Commentary on "Policies for equitable access"

by Lishan Adam

Amy Mahan, June 2008[1]

[1] This is a commentary on the issue paper Policies for equitable access, by Lishan Adam. It is part of a series on equitable access to ICT infrastructure commissioned by APC for an event on equitable access which took place in Rio de Janeiro in November 2007. The papers and commentaries can be found at: www.apc.org/en/pubs/research

Policies for equitable access by Lishan Adam argues that a well-balanced public policy is a precondition to addressing the universal access gap. This commentary posits that while an enabling policy environment is fundamental, progress also needs to be reflected at a practical level while policy objectives are being negotiated. As Adam observes, there has been heightened interest around information and communications technologies (ICTs), but failure to come through on good intentions. There are many reasons for failures to deliver on policy. In general terms, failures may be because policy prescriptions are overly ambitious given local realities, or because they specify technologies or technological frameworks rather than allow for innovative uses of more appropriate technologies. Equitable access policies must be put into practice by creating an environment where incentives and obligations guide sector activities, and regulation is a predominant mechanism for doing this. Regulation facilitates the implementation of policy decisions. Just as we need to identify different historical and underlying factors impeding equitable access to ICTs that must be addressed by policy design, we also need to identify the regulatory terrain as distinct from the policy forum.

The layers addressed by regulation consist of ICT infrastructure (the cables and signals), network services (service providers who broker users' access to the network), information and content applications and services (which may be provided by government or the private sector), and the end-user context of accessing the network, consuming services and productively using applications. What should happen at all of these layers is advanced in national (and sometimes international) policies. Policies can articulate general norms such as "affordable access to ICTs", or be more specific, such as mandating that every high school have broadband connection to the internet, and x number of computers be available for y number of students. Regulation, in its finest form, creates the conditions for policies to become reality by setting rules that, for example, limit the amounts that can be charged for telephone services, or require operators to develop a predefined amount of infrastructure each year as part of their licence conditions.

Adam moves between policy issues and regulatory issues without distinction, and indeed, the two are inextricably intertwined. However, there is a need for clarity on how each one is failing developing countries in its own way.

The paper begins with a table documenting the distribution of access to key ICTs by continent. Rather than follow tradition and indicate those with access to ICTs, the table documents the percentages of world population without access to mainlines, mobile telephones, computers and the internet (for 2007). This is an interesting way of elevating Africa's position to the top of the chart. This view, and that of the paper generally, provide an important snapshot of the needed regulatory and policy directions for further connecting people to the network across the developing world. Much has been made about the success of mobile. This paper takes the other starting point: that very little has worked to date and that we need clear vision on the present obstacles.

This bleak view of access is followed by a short taxonomy of different access factors that need to be addressed by ICT policies. These encompass the economics of access and the ability to prioritise access to ICTs, sector reform to extend infrastructure, rural and urban divides, gender and equitable access, access for those with physical disabilities, and appropriate content available for delivery over ICT infrastructure. These already-existing divides form the panorama of policy foci for policies around equitable access to ICTs.

How does this situation get fixed? The author argues that privatisation "was not the answer". While there is more recent evidence concerned with flawed markets failing to deliver,[2] a 1999 article is drawn upon to support this view, which does not encompass the infrastructure development that has occurred during the intervening eight years. Even so, by 1999, arguably there was evidence that if not a perfect solution, moving telecom from monopoly to market provision did in fact result in the rapid shortening of long waiting lists, increased investment in infrastructure and, of course, the establishment of (independent) regulators around the world. Perhaps a more accurate phrasing is that privatisation was only a partial step, and that deeper regulatory reform is still required in most developing countries to create the kinds of conditions that will attract investment into a sector, bring in new competitive players, ensure interconnection across competing networks, and so forth.

While a handful of countries have managed to resist the dominant models preferred by the international multilateral agencies, much pressure is (and has been) brought to bear on those who fail to conform. As a result many developing country telecom sectors now have privatised markets, but weak regulators who lack the capacity or resources to enforce decisions and effectively settle disputes between operators, resulting in lengthy court appeals, or who are unable to stimulate investment, attract new entrants into the sector, etc. Or there are privatised markets in which oligopolies replaced monopolies, and the benefits of competition were stifled by collusion. Consequently, as noted by the author, there has been an overall failure in achieving universal access objectives. The paper clearly documents the mistakes made on the road to privatising markets, especially for developing economies, and further observes failures in moving towards equitable access, particularly for the internet.

There are developing economies that have resisted privatisation, such as Uruguay, where monopoly provision of telecom services for the most part has been effective, with the country historically enjoying one of the highest rates of telecom penetration in Latin

[2] In particular, recent research from Research ICT Africa (RIA!, a network that the author participates in), critically assesses the supply side of infrastructure provision in 16 African countries. See: Esselaar, S., Gillwald, A. and Stork, C. (2007) *Towards an African e-Index 2007: Telecommunication Sector Performance in 16 African Countries*. Research ICT Africa. www.researchictafrica.net/images/upload/Africa_comparativeCORRECTED.pdf

America.[3] Further, this high fixed-line penetration could explain in part Uruguay's very high rates of internet adoption before broadband connections were available.[4] While this has been a historical success, the sector's current legal and regulatory frameworks are now impeding innovation and competition that could bring down high access charges. The example of Uruguay illustrates that, in a well-run state, there can be medium-term benefits to not privatising the fixed-line sector.

But Uruguay is an exception, and although "privatisation was not the answer", it is probably here to stay in most of the world, and clear policies and regulations need to be formulated to ensure its effective functioning. The forces that backed this model need to be brought to bear on the project of strengthening the functioning of markets, and eliminating distortions or abuse, with attention to capacity building for regulators and a particular focus on institution building. Because, at the end of the day, it is usually not markets that fail, it is regulation that fails to keep them in check (for whatever reasons), and policies (for whatever reason) that fail to provide adequate guidance for reform in the sector. The paper advances the issue of strengthening regulatory capacity – but at the very end, rather than as an overall framework for ensuring equitable access.

Proactive regulation targeting universal access would ideally reflect the dynamism of emerging ICT sectors and evolving technologies. Such regulation could allow for and encourage exploitation of new technologies and alternative market models.[5] This kind of regulatory flexibility might be resisted by private sector actors in the sector, and this is precisely the kind of situation which requires a robust regulator with a vision of how to creatively implement national e-strategies. This vision needs to balance the benefits that different approaches and different stakeholders will bring to the sector and to the overall policy objectives.

In this vein, Adam concludes that "[g]enuine competition is essential for promoting equitable access to encourage private sector participation and innovations." He continues with the speculation that "the market alone will not guarantee equitable access to a standard that meets public interest expectations." However, many would argue that mechanisms introduced under the umbrella of universal access policies, such as subsidies

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[3] See: Gomez, G. and Rivoir, A.L. (2008) *Telecommunications Regulation and Investment: Case Study of Uruguay*. LIRNE.NET/Comunica; and Gomez, G. and Mahan, A.K. (2007) An Institutional and Practical Evaluation of URSEC – Uruguay's Communication Regulator – and its Relationship with Citizens. In Mahan, A.K. and Melody, W.H. (eds.) (2007) *Diversifying Participation in Network Development*. LIRNE.NET/Comunica.

[4] Broadband provision is partially competitive, and mobile service provision is fully competitive, while the fixed-line segment is still under monopoly control.

[5] See for example: Ó Siochrú, S. and Girard, B. (2005).*Community-based Networks and Innovative Technologies: New models to serve and empower the poor*. United Nations Development Programme (UNDP).

and the e-rate, in fact send out the wrong signals and serve as barriers to developing strong markets. The Chilean example used by the author of reverse subsidy auctions is a good example of this. What was found was that in fact very small subsidies were required to develop markets in rural, hard-to-reach areas. Allowing the market actors to bid for what they thought they would need in terms of subsidies, and awarding the concession to the lowest bid, was an effective way of setting competitive terms for serving what were perceived to not be attractive or viable markets.[6]

If institutions are weak, and if the regulator lacks capacity to effectively regulate, then there is little point in developing universal access strategies, which will risk being left stranded. The best of policies are of little use if there are only poor institutions and ineffective processes available for their implementation. On the other hand, strong institutions (legal, governance and regulatory) can foster effective and inclusive practices that lead to more ambitious policies.

Policy and regulatory processes happen in tandem and in a non-linear fashion. While implementing existing policy, there must also be continuous concern for emerging policy issues that are brought about by the globalisation of markets, the expansion of the internet, and evolving technologies.

[6] For a discussion of reverse auctions experiences from around the world, see: Wallsten, S. (2008) *Reverse Auctions and Universal Telecommunications Service: Lessons from Global Experience*. Technology Policy Institute.