

Association of Independent Internet Service Providers

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AIISP's Position on the Telecommunication Amendment Bill, 2004

The Association of Independent Internet Service Providers (AIISP) commends the Government of Trinidad and Tobago, and in particular, the Ministry of Public Administration and Information for recent initiatives to accelerate proclamation of the Telecommunications Act, 2001.

Having reviewed the legislation, which is currently before Parliament entitled, *The Telecommunications Amendment Bill, 2004*, the AIISP has several concerns for the implications and repercussions that the passing of such Amendments will have on the telecommunications sector as it relates to fair competition and the pace of liberalization.

AIISP recommends that:

1. **Internet Service Providers and Internet services should not be regulated,**
2. **Telecommunications Services of Trinidad and Tobago's (TSTT) Internet Division be spun off as a separate business entity to guarantee a level playing field**
3. **The moratorium granted to TSTT under the Telecommunications Act, 2001 be reduced from one year to ninety (90) days**

In the overriding majority of liberalized markets where telecommunications has reached an advanced stage, regulations are designed to ensure that former monopolies, also known as incumbents, are not permitted to use their market power and control over key telecommunications infrastructure to stifle competition. In addition regulations are also used when a public interest resource such as finite spectrum must be allocated.

The Internet Should Not Be Regulated

The intent expressed in the Telecommunications Bill, 2004 to regulate the Internet, Internet related services and Internet Service Providers is contrary to demonstrated successful strategies used in developed markets such as the US, Canada and Europe to promote rapid growth and penetration of the Internet and the building of true knowledge based and driven societies. Countries who have resisted the temptation to regulate the Internet are those who now boast the highest levels of e-Commerce activity, Internet literacy, IT entrepreneurship, investment in technology start-ups and are always on the positive side of the digital divide.

Regulation of Internet services can only serve to retard the pace of liberalization, curtail competition, diminish the likelihood of Government meeting its own objectives set forth in its Vision 2020 and ancillary NICT plan, and stifle direct investment into technology initiatives such as the planned Waller field Technology Park. Governments around the world are now rethinking the legacy of a "command and control" approach to the telecommunications sector in favor of a "market based" approach where customer care, quality of service and price are the hallmarks of successful enterprise and not lobbying and legal efforts.

With Internet connectivity embedded in more and more household devices and Internet access penetrating almost everywhere, Governments who have sought to regulate the Internet have failed, with the notable exception of China. In short, regulation of the Internet is not consistent with Government objectives of free trade and Government's positioning of the country as a viable headquarters site for the Free Trade Area of the Americas (FTAA).

Since 1995, the Internet in Trinidad and Tobago has emerged as the only glimmer of competition in the telecommunications sector and has created numerous jobs and IT training. The industry has demonstrated its capacity to engender and sustain homegrown entrepreneurship. Instead of attempting to regulate the Internet and subjecting new entrants to bureaucracy, Government should jump start this competitive sector by de-regulating, establishing quotas for new entrants for all government tenders and ensuring fair play.

TSTT's Internet Division Should be Spun Off

Although the AIISP supports sections of the Telecommunications Act, 2001 which address the issue of cross subsidization and discriminatory practices of the dominant provider, there is an urgent need to regulate TSTT in this area. In fact, unfair competition has persisted for years in the Internet arena and has resulted in TSTT enjoying a market share in excess of 90% in this segment.

Specific examples of unfair trade practices, which have hindered competition, include:

- Price discrimination against Internet Service Providers
- No equal access to TSTT facilities on a non-discriminatory basis

- No timely circuit provision
- Cross subsidization through use of a toll free number which, if offered to competitive ISPs, is at a price which equates to a 500% premium
- No collocation of facilities which severely limits a competitive ISPs ability to service the entire country

It is our firm view that the sole mechanism for guaranteeing that the above unfair trade practices are not continued is for TSTT's Internet division to be spun off so that accounting separation, transparency and a level Internet playing field will be ensured. Government should mandate such a spin off as part of the general liberalization process and should embark on this process with urgency.

TSTT's moratorium of one year

The Telecommunications Act (2001) was originally passed in 2001. With the passage of time, TSTT has already had a lead-time in excess of three (3) years to prepare itself for competition and prepare its applications for concessions. Therefore, under Section 85 Subsection (9) it is no longer necessary to grant TSTT an ADDITIONAL one-year moratorium.

The Association of Independent Internet Service Providers is a national association of private ISPs whose members are: Carib-Link Limited, CableNett Limited, Cari direc, eFREENET/ Caribbean Interactive Multimedia Limited, Illuminat Limited, InterServ Limited, ITAL Limited, Lisa Communications Limited, Opus Networx Limited, and WOW Net (2001) Limited.

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