

## REVIEW OF RESEARCH PAPER: ECONOMIC REGULATION

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Hawthorne, R., Bonakele, T., & Cull, D. (2014). *Review of economic regulation of the telecommunications sector*. Johannesburg, South Africa: Centre for Competition, Regulation and Economic Development (CCRED), University of Johannesburg. Available from [http://www.competition.org.za/s/1400407\\_EDD-UJ\\_RECBP\\_Project-Report\\_App10\\_Telecommunications-Sector-Review\\_Final.pdf](http://www.competition.org.za/s/1400407_EDD-UJ_RECBP_Project-Report_App10_Telecommunications-Sector-Review_Final.pdf) or [https://static.squarespace.com/static/52246331e4b0a46e5f1b8ce5/t/537f2e60e4b0b4236d47a5bb/1400843872601/1400407\\_EDD-UJ\\_RECBP\\_Project%20Report\\_App10\\_Telecommunications%20Sector%20Review\\_Final.pdf](https://static.squarespace.com/static/52246331e4b0a46e5f1b8ce5/t/537f2e60e4b0b4236d47a5bb/1400843872601/1400407_EDD-UJ_RECBP_Project%20Report_App10_Telecommunications%20Sector%20Review_Final.pdf)

[Editor's Note]: The article titled Economic regulation of the telecommunications sector in South Africa 2009-2014, published in this journal issue, is based on the research paper referenced above. It would be important to readers interested in the field of economic regulation and competition to read the full research paper, hence the inclusion of this review to direct readers to the more detailed work. The paper was produced as part of the regulatory entities capacity-building project, commissioned to the Centre for Competition Regulation and Economic Development (CCRED) at the University of Johannesburg, by the Economic Development Department.

### COMMENTARY

As South Africa moves into the White Paper phase of its ICT policy review process, a comprehensive assessment of the kind undertaken here by Hawthorne, in respect of the telecommunications sector, its performance and impact, and its regulatory oversight, is indeed timely and valuable. Hawthorne and his collaborators provide an in-depth assessment of the regulatory function and its performance with respect to the telecommunications sector in South Africa that is seldom attempted. Comparisons can be made with the historical work of the LINK Centre (Esselaar & Gillwald, 2007) and of Research ICT Africa (Gillwald, Moyo & Stork, 2012), and, to a lesser degree, with other recent work undertaken to inform the ICT policy review process (BMI-T, 2013).

What sets Hawthorne's work apart is its greater academic rigour. Situating its analysis within the context of the academic discourse on economic regulation, it explores the complex set of relationships between communications infrastructure rollout and regulatory effectiveness on the one hand, and the performance of the ICT sector and economic growth on the other.

Readers of the report, including policy makers, regulators and students of sector performance, will find much of interest and value in its various sections. In particular, the sections charting the performance of the telecommunications sector and assessing the effectiveness of the sector regulator, ICASA, will be of interest to researchers and analysts. Likewise of interest are the two case studies, dealing respectively with (i) ICASA's relatively successful struggle to regulate call termination rates,<sup>1</sup> and (ii) its stalled foray into local loop unbundling (LLU).

The danger in undertaking a review of the performance of the telecommunications sector (Chapter 4) is that the data becomes rapidly outdated. However, the information presented here is less concerned with the latest raw numbers, but rather focused on identifying trends across the period 2005 to 2012, and on discussing and analysing their implications. The areas covered range from teledensity, pricing and quality of service, through investment, employment and profitability, to the level of competition in the sector and the ITU's ICT Development Index.

Equally valuable is the review (Chapter 5) of the performance of the regulator, ICASA, and to a lesser extent, of the competition authorities. The starting point is an analysis of the various regulatory performance assessment tools on offer, moving on to the application of a slightly modified version of the approach set out in Brown, Stern, Tenenbaum and Gencer (2006). Whilst its conclusion that 'there are important flaws in the regulatory framework for the telecommunications sector' (Hawthorne et al. 2014, p.99) will surprise few, the analysis and the conclusions are thoughtful and considered.

The two concluding and contrasting case studies address areas of policy and regulation – call termination rates and local loop unbundling – that have occupied much public debate in the past several years. Both are key areas of regulatory intervention necessary to achieve a more competitive level playing field in the market. These cases are grounded in a consideration of the theoretical literature underpinning the competitive justifications for such interventions in the market, which gives a degree of generalisation to the discussion.

In relation to the call termination rate intervention, Hawthorne et al. concludes that this 'facilitated significantly greater competition, not only in voice markets but in a range of adjacent markets ... [despite the risk of the high degree of asymmetry in the rates] favouring competitors at the expense of competition' (Hawthorne et al. 2014, pp.135-136). By contrast they suggest that the LLU process undertaken by ICASA has been bedevilled by 'political interference or at the very least a lack of political will' and concludes with the pessimistic assessment that 'the functional separation [imposed by the Competition Commission] and LLU process may not be effective' (Hawthorne et al. 2014, p.164).

Whilst the report as a whole is valuable and important reading for those working in South Africa's ICT sector, be they academics or practitioners, policymakers or regulators, it is not without shortcomings.

1 The conclusion of the call termination rate issue only came some months after the publication of this report with the issuing by ICASA of final call termination rate regulations at the end of September 2014 (ICASA, 2014).

For instance, although there is a common thread concerned with the promotion of competitive telecommunications markets that runs through the report, the relationship between the various sections and their contribution to the whole is not always sufficiently clear. In particular, the section dealing with the economic impacts of telecommunications, whilst providing a valuable overview of the literature and debates on the issue, could have been more strongly placed as a foundation for a review of the performance of the sector and the effectiveness of its regulation. It is perhaps outside the scope of this report to interrogate some of the assumptions and modelling frameworks of the work this section reviews, but it is of interest to note that some recent work in the field casts doubt on the accepted models and suggests an altogether more complex dynamic at work (Mayer, Madden & Dang, 2014).

Whilst the focus on economic regulation is important and underpins the pro-competitive animus of this report, for a fully balanced assessment it is also necessary to give due weight to the social aspects of regulation, along with those concerned with resource allocation and control. The economic regulation framework adopted here effectively prevents proper attention being given to issues such as universal access and service, quality of service and consumer protection (there is some mention of these issues in the report, but less than the attention they deserve). One also ponders whether a case study on the debacle around spectrum, for example, or the failure of universal access and service interventions, could have been accommodated within the economic regulation framework.

A final, if explicitly chosen, limitation of the report is the fact that it restricts its scope to telecommunications. The realities of the phenomenon known as convergence, and the resultant blurring of the boundaries between the traditionally distinct realms of telecommunications, broadcasting and information technology, render it increasingly difficult to consider any one of these spheres in isolation. Likewise the resultant interplay, complex and dynamic, between infrastructure and services, markets and providers, content and applications, has led commentators such as Fransman (2010) to characterise the environment with the phrase that has since become somewhat of a cliché: the 'ICT ecosystem'<sup>2</sup>. Granted, it is often necessary for the sake of simplifying the analysis to restrict one's scope to an area like telecommunications, as this report does. However, one does so at the risk of bowdlerising the environment, and so some form of caveat is in order. And, while it would be churlish to insist that a report like this should also encompass broadcasting and postal services, a fully balanced regulatory performance assessment must surely also consider how ICASA has fared in respect of these equally key areas of its competence. This report expressly does not venture into these areas, but it needs to be read bracketed by an awareness that there is a bigger world out there.

The few quibbles above aside, this report is a valuable addition to the debate on and the assessment of South Africa's ICT policy and regulatory environment. It not only provides a careful evaluation of the regulation of the sector, but situates its appraisal within the context of the academic discourse on economic regulation and its assessment. Its data, analysis and conclusions provide important input into the ongoing review of the ICT sector, and furnish a useful framework for future evaluations.

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2 It seems we also have a broadband ecosystem and an Internet ecosystem.