

**KEYNOTE SPEECH BY C. M. LEKAUKAU, EXECUTIVE CHAIRMAN OF
BOTSWANA TELECOMMUNICATIONS AUTHORITY, AND VICE
CHAIRPERSON OF THE DEVELOPMENT ADVISORY BUREAU OF THE
ITU-BDT ON THE OCCASION OF THE ITU-BDT DEVELOPMENT SEMINAR
OF TELECOMMUNICATIONS REGULATORS**

Geneva, Switzerland – 20 November 2000

Mr. Utsumi, Secretary General, ITU

Mr. Robert Blois, Deputy Secretary General, ITU

Mr. Hamadoun Toure, Director, ITU/BDT and other Directors

Distinguished Delegates

Fellow Seminar Participants

Ladies and Gentlemen

INTRODUCTION

It is indeed a great honour to me for having been invited by the Director ITU/BDT, Mr. Hamadoun Toure, to be one of the keynote speakers in this seminar which has brought all telecommunications regulators from the whole world for the purpose of exchange of views in this new and vexing topic of telecommunications regulation. I am sure that we will learn from each other but more particularly establish channels of communication among ourselves.

Let me briefly map out a background to my country – Botswana. It is a landlocked country bounded by South Africa, Namibia, Zambia and Zimbabwe with a total land mass of about 582,000 square kilometres or of the same size as France in Europe or Kenya in Africa or Texas in the United States. The population is about 1.5 million and therefore one of the least densely populated countries in the world. Whilst most of the population is concentrated along the eastern corridor, there are nevertheless scattered rural communities throughout a country, 80 per cent of which is covered by sandy lands of the Kalahari semi-desert. Given the large size of the country with an unevenly distributed population, the provision of telecommunications infrastructure is most problematic and hence a headache to both Government, the operators and to say the least, the regulatory body.

LIBERALISATION IN BOTSWANA

Botswana Telecommunications Authority (BTA) which is the new Telecommunications regulatory body in Botswana is almost 4 years old having been set up on 20th December 1996 when the Board of 5 persons was appointed (Three women and two men).

Therefore, BTA is still in its infancy compared to its counterparts in other parts of the world like OFTEL in the United Kingdom and Federal Communications Commission (FCC) in the United States and as such it is still in a learning curve with peaks and troughs in sight.

Botswana, has since her independence in 1966, encouraged the private sector to provide goods and services and this has led to her becoming one of the first countries in the Southern Africa Development Community (SADC) region to liberalise the telecommunications industry. Botswana's policy is that government should rid itself of services which can best be provided by the private sector. In the telecommunications industry, this step was initiated in 1994 culminating in the adoption of a Telecommunications Policy in December 1995 after nationwide consultations. Parliament has also approved a Privatisation Policy which will be used as a guideline for the privatisation of parastatal entities and the incumbent fixed line operator, Botswana Telecommunications Corporation will be in the bandwagon of the privatisation process.

The main objective of Telecommunications Policy was to lay down a framework for the liberalisation of the industry through the creation of an investor friendly environment that would ensure a process of transparent, fair and healthy competition. A tripartite separation of the functions of government as a policy maker; the operators; and an independent regulator as an impartial referee in the market place were to be subsequently put in place.

This policy gave birth to the Telecommunications Act which was passed by Parliament in August 1996 leading to the establishment of BTA in December 1996 with the following functions –

- Licensing of telecommunications and broadcasting operators;
- Dispute settlement amongst stakeholders with decisions of BTA challengeable in the High Court only;
- Tariffs approval;
- Promotion and monitoring of free and fair competition;
- Allocation and management of the radio frequency spectrum;
- Type approval of terminal equipment; and
- Protection of consumers.

ACHIEVEMENTS

The concrete achievements so far realised have been the licensing of two GSM cellular operators in February 1998 involving joint ventures between citizen owned companies and foreign investors like France Telecom, Portugal Telecom and TSM Holdings (Zimbabwe). Two private radio broadcasting licences were issued in 1999. These licences also involve joint ventures between citizen owned companies and foreign investors from our neighbours in South Africa. In addition, BTA has also licensed value added telecommunications services on a competitive basis. A large number of radio licences have also been issued as well as type approval certificates.

The mere threat of liberalisation has led the incumbent fixed network operator, Botswana Telecommunications Corporation (BTC), to expand its network at an increasing pace and to start offering new range of services. The teledensity has increased since 1995 from 3.3 per cent to around 8.7 per cent at present with total customer base of over 131,000 lines as at September 2000. However, the mobile operators have now overtaken BTC with a combined customer base of 159,000 lines or a teledensity of 10.6 per cent in about two years' time.

CHALLENGES

Our experience so far has revealed the following points which need to be taken on board by up and coming regulatory bodies in order to start with a better slate –

- The expectations on the new regulator to rapidly transform a well established monopolistic industry are often unrealistic. New potential entrants into the market as well as consumers cannot understand why things are not happening immediately when a new Act or Policy has already been introduced;
- The new regulator often has to deal with delicate and complicated issues such as interconnection disputes, tariff matters and competition issues soon after its establishment without the requisite expertise in order to keep pace with high and over simplistic expectations of the various stakeholders;
- Even regulators with a lot of independence and a strong mandate need to earn their credibility and it becomes important to get the first major decisions right in spite of limited experience and often with human and financial constraints. This often results in long processes to see that things are done well in the confidence building exercise but may be interpreted as delays by stakeholders;
- In the developing world there is a lack of experienced professionals in many disciplines and the human resources needed to efficiently regulate the telecommunications industry are virtually non-existent;
- Complex regulatory matters need to be addressed simultaneously with the daunting task of starting an organisation, which has not yet crystallised its procedures.
- Telecommunications experts in the specialised telecommunications regulatory field can be useful but they are hard to come by and extremely expensive;
- For the new regulator to make maximum use of the expensive consultants, it also needs capacity to assimilate and receive the advice provided so that there is transfer of technology in the process being value for the money spent on fees;
- Lack of accumulated information about the industry which had hitherto been controlled by the incumbent operator that may also be hostile to the competitive environment is a serious impediment to both the regulator and the new operators. The new regulator is therefore unable to determine with degree of certainty whether the incumbent operator uses its dominant position in dealing with other operators.

It has also occurred in some other jurisdictions that Governments may at times regard a regulator as another government department or a parastatal which can be given political directives which erode the autonomy of the regulator. This should not be allowed to happen because an investor friendly environment which is being created peters out immediately if investors discover that their investments will be subject to political judgements rather than professional decisions.

Fortunately, BTA has never been subjected to such a treatment and government has continuously reiterated that BTA is politically and economically independent from government. This assurance was recently repeated by the Honourable Minister of Works, Transport and Communications during the official opening of the ITU-BDT Forum on Telecommunication Regulation in Africa which was held in Botswana from 25 to 27 October 2000. This independence is built in the Telecommunications Act in that decisions of the BTA are only subject to review by the High Court and also the revenue generated from its operations are for its use and are not passed on to Government.

SUGGESTIONS ON COOPERATION AMONG REGULATORS GLOBALLY

Botswana is a member of the Telecommunications Regulators Association of Southern Africa (TRASA), which brings together 14 regulators in the Southern Africa Development Community (SADC) Sub-Region. You will hear more about it from its current chairman Mr. Evans J. Namanja who will speak later in the day. Botswana benefits from the exchange of views and experiences made possible by this co-operation at sub-regional level. However, as we are aware telecommunications knows no borders, whether national, sub-regional or continental. The problems that we experience in regulation are similar across the world and regulatory decisions taken in one part of the world often have implications for other parts of the world. Therefore, Botswana would like to see some form of cooperation also established at a global level.

If I may be permitted, I would like to gloss over present efforts aimed at initiating co-operation at continental level in Africa. Again, through the initiative of the ITU-BDT, a successful forum on Telecommunications Regulation in Africa which I have alluded to was held in Botswana early this month. The forum highlighted the need to give special attention to a number of issues in regulation and agreed to start a mechanism of consultation to be studied by a committee of five chaired by the Regulatory Authority in Botswana with other members drawn from Benin, Central African Republic, Morocco and Uganda. This committee will report to the next forum to be held in Morocco in 2001.

Regulators in some continents, for example the Americas, Europe and Asia, have more experience than Botswana, in regulation in terms of timeframes and the complexity and sizes of the markets that they regulate. Botswana believes that it will benefit from the lessons learnt by such regulators in key areas of regulation such as interconnection, tariffs, and licensing (including the licensing of 3G mobile operators). The regulation of the Internet poses a great challenge to regulators especially in countries like Botswana where there may still be a measure of exclusivity to the incumbent national operator. We would also wish to share the experience of other regulators in dealing with this issue.

- It is possible that a number of ways of exchanging views and sharing experiences at a global level can be identified. Botswana is of the view that establishing a regulator's hotline as has been proposed for discussion in this forum, is a good starting point towards implementing co-operation among regulators.

Apart from the government of Botswana, BTA is grateful for the generous support it has enjoyed from ITU and other co-operating partners and we look forward to being part of the global co-operation on regulation.

PULA! PULA! PULA!