

## **(DE)REGULATING THE TELECOM INDUSTRY**

**By: Atty. Christopher E. Cruz**

Twenty years ago the Philippine telecommunications industry was a virtual monopoly. With an outmoded law (Public Service Act of 1935), lack of competition and scarce resources, the industry hardly grew.

In an effort to dismantle the monopolies and cartels, the Ramos administration issued two key Executive Orders: (1) E.O. 59 (1993) – which required mandatory interconnection of dominant carrier PLDT with other telecommunications companies; and (2) E.O. 109 (1993) – which laid down the universal telephone service policy. These twin executive orders paved the way for the liberalization of the industry.

In 1995, the privatization of the industry was sealed with the passage of R.A. 7925, otherwise known as the “Telecommunications Policy Act”. The law opened the industry to new players and leveled the playing field through the introduction of the “Service Area Scheme” (SAS). The SAS divided the country into eleven service regions and required telecommunications entities to establish a minimum of 300,000 local exchange landlines and 400,000 local exchange mobile lines per region served until 1998.

This resulted in a major improvement in teledensity. The measure also attracted foreign products and services with the entry of AT&T, MCI WorldCom and Sprint into the country. The deregulation of the industry was finally under way. The once stagnating industry is now fast becoming the most vibrant sector of the economy.

The change from the traditional concept of telecommunications being regulated as a public service to a highly complex and competitive one raises several nagging issues like interconnection problems, a shift from SAS to Universal Service, convergence and telecommunications fraud. The latest problem hounding the industry is the lack of a comprehensive competition policy that would govern the new competitive environment.

The deregulated environment has brought about intense competition in the industry. The new policy spawned the entry of new players and awakened the dominant carrier from its slumber. This has challenged the private sector to keep pace by offering the best services at the lowest rates. Unlimited calls and text services, which were unheard of in the old regime, are now a standard service. With the onslaught of promotions and rock-bottom prices, the obvious winner is the consumer. However, this has created a new challenge to the government. Are the present laws still reflective of the changes in technology and the way business is now conducted? Should the government monitor and regulate the very way the players compete?

Ten years after the passage of the landmark Telecommunications Policy Act (RA 7925), it seems that there is need to make a second hard look at the law and propose amendments towards adopting a new comprehensive competition policy. With the emergence of new technologies, the old notion of competition under the Act is no longer applicable.

For example the present mobile phone pricing scheme, with the trend towards unlimited offerings, should be reviewed as it may lead to network congestion and disservice to the consumer. The concept of “predatory pricing” now needs fine tuning with the recent price war between Sun Cellular and industry leaders Smart and Globe over the former’s 24/7 unlimited offer. There is also a need to spell out what constitutes “monopoly” under the new environment considering that the competition envisioned by the law may create a new kind of “monopoly”. In other words, there is a need to overhaul the very law that gave birth to the liberalized industry.

In the midst of liberalization and intense competition, proper safeguards must be put in place to sustain the dynamism of the industry. Hence, amendments to the Telecommunications Policy Act are in order. The creation of a separate Department of Information and Communications Technology, the passage of a Convergence Law and legislating for stronger protection against telecommunications crimes should follow suit.

For the Philippines to be at par with other countries in the global telecommunications industry, the laws should be responsive to the changes in this most vibrant sector of our economy. A deregulated environment encourages competition, but competition itself needs regulation.

*Atty. Christopher E. Cruz is chair of the Commercial Law Department, De La Salle University.*