop a framework for existing licences based on the examination of the rights of existing incumbents as well as equitable access to frequency spectrum by existing and new players.

8.7 Universal Service Obligations

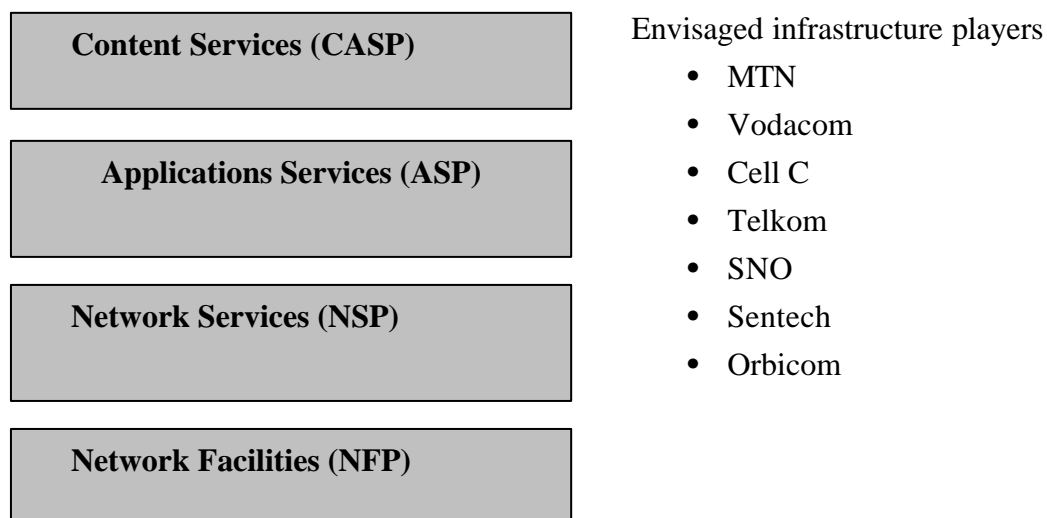
The Commission agreed that all licensees should contribute to the USA fund, based on a percentage of their revenue. There should be pay or play rules. Universal service obligations should be applied across the whole spectrum of the ICT industry.

It was recommended that the whole issue of universal service obligations and the role of the Universal Service Agency should be the subject of a broad investigation.

9. Summary: Areas of Consensus

Areas of Consensus:

9.1 Licensing Regime:



Licensing Category	Individual	Class
LAYER 1 Network Facility Provider	Fixed links and cables Radio communications transmitters and links Satellite equipment, Submarine cables Switching centre Public payphone facilities Towers, poles, ducts and pits used in conjunction with other network facilities	Niche or limited purpose network facilities
LAYER 2 Network Service Provider	Bandwidth services Broadcasting distribution services Cellular mobile services Access applications service Space services	Niche customer access Niche connection service

Licensing Category	Individual	Class
LAYER 3 Application Service Provider	PSTN Public cellular services IP telephony Public payphone service Public switched data service	Audiotext hosting services provided on an opt-in basis Directory services Internet access services Messaging services
LAYER 4 Content Applications Service Provider	Satellite Broadcasting Subscription Broadcasting Terrestrial free to air TV Terrestrial radio broadcasting	

10. **Communiqué issued by the Convergence Colloquium**

We as the ICT industry, have participated in a “Convergence Colloquium” hosted by the Department of Communications for the development of a convergence policy ensuring that the evolving needs of the ICT sector in South Africa are properly addressed.

The colloquium focused on policy and other issues arising out of the convergence between telecommunications, broadcasting and information technology.

The colloquium, which was attended by a broad spectrum of stakeholders from the ICT sector, has been an outstanding success. The contribution from the delegates has been of the highest order and will go a long way in informing the policy and legislation development process going forward.

Summary of main conclusions from the colloquium:

We need to continue with the managed liberalisation process.

The ICT industry needs appropriate policy changes in order for the economy to reap the benefits of new technologies and expansion of service offerings of consumer and citizens in general, to the benefit to all South Africans.

There is a need to change the licensing structure from a vertical to a horizontal regime and mechanisms need to be defined for the transition to the new licence regime. There is a need for an orderly movement to a new market structure.

There is a need for a new licensing regime that should place emphasis on technology neutrality, spectrum licensing that is transparent and equitable, and spectrum allocation based on the concept of scarce resource management and "national interest.

There is a need to change the regulatory regime to "light touch" with emphasis on self-regulation, co-regulation, encouraging effective competition, open, fair and equal access, faster and more efficient processes, with a strengthened and well-resourced regulatory agency. There will have to be a specific regulatory focus and intervention across all licence tiers to prevent abuse of market dominance, enhance competition and nurture new entrants

There is also the need to strengthen mechanisms for ensuring that there is effective competition in the new converged industry.

Local content creation and applications development needs to be encouraged.

There is a general commitment to universal access and service and BEE.

Follow-up Process

The chairpersons and rapporteurs of the four commissions will report to the Minister of Communications as soon as possible.

A committee consisting of chairpersons, rapporteurs and industry representatives will be established to focus on the preparation of Convergence Bill which will be completed within 3 weeks, and will include Government, the Regulator, Industry, Labour and Consumers.

18 July 2003