

Republic of Mauritius

WHITE PAPER
ON THE

**TELECOMMUNICATIONS
SECTOR**

Fostering the Info-Communications Society

Ministry of Telecommunications and Information Technology

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FOREWORD

Telecommunications has entered a period of explosive, global growth and is evolving as the modern trade route. The telecommunications revolution is reflected by the technological changes, the competitive forces, the privatisation of state monopolies and the emergence of new companies and consortia of global service providers. In response, Government decided to formulate a new set of policies to ensure that the nation possesses the necessary infrastructure and regulatory framework to take full advantage of the changing global environment.

Telecommunications is both a vital underlying means of transport of all forms of economic activity and a traded service in its own right. Government recognises that a modernised telecommunications system is central to the economic development of the country and that privatisation and economic liberalisation of telecommunications is a critical condition for attracting the capital needed to achieve the necessary targets. This is highlighted in the White Paper on Privatisation and Workers' Participation which was issued by Government in May this year.

The Green Paper on Telecommunications "Strategies and Policies for Info-Communications Sector 1997-2007" presented the broad policy issues that had to be considered in order to formulate the required strategies for the development of the telecommunications sector over the coming decade. Government is determined to ensure the widest participation in the formulation of any policy bearing in mind the nation's interest and the will to push Mauritius forward as an info-communications hub in the region. I strongly appreciate the contributions of all stakeholders and the public in the consultation process that preceded the formulation of the policies presented in this White Paper.

These policies proposed in the White Paper evolve around the need

- For a revised legislative mandate in order that Mauritius can fulfill its commitments under the WTO Agreement on Telecommunications.
- For the expansion and upgrading of the national telecommunications infrastructures.
- To devise an approach to the new business environment in order to take advantage of the potential economic benefits of open international competition, in terms of investment and entrepreneurial dynamism.
- To achieve better access to private capital for needed expansion and development.
- To consider the impact of the privatisation of Mauritius Telecom on its employees.
- To provide the whole community (both in Mauritius, Rodrigues and the Outer Islands) with access to an affordable universal service.
- To create an environment propitious for Mauritius to become the information, financial and services hub in the region.

The characteristics of the telecommunications sector make it imperative for relevant policies to be reviewed regularly thus making the process of policy making exercise a dynamic one.

I fervently hope that the policy measures outlined in this White Paper will act as the catalyst to set the economic and institutional environment needed for the fostering of the info-communications society.

Sarat Dutt Lallah
Minister of Telecommunications
and Information Technology
December 1997

ACRONYMS

ESOP	Employee Share Ownership Plan
FCC	Federal Communications Commission
GII	Global Information Infrastructure
GMPCS	Global Mobile Personal Communications by Satellite
GSM	Global System Mobile
IPO	Initial Public Opening
ISDN	Integrated Services Digital Network
ITU	International Telecommunication Union
IVTB	Industrial and Vocational Training Board
MT	Mauritius Telecom Ltd.
MTA	Mauritius Telecommunications Authority
NITC	National Information Technology Committee
NITSP	National Information Technology Strategy Plan
OECD	Organisation for Economic Co-operation and Development
OFTEL	Office of Telecommunications
PSTN	Public Switched Telecommunications Network
ROR	Rate of Return
RPI	Retail Price index
SADC	Southern African Development Community
SATCC	Southern Africa Transport and Communications Commission
SATRA	Southern African Telecommunications Regional Association
TA	Telecommunication Authority
TAC	Telecommunications Advisory Council
TACS	Telephone Access Communications Systems
VAN	Value Added Network
WTO	World Trade Organisation

EXECUTIVE SUMMARY

1 Dramatic and far-reaching changes are taking place in the telecommunications sector, as well as in broadcasting and information technology. These changes show no sign of abating. Countries around the world that have been able to adapt to these changes have achieved rapid social and economic development. As a result, many countries have recognised that the traditional model of a state-owned monopoly provider of telecommunications services is no longer appropriate. If Mauritius is to maintain and enhance its competitive advantage and to take its rightful place in the new technological order, then the telecommunications sector will require radical reform to meet nation-wide interests. To achieve this overall objective, Government has decided to:

- a) gradually liberalise the telecommunications market;
- b) ultimately achieve open competition in the telecommunications sector at all levels and on all services;
- c) progressively divest itself of its equity in Mauritius Telecom; and
- d) enact new legislation that will promote development of the sector.

2. In September 1997, following an extensive review of existing arrangements for provision of telecommunications services in Mauritius, Government issued a Green Paper on telecommunications entitled “Strategies and Policies for the Info-Communications Sector 1997-2007”. The Green Paper put into perspective the broad policy issues that need to be addressed in order to evolve appropriate strategies for the development of the telecommunications sector over the period 1997 to 2007. Consequently, a whole day seminar was organised by the Ministry of Telecommunications and Information Technology on Saturday 11 October 1997. The participants at the seminar represented a wide cross-section of the stakeholders in the telecommunications sector. The views offered and information gathered during the consultative process have been assimilated and analysed. This White Paper summarises what Government believes to be the best policy solutions and framework for Mauritius towards development of a vibrant and efficient telecommunications sector over the next decade.

3. The objectives for reform of the telecommunications sector are to:

- a) provide access to the most modern telecommunications services possible at fair prices;
- b) improve Mauritius’ position and competitive edge in global markets;
- c) enhance the economic and social life of the nation;

- d) progressively divest from Mauritius Telecom by adopting an appropriate privatisation strategy within a liberalised market-place;
 - e) establish an employee shareholding-scheme;
 - f) ensure that essential national interests are protected; and
 - g) create propitious conditions for Mauritius to become an info-communications hub in the region.
4. The principles that will be applied in the achievement of the above objectives are:
- a) the active promotion by Government of an information-based economy;
 - b) the introduction of competition as circumstances permit;
 - c) an effective and independent regulatory body with clearly defined powers and responsibilities; and
 - d) private sector participation to the greatest extent possible.
5. The specific policy measures that will be adopted by Government to apply these principles are as follows:
- a) new legislation will be introduced in Parliament to replace the Telecommunication Act of 1988;
 - b) a new regulatory body will be established to replace the existing Telecommunication Authority;
 - c) a transformation of the Government's primary role from being owner of the main provider of services to one of policy maker;
 - d) progressive divestment by Government of its equity shares in Mauritius Telecom to investors; and
 - e) the gradual introduction of competition and liberalisation of the sector.

1 BACKGROUND

1.1 General

Dramatic and far-reaching changes in the telecommunications sector as well as in broadcasting, and information technology are leading these sectors to converge. In addition, the increased frequency and magnitude of change show no sign of abating. Countries around the world that have been able to adapt to these changes have achieved rapid social and economic development. This requirement has, in many places, given rise to the recognition that the traditional model of a state-owned monopoly provider of telecommunications services is no longer appropriate. To deliver the level and quality of services required to meet the changing and varied needs of customers, there must be diversity of choice of telecommunications service providers. These providers must have access to substantial financial resources and managerial expertise.

Government recognises that in order for Mauritius to maintain and enhance its competitive advantage and to take its rightful place in the new technological order, the telecommunications sector requires radical reform so that national needs may be met as quickly and as efficiently as possible.

To achieve this overall objective, the Government has decided to:

- a) gradually liberalise the telecommunications market;
- b) ultimately achieve open competition in the telecommunications sector at all levels and on all services;
- c) progressively divest itself of its equity in Mauritius Telecom; and
- d) enact new legislation that will promote development of the sector.

The purpose of this White Paper is to set out the Government's objectives for reform of the telecommunications sector, to state the policies adopted in each area and to elaborate on how the sector reform envisaged will be implemented in practice.

1.2 Recent History of Telecommunications in Mauritius

The recent evolution of the telecommunications sector in Mauritius has mirrored that experienced in many other countries. In May 1988, a decision was taken to separate the functions of regulation and operation in telecommunications by abolishing the Department of Telecommunications which until then had been responsible for both functions. The Telecommunication Act 1988 established a Telecommunication Authority to take over the regulatory function for the telecommunications sector. A Telecommunication Advisory Council was simultaneously set up to advise the Minister responsible for telecommunications, on all matters relating to telecommunications.

At the same time, the Telecommunication (Transfer) Act 1988 was enacted to transfer the undertaking of the Department of Telecommunications to Mauritius Telecommunications Services Ltd. This company was incorporated in April 1988 to take over operations of telecommunications in Mauritius. In 1992, the company changed its name to Mauritius Telecom, following a merger of the domestic and international service operations. The international services were, until then, being offered by the Overseas Telecommunications Services Ltd.

Since 1988, Government has continued to be indirectly involved in the operations of telecommunications through its majority share holding in Mauritius Telecom.

Mauritius Telecom currently holds a monopoly over the international gateway as well as over basic telephone services, text, data and Internet services. TABLE 1 shows the main telecommunications operators in Mauritius.

TABLE 1: CURRENT TELECOMMUNICATIONS OPERATORS

OPERATORS	SERVICES OFFERED
Mauritius Telecom (MT)	Basic Telephone including International Access; Payphones and Phonocards; Telex, X25: Data & Text; Internet
Cellplus Mobile Communications Ltd. (subsidiary of MT)	Cellular Mobile (GSM)
Teleservices (Joint Venture: MT & Singapore Telecom International)	Paging
Emtel Ltd.	Cellular Mobile (TACS)
Paging Services Ltd.	Paging

The domestic fixed and mobile telephone networks as well as the data network have experienced extensive growth during the past few years. (TABLE 2)

TABLE 2: GROWTH OF NETWORK USERS

	March 1995	October 1997
Telephone lines	135 000	219 734
Cellular Mobile Subscribers	10 000	37 000
Internet Subscribers	insignificant	5 300
ISDN and data based Subscribers	insignificant	1 346
Pagers	5 500	7 314

1.3 The Process of Change

In September 1997, following an extensive review of existing arrangements for provision of telecommunications services in Mauritius, Government issued a Green Paper on telecommunications entitled “Strategies and Policies for the Info-Communications Sector 1997-2007”. This Green Paper was published with a view to sensitising the population of the major developments and global changes occurring in the telecommunications sector and their implications for Mauritius and to put into perspective the broad policy issues that need to be addressed in order to evolve appropriate strategies for the development of the telecommunications sector over the period 1997 to 2007.

The Green Paper identified four pillars of the information economy as follows:

⇒ ***Pillar No 1. Liberalisation and Sector Efficiency***

In February 1997, during the World Trade Organisation (WTO) negotiations, Government offered to open the telecommunications market of Mauritius to full competition by the year 2004. It is against this back drop that sector reform and development must be considered.

⇒ ***Pillar No 2 - Regulatory Framework***

An effective independent regulating body with well defined powers and responsibilities is a pre-requisite for sector liberalisation.

⇒ ***Pillar No 3 - Ownership and Investment***

In order to liberalise the sector, Government's role as majority owner of the main operator, Mauritius Telecom, needs to be reviewed. Neither Mauritius Telecom nor Government will be able to fund the capital expenditure levels needed over the next few years to bring the telecommunications infrastructure up to the best international standards.

⇒ ***Pillar No 4 - Promotion of an Information Intensive Society***

Because of its particular characteristics such as location and economic structure, Mauritius must continue to strive to maintain its position in the new global competitive market-place and to do so, it must quickly establish an information-based economy.

At the time the Green Paper was issued, comments were requested on its content, and following its release, further consultations took place with many stakeholders including operators, end-users and the industry trade unions. A one-day seminar was organised by the Ministry of Telecommunications and Information Technology on Saturday 11 October 1997 and the participants represented a wide cross-section of all stakeholders in the telecommunications sector. The views offered and information gathered during the process have been analysed in order to arrive at what Government believes to be the best policy solutions and framework for Mauritius towards development of a vibrant and efficient telecommunications sector over the next decade.

2 GOALS

Mauritius needs a telecommunications sector that will support the overall vision:

VISION STATEMENT

“To develop Mauritius into a modern nation and to enhance the nation’s competitiveness in the global market place so as to improve the quality of life of the people of Mauritius.”

Another objective is to comply with the provisions of the World Trade Organisation (WTO) General Agreement on Trade in Services under which Mauritius is committed to liberalising the telecommunications sector by the year 2004. Such liberalisation shall include allowing competition within the sector and ending all monopoly or exclusive rights in domestic and international telecommunications services.

The objectives for reform of the telecommunications sector are to:

- (a) provide access to the most modern telecommunications services possible at fair prices;
- (b) improve Mauritius’ position and competitive edge in global markets;
- (c) enhance the economic and social life of the nation;
- (d) progressively divest from Mauritius Telecom by adopting an appropriate privatisation strategy within a liberalised market-place;
- (e) establish an employee shareholding scheme;
- (f) ensure that essential national interests are protected; and
- (g) create propitious conditions for Mauritius to become an info-communications hub in the region.

3 PRINCIPLES

3.1 Regulation

Effective regulation is critical to management of many infrastructure services. Telecommunications regulation was initially associated with the concept of telecommunications as a “natural monopoly”. That is, because of the high cost of building infrastructure to carry telecommunications traffic, it was not in society’s best interest to build duplicate facilities. Without duplicate facilities, competition was not possible, resulting in monopoly service providers. Therefore, regulation was introduced into the sector to simulate competition, preventing operators from exploiting their monopoly status to the detriment of their captive customers.

Today, telecommunications is no longer considered a “natural monopoly”. Technological advances (e.g., high capacity cable, wireless local loop) have reduced network construction costs, both financial costs associated with physical plant and social costs associated with such activities as digging up trenches in the roads and repairing same. Public policy changes allowing for facilities-based resale have increasingly forced incumbent operators to serve as supplier of facilities to their competitors. As a result, the advantages of owning infrastructure networks have been greatly reduced, particularly when viewed against their associated costs and contingent liabilities such as depreciation, maintenance, and universal service obligations. Even so, owners of backbone telecommunications networks still maintain a degree of market power that, if not properly regulated, may be used to the detriment of their competitors.

Based on the dynamic economics of the telecommunications sector, the role of regulation has shifted during the past fifteen years. In the days when the primary role of the regulator was to protect the public against abuse of monopoly power, regulators mostly concentrated on issues relating to price setting and analysis of consumers’ disputes with their service providers. Today, pricing occupies a smaller proportion of regulatory resources, far outweighed by the need to stimulate competition and to ensure fair play. The complexity of regulatory issues has grown with the complexity of the telecommunications business. Today’s regulator is concerned about interconnection of networks, disputes between operators, wholesale tariffs (including access charges), and keeping up with new products and services.

Under proper regulatory systems, regulators are answerable to the public. Regulation must be free from political interference or influence, transparent, and well publicised. In order for the regulator to successfully implement telecommunications policy by managing the business environment faced by operators, it must be independent of both policy-makers and operators. Independence from operators is achieved through the establishment of a separate entity to serve as regulator. The right balance is required to ensure that the role of the regulator does not become so intrusive that the regulator is essentially managing the operator’s business. While policy should be made without regard to implementation issues, any input from the regulator on the long-term impact of policy options needs to be taken seriously.

In a competitive environment, users who are unhappy with the performance of their operators can “vote with their feet”, by switching operators or reducing their consumption of telecommunications services. The pressure for operators to provide adequate service, is therefore a commercial one, since users provide the financial return that is the objective of commercial operations. A key responsibility of the regulator is therefore to ensure that operators feel the pressure to meet the needs of users (e.g., affordability, interconnection, availability and quality of service).

3.2 Private Sector Participation

The private sector which is well established in Mauritius is playing an active role in the telecommunications sector, via Emtel Ltd. and Paging Services Ltd. The use of Government resources to fund enterprises which could be formed on a commercial basis by the private sector is both inefficient and wasteful. Thus private sector participation in commercial ventures is to be encouraged wherever possible. In licensing Emtel Ltd. and Paging Services Ltd., the Telecommunication Authority tacitly acknowledged the desirability of both private sector participation and competition.

Increased private investment in the information sector eventually will give rise to the emergence of new operators who will compete for market share. The interplay of market forces will achieve a market-focused culture, encourage innovation and reduce operational costs. This new paradigm creates the opportunity for creative, efficient and entrepreneurial operators.

There are a variety of approaches to private investment. A mixture of different types of investors provides means to realise macro-economic objectives in terms of employment, productivity, and earnings from operations (both local and foreign). The range of private investor types includes:

a. Local Entrepreneurs

These may be extremely creative in the development of content. Furthermore, they can be very effective as distribution outlets for main suppliers in the diffusion of their services. Finally, they represent a substantial employment potential.

b. Strategic Equity Partners

Usually these partners are multinational operators whose objective is to improve their share of the information services market in the world. Their strategy is to be present in the local and regional markets, with a longer term view toward profits. They bring in capital, management expertise, technologies and international markets experience to the nation in return for a share of the local market. The advantages of taking a strategic partner are that it rapidly improves the company's performance in:

- market demand analysis
- commercial marketing
- sophisticated costing and management accounting systems
- advantageous negotiating position with suppliers
- servicing customer needs
- strengthening and broadening senior management skills

- achieving and maintaining world class technical ability
- implementing required systems for customer service, billing and management information.
- access to international alliances and markets

c) Financial (or Portfolio) Investors

These investors represent a major source of capital and may consist of both local and foreign investors. They are individuals, banks, investment fund and pension fund, and they can invest either directly or through the stock exchange mechanism. In general, they are not interested in the operational management of business enterprises, remain passive shareholders but, since their single motive is to earn a stable return on their investment, they can impress on management to improve efficiency and profitability. The structuring of investment, as a result, entails divestment of government stocks and its replacement by private capital.

3.3 Market Entry and Competition

Global experience in telecommunications has assuredly demonstrated many times over the benefits of allowing competition in the telecommunications sector. Both the Global Information Infrastructure (GII) initiative and the World Trade Organisation (WTO) emphasise competition as a tool for telecommunications infrastructure development.

As already stated, on 15th February 1997, at the WTO Working Group on basic telecommunications services, Mauritius accepted a commitment to open up the telecommunications sector to competition and to end all monopoly and exclusive rights in domestic and international services by the year 2004. Mauritius has also offered to allow access to satellite-based mobile services as from the date these services become commercially available.

Whilst under the terms of the WTO Agreement, Mauritius may defer competition in any segment of the market until 2004, the following arguments have been adduced in favour of phasing in competition prior to 2004:-

- (a) providing adequate time for local operators to prepare for competition with foreign operators, particularly multinationals;
- (b) additional competition would encourage the productive efficiency of existing local operators;
- (c) competition will drive down costs and prices, allowing for faster diffusion of info-communication services; and
- (d) as competition builds up and markets diversify, total employment in the sector progressively increases.

These arguments have been carefully examined and debated, while taking into account the socio-economic implications, including the fact that the international gateway represents a

strategic economic instrument for Mauritius. Government has decided that Mauritius Telecom will continue to enjoy monopoly position for the operation of the international gateway and for providing basic telephony until the year 2004.

An important consideration in the timing of competition is the critical aspect of re-balancing tariffs before introducing competition. As competition is introduced in a market segment, Mauritius Telecom will probably lose some of its share of that market. The extent of its loss of market share will be dependent, in part, on its ability to price competitively. In an unbalanced tariff regime, competitive pricing not only reduces margins on competitive service, but it also eliminates the subsidy of non-competitive services and impedes universal service objectives. Once the subsidised services have been re-priced to align with costs, then competitive pricing becomes an organisational challenge, rather than a threat to the network.

It is acknowledged that rapid advances in technology are contributing to the convergence of telecommunications, broadcasting and information technology. The issues associated with such convergence are broad and wide-ranging and need to be examined in depth. Advanced economies have over the past years been assessing the multiple facets and implications of different regulatory models and there is yet no practical model that has been clearly established. A policy decision on these issues will be taken after the relevant studies are completed.

3.4 Information Sector Promotion

As already noted, if Mauritius is to maintain its competitive position in the new global market-place it must quickly establish an information-based economy. It needs to do so because of its geographic remoteness from its markets. Since it cannot indefinitely rely upon low cost labour advantage in manufacturing, it must instead seek productivity gains in this sector. Similarly, tourism which is another mainstay of the economy is also becoming increasingly competitive. If Mauritius is to maintain its enviable position, better customer information gathering and analysis, market data analysis and information processing, as well as better telecommunications infrastructure will be essential.

On the other hand, Mauritius is in some respects very strongly placed to take advantage of the opportunities presented by technological advances in telecommunications. Falling costs mean that remoteness is less important and in the near future may be immaterial. Secondly, being a small island country Mauritius can move more rapidly than many of its competitors to acquire and disseminate the most recent computer-based technological innovations in telecommunications and across all related sectors such as information technology. Thirdly, it has a highly educated workforce capable of being trained in the required new disciplines and skills and one outcome of the adoption of new technology is that telecommuting will probably become easier and more common, which will bring into the sector, people who for one reason or another were absent before. Finally, in the past few years Mauritius has, with a considerable measure of success, concentrated on developing its banking and financial services; this sector is one of the main users of information technology.

To realise its vision of an information-based economy in Mauritius, Government has already given the greenlight for drawing up a comprehensive National Information Technology Strategy Plan (NITSP) with the support of National Computer Systems Pte. Ltd. of Singapore.

Within the framework of the NITSP, it is proposed to create a Government Information Infrastructure which will seamlessly interface with the evolving National and ultimately with the Global Information Infrastructure.

A National Information Technology Committee (NITC) has been set up under the Chairmanship of the Minister of Telecommunications and Information Technology. The Committee will monitor closely the overall implementation of the NITSP and will provide policy guidance to the NITSP Management Committee which has been set up to organise, plan and co-ordinate the NITSP planning effort. The National Computer Board has been assigned the key role of integrated Programme Management for the NITSP.

Government attaches very high priority to Human Resource Development with the objective of creating a skilled workforce. The Industrial and Vocational Training Board (IVTB) is mandated to plan, co-ordinate and to regulate all vocational training efforts. In the 1997-98 Budget, provision has been made for the creation of a special "Skill Development Fund" to spearhead development of skills in upcoming areas such as Automation and Information Technology.

The University of Mauritius will continue to offer undergraduate courses in electrical engineering and computer science. In fact Human Resources Development in the telecommunications and information technology sectors is one of the building blocks of our NITSP, and it will be given its due consideration in our strategy.

All operators will be encouraged to promote In-House-Training programmes.

4 POLICY MEASURES

4.1 The Legal Framework

The legal framework governing the telecommunications sector stems largely from the prevailing Telecommunication Act. This Act dates back to 1988 and its main provisions addressed the establishment of:

- a) the Telecommunication Authority (TA), to serve as sector regulator;
- b) the Telecommunication Advisory Council, to advise the Minister on telecommunications sector policy; and
- c) Mauritius Telecommunications Services Ltd., a state-owned company, to provide domestic telecommunications services. Prior to 1988, domestic telecommunications services were provided by the Department of Telecommunications.

In response to changing views of best practices for telecommunications development around the world, the provisions of the 1988 Act must now be updated. New legislation will inter alia modify the legal framework for telecommunications in several critical ways. It will:

- a) expand the jurisdiction, powers, and autonomy of the Mauritius Telecommunications Authority (MTA);
- b) specify the composition and functions of the Telecommunications Advisory Council (TAC);
- c) promote competition and network interconnection;
- d) repeal the Telecommunication Act of 1988;
- e) provide for transition to a different legislative regime; and
- f) preclude any exclusivity provisions from extending beyond the year 2004.

The proposed new legislation will establish the Mauritius Telecommunications Authority as primary arbiter of the sector. In fact, the Mauritius Telecommunications Authority will be tasked with regulating the sector in such a way as to be consistent with the policy of Government. Two important points also relate to the legal framework for the telecommunications sector. Firstly, telecommunications operators will be bound to comply with Civil and Commercial Laws where applicable. Examples of how Civil Law contributes to the legal framework for telecommunications include taxation, securities law, foreign investment code and labour laws. Secondly, there will be an appeal mechanism for decisions made by the Mauritius Telecommunications Authority. Appeals will be made to the Minister. This form of early arbitration and settlement of dispute in a speedy and reliable manner has been preferred as the regular judicial system might not be equipped to provide a quick response, thereby causing undue delays and penalising the applicants in the process. Unsatisfied appellants will still be free to resort to a Court of Justice.

4.2 The Mauritius Telecommunications Authority

The Telecommunication Authority established under the 1988 Act will be reconstituted, and the new Mauritius Telecommunications Authority will be responsible for overall regulation of the telecommunications sector in Mauritius. The Mauritius Telecommunications Authority's principal purpose will be to ensure the development of the sector to meet national economic and social needs and enable Mauritius to have available the most modern telecommunications services possible at fair prices; to improve its position and competitive-edge in global markets.

4.2.1 Structure of the Mauritius Telecommunications Authority

The Mauritius Telecommunications Authority (MTA) will be managed by a Board, consisting of a Chairman and four other members. The Chairman will be appointed by the Prime Minister after consultation with the Leader of the Opposition. The Members will be appointed by the Minister after consultation with the Telecommunications Advisory Council. The Board Chairman and Members will be appointed for a three-year term of office.

The Board will appoint an Executive Director, who will be the Chief Executive Officer of the MTA. The Executive Director will be responsible for execution of the Authority's policy and for the day-to-day control and management of the Authority's business. The Executive Director will be supported by appropriately skilled and experienced staff. In addition to traditional telecommunications technical skills, the Authority will require a mix of other skills and expertise - including economics, legal, financial, consumer affairs, and business management.

The staff of the Authority, including the Executive Director, will be employed on terms and conditions of service determined by the Authority. It will be a contractual condition of employment that all staff may not have any interest in any entity licensed by the Authority.

The Authority will derive its income from any charges or fees levied on telecommunications operators or licensees that may be prescribed. It may be necessary for initial funding of the Authority to be appropriated from the Consolidated Fund, or any other such source as may be approved by the Minister. The Authority will be required to submit to the Minister, not later than three months before the commencement of every financial year, an estimate of its income and expenditure for that year.

4.2.2 Jurisdiction

The Mauritius Telecommunications Authority will have jurisdiction over telecommunications in all parts of Mauritius and its associated Outer Islands. The Authority will have sole jurisdiction to allocate the electromagnetic spectrum, including allocating frequency for broadcast purposes, for which it may charge a fee. Other than spectrum allocation, the Mauritius Telecommunications Authority will have no jurisdiction over broadcast matters, but is expected to work closely with its counterpart organisation for broadcast, once the latter is established.

The Mauritius Telecommunications Authority will represent Mauritius in regional and international telecommunications regulatory matters. This includes forums convened by:

- a) the International Telecommunication Union (ITU).
- b) the Southern African Development Community (SADC);
- c) the Southern African Telecommunications Regional Association (SATRA);
- d) the Southern Africa Transport and Communications Commission (SATCC); and

4.2.3 Functions, Powers and Procedures:

The functions of the Mauritius Telecommunications Authority will include:

- a) implementation of the Government's policy relating to the telecommunications sector;
- b) consideration of applications for licences to operate telecommunications services, conducting public consultation, and subsequently issuing licences;
- c) where appropriate varying, suspending or revoking operators' licences, monitoring of the conduct of organisations operating within the telecommunications sector in accordance with recognised international practices, including the promotion of fair competition, utilisation of cost-based tariffs, and fair interconnection arrangements;
- d) assisting in the formulation of national telecommunications sector policies, providing advice to Government on the basis of its monitoring of the sector and taking account of evolving global trends in telecommunications;
- e) ensuring that the new legislation is implemented with due regard to the public interest and so as to prevent any unfair or anti-competitive practices by licensees;
- f) establishing, for public telecommunications operators, performance standards in relation to provision of domestic and international services, and monitor compliance with these standards;
- g) ensuring the safety and quality of all telecommunications services and, for that purpose, determining technical standards for telecommunications networks and the connection of customers' premises equipment to networks;
- h) implementing frequency allocation policy formulated by this Ministry, monitoring, and control of radio frequencies (including a broadcasting frequency to the Mauritius Broadcasting Corporation or any other duly authorised broadcasting station), in accordance with national, regional, and international agreements, including

- conducting and issuing certificates of competency for operation of transmitters and receivers to be used for telecommunications purposes, inspection and licensing of ship and aircraft radio and telecommunications equipment;
- i) implementing the national telephone numbering system policy formulated by this Ministry, allocating number ranges to operators; from time to time reviewing the national numbering system and making any necessary changes to ensure the most effective utilisation of the system;
 - j) overseeing the fulfilment by public operators of their obligations set out in their licences, in any directions they receive under the new or other relevant legislation;
 - k) recommending charging principles to the Minister, and regulating all tariffs as defined by the new legislation;
 - l) granting authorisation to any person to conduct such technical tests or evaluations that it deems appropriate;
 - m) controlling the importation of any equipment capable of being used to intercept telecommunication messages;
 - n) overseeing the general level of consumer complaints in relation to telecommunication services and, where appropriate, receiving and enquiring into major complaints either from consumers or operators; and
 - o) reporting to the Minister and, where appropriate to other persons, on any matters within the scope of its operations, such as the performance of public telecommunications operators, the quality of services provided by these operators, and the level of consumer satisfaction.

In carrying out its functions, the Mauritius Telecommunications Authority will have the following powers:

- a) to require a licensee to produce his licence;
- b) to require licensees to provide information on their services and their financial and technical performance;
- c) to arbitrate upon any conflict between telecommunications licensees;
- d) to hear appeals from, and award compensation to, persons aggrieved by certain acts of operators of telecommunications services which may interfere with the enjoyment of their property;
- e) at all reasonable times to inspect any installation, apparatus or premises relating to a licence; and
- f) where reasonable grounds exist to suspect contravention of the new legislation or any associated regulations, to seek a Magistrate's warrant to enter and search any premises or persons thereon, inspect, remove and take copies of any relevant documents found therein, and inspect and remove any installation or apparatus found therein.

In undertaking its functions and exercising its powers, the Mauritius Telecommunications Authority will have regard to:

- a) the public interest and any likelihood of unfair or anti-competitive practice;
- b) any element of national security;
- c) the technical compatibility of all licensed services;
- d) any national, regional or international agreements on telecommunications; and
- e) the importance of guarding privileged or commercial information provided to it by licensees.

To promote transparency in its operations, the Mauritius Telecommunications Authority will:

- a) hold meetings on a regular basis;
- b) except as required to protect confidentiality, make available to the public its rules of procedure, a register of licences granted-including any modifications of licence conditions and determinations, directions or orders made under licences, applications for new licences, operators and tariff structures; and
- c) establish procedures for requesting and considering the comments of industry and the affected public in the development of new policies or consideration of any other decisions of general applicability and effect, including, but not limited to, public oral hearings, closed hearings and written comments.

4.3 Role of the Government

Telecommunications sector best practices around the world dictate that the functions of the Government, the regulator and the operators be distinct and have to be separate. As stated in the Green Paper we have the following stances regarding the role of Government in the Telecommunications Sector:

a. The Southern Africa Development Community (SADC)

Emphasises development and modernisation of telecommunication networks. Accordingly, the SADC Protocol on Transport and Communications adopted by Member States in August 1996 provides guidelines for governments to adopt a policy role and for operation to be pursued by private investors under the supervision of an independent regulatory institution.

b. The World Bank

Addressed the role of government in infrastructure in its annual World Development Report of 1994. The Report emphasised the growing inadequacy of public monopolies or public control of infrastructure creation and development. It identified the need to give much more freedom of operation to private investors, including multinational investors. The World Bank Report advocated a growing role for government as a facilitator of private investment instead of a direct investor in physical infrastructure.

c. The G-7 Ministerial Conference on the Information Society

Endorsed the following principles, including encouraging private investment and defining an adaptable regulatory framework, in Brussels in February 1995:

- Providing open access to networks.
- Ensuring universal provision of, and access to, services.
- Encouraging private investment.
- Promoting diversity of content.
- Promoting equality of opportunity.
- Promoting dynamic competition.
- Defining an adaptable regulatory framework.
- Recognising the necessity of worldwide co-operation with particular attention to less developed countries.

The current structure of the information sector, however, favours a concentration around the government-owned institutions, which are providers of telecommunications, computer and broadcasting services, arising out of direct or indirect government investment. The role of government will have to be adapted to the liberal economic environment to impact positively on the attitude of private investors in the sector. The top concern of an investor is the security of the investment and adequate protection is usually solicited from government before any major commitment is made.

In shifting from a primary role of operator (as the majority shareholder in Mauritius Telecom) to a primary role of policy maker, Government will proceed through a transitional phase. Divestiture and an increase of private capital in the sector can have significant effects on the development of the national infrastructure and services. In some developing regions of the world, countries that have introduced privatisation have experienced a faster expansion and modernisation (measured by the percentage of digitalisation) of the public network than those that have remained under state ownership and control. This strategy is supported by Government in the White Paper on Privatisation and Workers' Participation, published in May 1997.

Although Government supports private sector ownership and management of Mauritius Telecom, it will retain the right to veto changes to the Memorandum and Articles of Association or actions of the company or shareholders relating to:

- alterations to the scope or objectives of the business
- sale of investor shares
- increase or reduction in capital of the company
- merger with another entity
- disposal of a substantial portion of the company's assets
- any declaration of dividends greater than a defined percentage of profits

4.4 Ownership

4.4.1 Private Ownership in Mauritius Telecom

The various policy options regarding the privatisation process, as printed in the Green Paper have been carefully examined and debated. The options considered were:-

a. Ownership of Mauritius Telecom

A choice between local and a mixture of foreign and local capital.

b. The type of investors

Strategic Equity Investors and/or Equity Market Investors.

c. The degree of divestment

The amount of ownership that government will retain and its impact on investors.

d. The timing of divestment

The determination of a time-frame using 2004 as reference, followed by a schedule of divestment.

The decision has been taken to invite both foreign and local capital investors to participate in Mauritius Telecom. Foreign capital may be introduced through a Strategic Investor; local capital will be introduced through an Initial Public Offering (IPO) on the stock market. Timing of the IPO, as well as the share percentage to be offered will be determined based on market conditions and in conjunction with a financial advisor.

4.4.2 Private Ownership in Other Operators

The Government is attentive to the consensus of international organisations regarding private ownership of telecommunications resources and operations. To that end, private ownership of other operators is encouraged to the greatest extent possible. Private owners of other operators would be subject to all applicable provisions of Civil and Commercial Laws, in addition to the new legislation.

4.4.3 Foreign Ownership

Both local and foreign funds can be the sources of private investment in the info-communications sector. To date, the largest portion of local funds has come from government or state-owned institutions (e.g., the State Bank of Mauritius, the National Pension Fund). The private sector has participated in the telecommunications sector since 1985 but its investment is small relative to the total requirements. With the eventual withdrawal of government as owner, private sector investment will have to increase substantially.

Globalisation of economies is causing larger movements of funds between countries and enables investment to be directed to an attractive info-communications sector. The increased level of transactions provides the opportunity for the net recipient of foreign direct investment to create national comparative advantage and national wealth at a faster rate. This growth results from

the benefits of receiving foreign direct investment. These benefits are not only limited to funds that are brought into the country, but they also lead to improvement of capital formation and employment creation. They also bring in the latest technology for productivity improvement, modern services for users and a potential overseas market.

The involvement of an experienced operator as a strategic investor in Mauritius Telecom would help the company to address its positioning in the light of a changing policy environment. For example, an experienced operator would help Mauritius Telecom build strategies to meet its universal service/access obligation, to develop its relationship with the Authority, and to maximise its incumbent position in facing new competition.

It is likely that a strategic investor will seek some level of involvement in the management of Mauritius Telecom; perhaps full management control. However, the circumstances which lead to strategic investors seeking this level of control do not prevail in Mauritius.

It should be noted that currently in Mauritius, Singapore Telecom, France Telecom and Millicom Corporation are working in strategic partnership with local telecommunications operators.

The foreign investment option must be weighed particularly in the light of the opening of the telecommunications services market to international competition by 2004. In this context, foreign investment may be a useful strategic instrument to consolidate the competitive ability of local firms and may allow them to operate on a larger market scale, thereby protecting employment. Nevertheless, the right balance between foreign and local participation will be determined so as to develop local entrepreneurs and safeguard long term national interests.

4.5 Market Structure

4.5.1 General

The market structure in Mauritius will change with the introduction of competition and expansion of private sector participation. While market structure decisions must be made by market segment, certain trends have a bearing on the long-term definition of market segments. Policy for the info-communications sector must provide for the impact of these trends.

First, because telecommunications technologies are adaptable to different purposes, different market segments may begin to merge. For example, there is some question as to whether voice service provided over the Internet should be viewed as voice or Internet service. Second, there are a number of international trends that change the value drivers within given markets, including:

- a. reduction in international settlement rates;
- b. implementation of WTO agreements;
- c. growth of call-back services; and
- d. introduction of Global Mobile Personal Communications by Satellite (GMPCS) services.

These trends have a significant impact on the economics of various market segments which cannot be ignored when looking forward. In addition, the convergence of content, delivery

channels, and technology affects market structure. It is already becoming much more difficult to define telecommunications as an independent sector from media, information technology, and entertainment. The anticipated impact of these trends as well as other emerging trends will be mirrored in the policy and regulatory framework as it evolves.

4.5.2 Local Wireline Services

At present, Mauritius Telecom is the only provider of local wireline services, although local calling is also provided by the cellular mobile operators. Competition may be introduced in either the backbone or the access portion of the network. Local wireline service is subject to the competition policy to be implemented under the WTO agreement. Thus, it will be opened to full competition by 2004.

4.5.3 International Services

At present, the international gateway in Mauritius is run by a single operator, Mauritius Telecom. It is a lucrative part of the telecommunications business, and represents a major source of revenue and profit for Mauritius Telecom. As a result, international services will be a primary target for competitors and investors. The tariff structure traditionally used by national operators, results in the high revenue generating capacity of international gateways and this is true in Mauritius. However, the international gateway represents a strategic economic instrument for Mauritius. Access to international services which, because of high tariff levels has largely been restricted to the business community, wealthy individuals and tourists, must be made available at reasonable cost to all of the country's population as soon as practicable. Government recognises that high revenues from international services currently subsidise other loss-making services. In order to ensure fair competition in the sector, cross subsidisation will be eliminated through tariff re-balancing.

In any case, even without legitimate competition introduced in a measured and regulated manner, the current high profits earned from international services are most unlikely to be maintained under the joint threats of technological changes and other competitors such as call back operators or voice on the Internet.

Tariff re-balancing will therefore have to be introduced progressively and is expected to be completed by 31 December 2004.

4.5.4 Mobile Cellular Services

Competition presently exists in the mobile cellular service market, although each cellular licence included an initial exclusivity period. Emtel Ltd.'s exclusivity in the mobile cellular market expired in December, 1995; Cellplus' exclusivity in the GSM market will continue on through 1999. The extent to which additional competitors may be licensed will be left to the discretion of the Mauritius Telecommunications Authority.

4.5.5 Value Added and Info-Communication Services

New technologies offer new numerous opportunities for the supply of innovative services that contribute to the improvement and competitiveness of the economic operators. They also serve

in the development of totally new services that can bring in additional export revenue while simultaneously providing employment opportunities. Such initiatives are in line with the national strategy to develop the services sector and Government policy is to encourage value added network (VAN) service providers in areas such as electronic data interchange, database creation and access, and management of data networks.

The very nature of the service requires VANs to reach a large number of customers. Interconnection to the PSTN is therefore a critical component which will be made available to the service providers. These services may, in some areas, compete directly with those offered by Mauritius Telecom. In such cases a level playing field will be established to ensure that fair competition prevails. One of the practices that will facilitate the growth of such services that interconnect to Mauritius Telecom is the unbundling of customised packages or offerings such that less extensive connections are reflected in lower interconnection charges. The Mauritius Telecommunications Authority will oversee such practices.

In situations where Mauritius Telecom is unwilling or unable to provide the necessary network access or links to Mauritius Telecom infrastructure to service providers within a reasonable amount of time, service providers may elect to provide their own links under conditions specified by the Mauritius Telecommunications Authority. Mauritius Telecom will therefore have the right of first refusal after which any other licensee may offer such services. The links which become available must be accessible by Mauritius Telecom and the Mauritius Telecommunications Authority will oversee the interconnection agreement to ensure fairness to all parties concerned, including the end-user.

The Internet represents vast opportunities for businesses, education and the nation at large. In this context, usage of the Internet in Mauritius is being strongly encouraged. Competition in this market segment has proven to be a powerful strategy to reduce prices and stimulate demand. In doing so, the Mauritius Telecommunications Authority must evaluate the potential benefits and threats of voice telephony over the Internet in determining the conditions attached to licensees and in order to regulate the market. Government will open Internet services to competition by the end of 1998.

Global Mobile Personal Communications by Satellite also offers great potential for the local market.. In spite of the threats to local wireline and cellular mobile operators, benefits outweigh the costs. Government will allow competition in the GMPCS market.

4.6 Regulating Competition

One of the roles of the Mauritius Telecommunications Authority, is to promote competition in keeping with the policies of Government. Most elements associated with regulation of a competitive sector are therefore within the province of the Authority. Critical elements include licensing, interconnection, pricing, universal service/access, numbering, structural separation, spectrum management and type-approval.

4.6.1 Licensing

The new legislation will provide for licensing of telecommunications operators by the Authority in keeping with the interests of the public, national security, technical compatibility, and agreements between Mauritius and any other State. Any dispute of licence terms may be appealed to the Minister. Licensing must take into account the services which the State believes must be in place to accommodate the needs of the nation. Provision may be made in the licence for mandatory research and development, human resources development, universal service funding, or other service and performance targets.

In keeping with Mauritius' commitments to the WTO, exclusivity provisions in licences may not extend beyond the year 2004. The new Act will also provide for a transitional licence to be granted to Mauritius Telecom to allow its operations to be uninterrupted between the time the Act is passed until the time the Authority can issue it with a proper licence.

4.6.2 Interconnection

It is within the province of the Authority to regulate interconnection. It is an objective of Government policy for telecommunications infrastructure to develop as a network of interconnected networks. Thus it is incumbent upon all operators to negotiate in good faith with each other to establish reasonable and equitable interconnection agreements. All interconnection agreements will be provided to the Authority, which will review them to ensure that competing operators have comparable interconnection terms. The Authority will also preside over any dispute between operators regarding interconnection and will regulate access charges following the terms of charging policy as established by the Minister.

4.6.3 Pricing

The new legislation will require that every operator provide to the Authority tariffs for each telecommunications service supplied and whatever additional documentation the Authority requests for purposes of monitoring compliance with tariff provisions. These tariffs will be public information and must be available for review by consumers at the operators' offices.

Tariff rates must be approved by the Authority for the time period during which they will be effective. The Green Paper on Telecommunications described the two most commonly used forms of rate regulation: Rate-of-Return (ROR) and Price-Cap.

Rate-of-return regulation is cumbersome in its analytical requirements and is quite regimented in terms of allowing the operator pricing flexibility. Price-cap regulation is the more commonly accepted approach around the world, since it requires less administration on the part of regulators, allows operators the flexibility to respond to market forces, and provides an incentive for increased efficiency. The Mauritius Telecommunications Authority will determine the pricing regime to be adopted while issuing any licence.

Another issue pertaining to pricing is Government's policy of no cross-subsidisation. It is common for tariffs to be established in such a way that international calls subsidise the national network. Thus, international call tariffs tend to be substantially higher than the cost of providing the service, while national tariffs are substantially below cost. While this has historically been viewed as an appropriate mechanism for funding local network development, it

has left the higher margin international market open to cream skimmers, such as call-back operators. To comply with Government policy of no cross-subsidisation, Mauritius Telecom will re-balance its tariffs.

4.6.4 Universal Service/Access

Government's objective is to provide access to basic telecommunications services at reasonable costs throughout Mauritius, Rodrigues and the Outer Islands. Government policy will be to ensure that a universal service is offered to meet this end. This measure will be important in the future for the population in remote areas in determining opportunities for work, education and leisure.

In order to relieve any single operator from having to bear the full cost of providing such service, the new legislation will require that all operators contribute towards the provision of this service. All operators in the country will have a universal service obligation which will be incorporated in the licence to be issued by the Mauritius Telecommunications Authority. The universal service obligation will be structured as a contribution to a Universal Service Fund which will be managed by the Mauritius Telecommunications Authority. The universal service requirements will be determined by the Authority in accordance with Government policy and the contributions collected from operators will be used to support projects bringing service to users in remote areas.

4.6.5 Numbering

Numbering is a critical issue in promoting fair competition. The numbering plan must be allocated equitably across operators, since favourable numbering arrangements will provide a competitive advantage. Another issue pertaining to numbering is number portability, which would enable a user to migrate from one operator to another without changing his telephone number. Consequently, numbering is a serious policy issue, to be addressed by this Ministry. The Authority will be responsible for implementing numbering policy formulated by this Ministry.

4.6.6 Structural Separation

It will be necessary for the Authority to have access to detailed accounting information from the companies it regulates. Separation of network development and service provision costs in this information is essential for computing interconnection charges as well as reviewing prices charged to service re-sellers. The Authority will be responsible for developing the accounting principles to support such rate analysis. Such accounting principles may, at the discretion of the Authority, be based on the principles implemented by telecommunications regulators in other countries with well developed regulatory regimes.

4.6.7 Spectrum Management

The Authority will continue to have responsibility for implementing Government's policy on spectrum management. Such responsibility includes broadcast frequencies. The Authority will further determine means of frequency allocation (e.g. frequency auctions).

4.6.8 Type Approval

The Authority will be required to ensure the safety and quality of every telecommunications service and, for that purpose, determine technical standards for telecommunications network matters, the connection of customer equipment to telecommunications networks and the performance of cabling. The Authority will provide type approvals for telecommunications equipment in keeping with this function. To simplify this process, the Authority will accept equipment approved elsewhere by legitimate standardisation organisations.

4.7 Employee Participation in the Privatisation Process

In privatising Mauritius Telecom, one of the most important considerations is its impact on Mauritius Telecom's employees. Experience has shown that staff usually have a number of concerns, the main ones being:

- a. threats represented by the changes in environment and the increased level of uncertainty;
- b. possible reduction in job security;
- c. doubts about their ability to perform in a more challenging and different environment;
- d. risk of skills redundancy; and
- e. perceived threat to their pension or other employment terms.

Because the proposed changes are radical, if inevitable, and will entail a period of flux for the company and its staff, such concerns are understandable. There may, however, be misconceptions about the outcome of sector reform for staff. Experience has shown that:

- Once full market liberalisation arrives, overall employment in the sector tends to increase due to more operators being in the market and to general expansion of telecommunications services. Any reduction in staff employed by main service providers arises not from privatisation or competition but from technological advances.
- Growth levels in telecommunications have been and will continue to be high, and therefore, there is considerable scope for improvement in productivity arising from increases in business activity.
- Under conditions of competition in the private sector, the employment terms and conditions of staff in the industry, including salaries, pensions and benefits, tend to improve overall. This happens because of increased competition for experienced staff, the emergence of a system of meritocracy and improvements in efficiency and profitability which lead to improved workers compensation packages.
- Increased diversity in the industry leads to better career development opportunities and greater job satisfaction.
- Staff have the opportunity to participate in the profits of the company by acquiring shares.

There are a number of different ways in which employees may acquire shares:

- shares could be offered at a discount
- preferential allocation of shares could be granted within a public offering
- share options
- bonus shares issued under a profit sharing scheme
- participation in an employee shareholding (saving) scheme by setting aside an amount from their wages to purchase shares at an attractive rate, or an Employee Share Ownership Plan (ESOP) where a loan is made to an employee benefits trust, which acquires shares and allocates them through periodic payments to each employee's ESOP account.

When divesting its shares in Mauritius Telecom, Government will give consideration to those of the above options which are thought appropriate.

The impact on staff of the privatisation of Mauritius Telecom and market liberalisation will be extensive. Government will ensure that Mauritius Telecom informs and consults with its employees and their union representatives at all stages. Mauritius Telecom will need to design and implement a programme, some of the key features being:

- a. a review of the company's manpower requirements in order to "right size" the organisation;
- b. communication of the review results to staff and explanation of its implications to all staff and their union representatives;
- c. implementation of training for new skills which will be required in several important functions in order for the company to operate effectively in its new environment; for example, new skills in marketing and finance will be needed as well as those required to install and maintain new technology;
- d. in addition to training for new skills, consideration will need to be given to re-training and re-deploying staff as and when their present skills are no longer required; and
- e. a well designed "right sizing" scheme which will include:
 - Early retirement for some staff approaching normal retirement with enhanced pension and redundancy payments based upon length of service.
 - Exploration of external employment opportunities with reserved pension entitlement.
 - Optional voluntary retirement on reasonable and favourable terms.

5 POLICY IMPLEMENTATION SCHEDULE

The major milestones in the policy implementation schedule are:

- 1998 - Completion of initial phase of privatisation of Mauritius Telecom
- 2005 - Markets must be open to full competition

Policy implementation over the 1997-2007 time frame will be in three phases:

a. short-term

From 1997 through year-end 1998

- new legislation
- establishment of the new Mauritius Telecommunications Authority
- establishment of the new Telecommunications Advisory Council
- intensive initial policy and regulatory decision-making
- intensive activity toward the initial partial privatisation of Mauritius Telecom.
- opening up of some additional services to competition;

b. medium-term

From 1999 to 2004

- gradual sector liberalisation
- the advent of competition across other market segments

c. longer-term

From 2005 and beyond

- full compliance with WTO obligations.
