Introduction

My name is Monamodi Owen Thothela. I am a student registered for the Masters of Management in Information Communications Technology Policy and Regulation (MM-ICT PR) degree at the University of the Witwatersrand, Johannesburg. I am currently undertaking a qualitative research for under the supervision of Ms. L. Abrahams (e-mail: luciennesa@gmail.com). My research topic is: The influence of regulatory approach on competition in the South African pay-TV market. I hereby request your assistance to participate as a respondent in this research. Your response will be dealt with in a confidential manner as required by the University's code of research ethics.

A brief background into the South African subscription television broadcasting market is provided followed by succinct explanation of potential barriers to enter this market and a brief explanation of regulatory approach. Having gained awareness of the parameters of the study you will then be requested to answer eleven (11) questions based on your understanding and perception of the South African subscription television broadcasting market.

Background

On 31 January 2006 The Independent Communications Authority of South Africa (ICASA) issued an invitation to apply for subscription television broadcasting services. The objective of this invitation was to attract investment in the broadcasting industry. Eighteen (18) applications were received and five were licensed, namely, Multichoice, E-Sat, On Digital Media (ODM), Walking on Water (WOW TV) and Telkom Media. During May 2010 ODM launched its new subscription television service, Toptv. Toptv was to offer competition to the dominant incumbent; Multichoice operating as Dstv. This was promoted as a triumph for competition and consumer choice. Currently, only these two of the five licensees are operating in this market. This situation raises concerns relating to the possibility of presence of significant barriers to enter this lucrative market.

Barriers to entry

In 2004 ICASA published a discussion paper named: Inquiry into subscription broadcasting. This paper indicated that there were a variety of potential barriers to enter the South African subscription television broadcasting market. These barriers are grouped into two categories; namely; technological and competition barriers to entry. The table below provides a summary of these barriers to entry.

Table 1: Summary of potential barriers to enter the South African subscription television broadcasting market.

Technological barriers	High infrastructure costs. These relate to the costs attributed to broadcasting studio costs, satellite uplinking costs and transponder capacity leasing costs. These costs can be prohibitive if a new operator is not properly capitalised, particularly in the first 4-5 years of operation.
	The costs of the Set-Top Box (STB). The cost of developing a STB that is proprietary is high and often leads to a high consumer price. This could prohibit customers from purchasing a new substitute service.

	Applications Programme Interface (API). The API is comparable to the Windows operating system that screens users from the complexity of the computer hardware. The API is the operating language that controls the operation of the STB and which applications need to interact in order to deliver services. In an environment of interoperable STB the API of the incumbent could act as a deterrent to entry as the procedure for getting software checked and delivered to the STB could be restrictive and a source of delay, the API might be unable to support the desired service, the operator may refuse to provide access to the technical specifications required to interact with the API and access may be provided but not on advantageous terms.
	Conditional Access Systems (CA). The primary purpose of a CA system is to ensure that there is an auditable means of ensuring that payment is received in return for the consumption of broadcasting programming. The CA system enables access to certain programming conditional upon payment for the content received. A new entrant may have challenges in accessing the incumbent's CA system as there is a great deal of intellectual property that is associated with CA systems. To disclose the design details of the CA system could compromise the commercial integrity of existing and future broadcasting operations. As a result the costs associated with the procurement of CA systems could be prohibitive.
	Electronic Programme Guide (EPG). EPG is comparable to the software used to navigate the Internet, for example the Internet Explorer or Netscape web browsers. EPG is the point of strategic control in a subscription television environment as they are the first service which the viewer encounters when a digital receiver is switched on. They are used to inform the viewer of programme/event schedules and they also are used to display and sort lists of available services on the particular delivery system or bouquet providers' spectrum allocation. The EPG can therefore be a potential barrier to entry for new entrants in that the dominant player or EPG controller can dictate which channels take prominence by dedicating the first few positions on the EPG to its own service.
	Availability of satellite transponder capacity. Satellite distribution is often used for national reception. One of the most costly ways of positioning by the incumbents would be to lease most of the available satellite capacity in the target market footprint. However, this will block out any aspiring entrants. In the event that this happens, there may be a scarcity problem for the distribution platform of new entrants. New entrants are expected to negotiate favourable lease terms for the satellite capacity; if this were not possible transponder capacity could become one of the highest operating cost items.
	Subscriber Management Service (SMS). The incumbent subscription television operator would have many years of experience in the SMS business. This is one of the challenges that new entrants will have to deal with. One of the biggest challenges of SMS apart from the technology is the human resources to manage subscribers. The role of an SMS is not only to record churn, but to strive to reduce it to the lowest level possible. Customer relationship programs are needed to run an efficient SMS operation. The biggest challenge is where to find the people to run a SMS without poaching from the sufficiently resourced incumbent operators. ***End of Technological barriers to entry***

Competition barriers	Market power of the incumbents. In 2003 the South African subscription television market was characterised by significant barriers to entry. These barriers included the embedded costs of distribution, the need for economies of scale in distribution, access to content and the extent to which the incumbent subscription broadcaster is dominant in key subscription television broadcasting areas.
	Control over the value chain. Most subscription television broadcasters regard control over the value chain as key to the success of their service. This control creates the ability to limit effective entry of competition, if a dominant player so wished.
	Costs of Programming Rights. It is estimated that the cost of programming rights constitutes about 50% of total operating costs for a subscription television broadcasting service. Programme content, therefore represents the major challenge for new subscription television broadcasting services who need to secure three types of content which are: (1) ‘must have’ premium content that will make a household invest in a dish and set top box and initial subscription, (2) a range of ‘basic’ content packaged to address different consumer interests to ensure ongoing spend and (3) a range of interactive services and content to differentiate itself and offer added value services to consumers which both increases revenue and reduce churn. International experience shows that the facilitation of content competition is necessary to ensure viable platforms. Regulatory intervention could guarantee premium content access by regulating exclusivity. New entrants should also have the ability to secure premium content to key broadcast channels on fair and equal terms. This is also applicable to the ability to secure exclusive access to key content.
	Access to key rights and Channels. There is a limited supply of premium programming as it is confined to few genres owned by a few rights holders, and the cost of premium rights is high and rising. Dominant operators are better placed to secure this content because (1) they have already tied up many key rights and (2) they are increasingly integrated with content creation. The ability to invest in content is correlated to subscriber numbers, as a result incumbent operators benefit from a virtuous circle of investment, making it difficult for new or smaller service providers to outbid them for key rights. International experience demonstrates that access to premium content across platforms (particularly for new entrants) is essential for their success.
	Ability to promote services on other broadcasting services. In order to build demand for a new platform, new entrants will have to be able to market effectively. If the new entrants cannot promote their services on a competing subscription broadcasting service or free-to-air broadcasting services on fair and equal terms this could hinder their potential for success. M-Net was initially given the free-to-air “open window”; daily between 17h00 and 19h00, until it obtained 150 000 subscribers. As a result, M-Net benefited profitably from this business model. This licence condition was later changed, however it does provide an indicator that the original intention of the free-to-air “open window” was to encourage the sustainability of the subscription broadcaster by providing it with an opportunity to promote its broadcasting services to free-to-air audiences. ***End of Competition barriers to entry***

Source: ICASA. (2004). Discussion paper: Inquiry into subscription broadcasting.

Regulatory Approach

Heavy-handed regulation is a regulatory occurrence when the sector-specific regulator is heavily involved throughout the wide spectrum of the market through the promulgation of regulations that are aimed at altering the behaviour of the market participants and changing the market structure.

Light-touch regulation is a regulatory occurrence when the sector-specific regulatory intensity declines due to the sector-specific regulator's perception that the market is competitive enough to provide incentives needed to obtain desirable outcomes. Sector-specific regulation would still be required to ensure fair trading practices.

Questions

1. Are these barriers (being potential or real) still applicable in this market?
2. Do these barriers have significant impact on competition in the market?
3. How do these barriers impact competition in the market?
4. How do these barriers impact on convergence in the market?
5. To what extent is the current form of competition in the subscription television market effective and sustainable?
6. How can competition in this market be stimulated?
7. Is there a need for an update of the subscription television licensing regime?
8. How would this update affect competition and convergence in this market?
9. Is there a need for a change of the applicable regulatory approach (from light-touch to heavy-handed regulation)?
10. What would be the reasons for this change in regulatory approach?
11. What new regulatory approaches are needed?

These questions could lead to further probing questions during the interview that are aimed at enhancing the depth of the study. The duration of the interview is expected to be ± 45 minutes.

Thank you.

Regards,

M. O. Thothela.

Mobile: 082 888 2415

Email: o.tothela@gmail.com or Owen@neoprojects.co.za