



Kiribati:

National ICT Policy – phase 1 reforms

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1 Background

The Government of Kiribati recognizes the critical role of ICT in Kiribati's future economic development. ICT is a key ingredient in connecting people to each other and to vital services which underpin economic and social wellbeing. Consequently, the Government is committed to fostering the development and use of affordable, reliable ICT services in the interests of all of the people of Kiribati.

The Government affirms the need for affordable and reliable ICT services as a fundamental input for enhanced economic growth and development, particularly in the underserved and remote areas of Kiribati. International experience, particularly in developing countries, shows that telecommunications are an essential input for other sectors, and for the creation of wealth and jobs. However, the penetration and usage must be significant or high for tangible results.

This National ICT policy is focused on creating a robust, stable, market-driven ICT sector, which the Government believes will create a favorable climate that is attractive to private investors and will lead to increased ICT infrastructure investment and services development. The Government acknowledges that a key element of a sustainable market is that tariffs must reflect the actual efficient costs of providing the services.

The Government also recognizes, however, that there are remote and underserved areas in Kiribati which are not commercially viable and where innovative mechanisms are needed to increase access to ICT services, including supply of voice and data. As much as possible, there should be equal access to services across all of Kiribati including the Outer Islands. The introduction of mechanisms to improve connectivity for the Outer Islands is a central component of the Government's policy for the ICT sector.

This policy focuses specifically on telecommunications networks and services, which are the essential building blocks of the broader ICT sector. It is intended that, in the future, this policy will be expanded to deal with the broader range of ICT matters, including broadcasting, cyber-security, e-commerce and e-government, and privacy.

2 Links to other Government policies

The Government and the private sector in Kiribati have a finite budget. Hence, it is critical that every dollar is spent wisely and in a way that delivers the greatest benefit for the people of Kiribati. The Government believes that investment outcomes will be enhanced by ensuring appropriate co-ordination and information sharing between Government departments and the private sector. Co-ordination is especially important when it comes to planning and delivering large infrastructure projects.

The Government will direct officials engaged in the provision of core infrastructure, particularly telecommunications, roads, electricity and water, to share information in order to ensure that the benefits of investment in one sector are available, to an appropriate extent, to other sectors. For example, the Government intends that the design of a new road project should be co-ordinated with the telecommunications sector and provide ducts which would permit the installation of fibre-optic cables in the future.

3 Importance of the ICT sector

Telecommunications services help to overcome the barriers of long distance and isolation, which are particularly challenging for Kiribati. Telecommunications help to bring together people and families from village to village, from island to island, and to connect to the world. Unfortunately, the current lack of telecommunications services for the Outer Islands means that many families are unable to stay in contact with loved ones who have travelled to other parts of Kiribati or internationally, often in search of work.

It is important that Kiribati embraces the information society, which is spreading worldwide and rapidly guiding all economic and social activities. Businesses, particularly small and medium businesses, depend upon reliable ICT infrastructure in order to grow and increase profitability. Reliable connectivity and the ability to engage in e-commerce are vital paths to economic prosperity and business success. Government ministries and island councils can benefit considerably from affordable and reliable telecommunications, which will assist them in providing services to their constituents.

4 Current status of telecommunications in Kiribati

The ICT sector in Kiribati is undeveloped. Compared to other Pacific Island countries, Kiribati has a relatively low level of penetration for all fixed telephony, mobile and Internet services. Affordability of these basic services is also a major issue -- Kiribati's fixed and mobile telephony services are among the least affordable in the Pacific. This places major constraints on usage and hinders the development of ICT dependent applications.

Recent analysis of ICT demand and supply in Kiribati has identified considerable pent-up demand for mobile services in particular. The Government believes that there are a number of commercially viable opportunities for the private sector, including for a second mobile operator. The Government recognizes that in other similar markets, including other Pacific Island countries, mobile penetration has risen rapidly following the commencement of a second mobile operator. The mobile revolution is still to take place in Kiribati.

Geographical features and dispersion of many of Kiribati's islands present significant challenges for the provision of modern affordable telecoms services, principally due to their remoteness, small populations, low income and the lack of other supporting

infrastructure, particularly electricity. Nevertheless, modern mobile solutions designed specifically for developing countries present economically viable ways to expand services in Kiribati.

The enactment of the *Telecommunications Act 2004* liberalized the telecoms sector in Kiribati and was intended to allow competition, particularly in mobile services. However, competition has not eventuated due in part to a number of regulatory and legal constraints inherent in the current regime. The Government continues to support open and competitive markets, and is committed to further legislative and regulatory change to achieve significant improvement in ICT services in the near to medium term.

5 Policy objectives for the ICT Sector

This National ICT policy is consistent with the aims and strategies of the Kiribati Development Plan -- namely, the pursuit of economic growth for Kiribati with the aim of improving the lives of citizens through further development of the economy and citizens' capabilities. Increased availability of affordable and reliable ICT services is a key input to economic growth, particularly for presently un-served and underserved remote areas of Kiribati.

Access to the widest possible range of ICT services, including Internet connectivity, is also essential to improve the quality of education in Kiribati. An important attribute of the Internet is its ability to solve distance learning problems and to build bridges between teachers and students. The Government is committed to reducing the 'digital divide' between schools which have access to the Internet and those that do not.

Similarly, as Internet penetration improves, the Government intends to offer more and more e-government services. Effective use of ICT by government will increase the ability of Kiribati people to access government services, participate in government initiatives and support the democratic process. The development of e-government initiatives will be part of future Government policies.

5.1 Five guiding principles

The five guiding principles which underpin the objectives of this National ICT Policy are –

- (i) open and competitive markets
- (ii) modern, independent and proportionate regulation,
- (iii) non-discrimination and technology neutrality,
- (iv) universal service for remote areas of Kiribati, and
- (v) optimal use of scarce resources.

The mechanisms for implementing these principles are detailed below.

5.2 Statement of specific objectives and timetable

This Policy has the following specific objectives arranged in three groups for timing purposes:

1. Short term goals (2011)

- Adopt National ICT Policy – phase 1 reforms
- Review, update and enact new legislation to give effect to this policy
- New license for TSKL

2. Medium term goals (2011-2013)

- Strengthen and reform TSKL (which may include entering into a Public Private Partnership or partial privatization)
- Promote new entry, particularly mobile and ISP services
- Promote ICT access for schools, reducing the 'digital divide'
- Design and implement mechanisms to improve significantly ICT services for the Outer Islands

3. Long-term goals (2014–)

- Effective competition in commercially viable areas of Kiribati
- Implement coverage of voice and data services across Kiribati to the maximum extent feasible
- Promote ICT-dependent applications and services, including e-commerce, e-government, education and health.
- Encourage use of internet for the people of Kiribati
- Achieve 100 % roll out of Internet connectivity to primary / secondary schools
- Facilitate the development of cost-effective domestic and international transmission networks.

6 Outer Islands Strategy

The Government is committed to introducing a universal access regime for the Outer Islands to ensure ICT services are available, to the greatest extent feasible, to all of the people of Kiribati. The Government is determined that people living outside the main centers should also share in the transformational opportunities which ICT can deliver.

The Government is currently developing the mechanism which will ensure services are delivered to the Outer Islands and other remote areas of Kiribati. It is likely that the Government will take a two-fold approach – (1) mandatory coverage obligations imposed on mobile licensees, and (2) targeted subsidies used to support service expansion in the most remote and challenging areas. The Government and, it is hoped, international donors will supply the funds which will be needed to support any subsidy regime.

The Government will co-ordinate development of telecommunications infrastructure with development of other infrastructure such as electricity and roads.

Licences may include interim roll-out targets coupled to payment of subsidies.

7 Strengthening administration of the telecommunications sector

7.1 Ministry of Communications, Transport and Tourism Development

The Ministry of Communications, Transport and Tourism Development will take on a more explicit policy setting role for the ICT sector. The near future will require development of legislation at least in order to give effect to Government policy for the sector. A programme will be developed for strengthening the capacity of the Ministry to meet the requirements of the new role.

7.2 Independent and proportionate regulation

The Government will amend the *Telecommunications Act 2004* to provide for independent and proportionate telecommunications regulation which promotes fair competition, and transparent and predictable regulatory actions. International experience shows that these measures are critical in encouraging private investment in the sector.

The regulator, the Telecommunications Authority of Kiribati (**TAK**), will be legally, institutionally and financially independent from Government. It will perform its functions independently from the policy-setting role and ownership interests of the Government. The TAK will provide reports on its activities to the Minister of Communication, but it will not be subject to direction by the Minister or Government.

The role of Government in the telecommunications sector will be to set the overall policy direction for telecommunications development and enact the necessary laws and regulations in support of Government policy. The TAK will be responsible for implementing Government policy and for regulating the ICT sector, including in relation to competition and consumer matters. It will be self-funded through licensing fees.

The TAK will exercise regulatory forbearance and will only intervene in the market in certain limited circumstances. It is intended that, to the greatest extent possible, prices and services will be set by the market. In the event that intervention is necessary, the TAK will have the authority to get conclusive outcomes effectively. The TAK will be empowered to:

- issue licenses and monitor license compliance,
- promote and enforce fair competition,
- regulate tariffs, interconnection and infrastructure sharing,
- protect consumers interest,
- administer mechanisms for the supply of services to the Outer Islands,
- assign and monitor frequencies,

- design and maintain a national numbering plan,
- charge fees for regulatory functions including licensing, numbering, spectrum and dispute resolution for the purpose of covering the costs of TAK;
- represent Government on matters pertaining to regional and international organizations, and
- perform such other technical and economic regulation as may be consistent with its mandate to promote the development of the ICT sector in Kiribati.

The TAK will perform its functions in a transparent manner, subject to the rights of operators to non-disclosure of proprietary and competitively sensitive information. Parties affected by regulatory decisions, including operators, customers, and competitors, will have a right to seek review by a specialist body. The TAK will promote broad public consultation and keep all legislation, regulations and decisions publicly available on the Internet.

8 Regulatory policies

Taking into account the small size of Kiribati, regulatory policies should be designed with a clear focus on minimizing the required regulatory work input. Legislation should permit introduction of easy and simple procedures with reasonable accuracy.

8.1 Market entry and operator licensing

The Government wishes to encourage and facilitate entry into the market, in accordance with international best practice adapted appropriately to the environment in Kiribati, of a variety of competing infrastructure and service providers. It is intended that there should be no artificial restrictions on the number of operators allowed to install telecommunications networks or provide telecommunications services.

A provider of telecommunications services will require either an individual or a class license, depending on the nature of the activity. Licenses will be a unilateral grant of permission to supply regulated services. In order to enhance regulatory certainty, transparency and competitive neutrality, general conditions will be specified by public instrument. Special conditions may also be imposed on individual operators (for example related to population and service coverage).

It is envisaged that individual licenses will be required where the operator owns or operates telecommunications infrastructure and facilities. Class licensing, which will require only registration, will be used at the services level. The TAK will be empowered to exempt minor services from licensing obligations, including telecommunications for private or internal use, services in corporate networks and closed user groups.

Radio spectrum will be licensed separately from operator licensing. However, it is expected that TAK will develop procedures which allows operator and spectrum licensing to be dealt with in a co-ordinated manner, in order to enhance market access.

8.2 Competition issues

The Government recognizes that, in the current environment of limited or no competition, market regulation is needed to deliver appropriate outcomes in the interests of service providers and consumers. However, it is critical that the regulatory processes are appropriate for Kiribati and do not impose an unnecessary burden on participants. The Government is determined that the costs of regulation should not drain the benefits of competition.

Kiribati faces a number of very significant challenges attracting and supporting effective and sustainable competition in key markets, including mobile services. The Government is committed to policies which will support new entrants, whilst preserving investment incentives for incumbent operators. In this regard:

- the licensing regime will be flexible, open and give new operators the freedom to offer services which are adapted to local conditions;
- the regulatory burden imposed on market participants will be minimized, enhancing the benefits of innovation and competition; and
- the Government will encourage (and in some cases require) infrastructure sharing, described in section 8.5, in order to reduce barriers to entry.

8.3 Tariff policy

The Government believes that a competitive industry structure, where market forces exert control on the behavior of telecommunications operators, is the most appropriate mechanism for delivering appropriate and sustainable tariffs and rates to consumers. However, until a competitive industry develops, the Government acknowledges that tariff and rate regulation may be required to speed up a transition to a low-prices-high-usage sector.

In these circumstances, the Government believes that it could be appropriate for the TAK to introduce tariff and rate regulation requirements for dominant operators. The focus of this regulatory intervention will be on ensuring that (i) service prices are cost-oriented, (ii) consumers' and competitors' interests are protected and (iii) the industry develops in an efficient manner.

8.4 Interconnection

Telecommunications operators will be required to provide 'any to any' connectivity for all domestic fixed-mobile and mobile-mobile calls and data messages. The TAK will ensure that interconnection is available on a transparent, non-discriminatory and cost-oriented basis to all licensed operators, including the technical, physical and financial components of interconnection.

8.5 Infrastructure sharing

Regulation will promote shared access by operators to idle infrastructure capacity or infrastructure which is difficult or inefficient to duplicate. It is intended that operators will share excavations, ducts, towers, poles, power supply, and other infrastructure elements of their networks on a fair, transparent and non-discriminatory basis. The Government will introduce infrastructure sharing obligations which will reduce the cost of providing competitive services. The TAK will be entitled to define details of such obligations including, but not limited to, access holidays and sufficient spare capacity. The Government also believes that it is critical to preserve the limited land which is available for use by ICT providers in Kiribati.

Government may take actions to ensure that major operators, also new, have infrastructure to facilitate reciprocal infrastructure access agreements.

8.6 Market conduct, mergers and acquisitions

The TAK will be charged with ensuring fair competition. It will be responsible for ensuring that operators do not abuse a dominant position, enter into anti-competitive agreements or engage in anti-competitive behavior in market, including, *inter alia*, anti-competitive cross subsidies, predatory pricing, unfair discrimination or tying arrangements. The TAK will also review proposed ownership transactions which could diminish the level of competition in a relevant market for telecommunications services.

8.7 Rights of Way

The clauses on Rights of Way or Use of Land in the present legislation will be updated in light of the partially new approach in this Policy.

8.8 Numbering

The present telephone numbering scheme is based on five digits, providing a maximum capacity of tens of thousands of telephones. The capacity is not sufficient for a new regime with several service providers and a new numbering scheme is urgently required

prior to the introduction of competition. At the same time, the present numbering allocation and assignment procedures will be revised to correspond to the requirements of a competitive regime.

8.9 Customer premises equipment

In relation to the sale and installation of Customer Premises Equipment (CPE), the only requirement on suppliers will be that all equipment must conform to the relevant international standards and in no way negatively affect the operation, reliability or integrity of the network.

9 International connections and Gateway

There will be no restrictions in the new regulatory environment which would prevent an operator from positioning international gateway infrastructure outside of Kiribati, as long as Kiribati does not have a submarine optical fibre connection between Kiribati and the outside world. The Government acknowledges, in fact, that there may be significant advantages attendant in placing a gateway at a location where direct optical fiber access is available, including improved network performance, increased network utilization and reliability, and reduced satellite costs potentially leading to reduced retail costs for consumers. At all times, gateway infrastructure will be subject to Kiribati law, and regulation by the TAK, regardless of whether it is situated within or outside of Kiribati.

Government, in co-operation with TAK and stakeholders, will explore the possibilities for future submarine fibre optic cable connections between Kiribati and the outside world. Some similar countries have succeeded.

10 Radio spectrum

Radio spectrum is a finite resource. Radio spectrum will be licensed separately from operator licensing in order to ensure that it is managed effectively, efficiently and that it is put to good use in the interests of the people of Kiribati. As noted in Section 8.1, the TAK will develop procedures which will allow operator and spectrum licensing to be dealt with in a co-ordinated manner. Due to the different nature of the radio spectrum resource, an operator license will not confer any entitlement to a radio spectrum license.

10.1 Spectrum management

The TAK will be responsible for developing and publishing the spectrum and frequency allocation plan for Kiribati for the assignment of frequencies and frequency licensing and monitoring in the ICT sector. Individual spectrum licensing will be required where co-ordination is required between users of spectrum to minimize interference and other

operational risks. Class licensing will also be available for transmitters that pose little interference other risks.

10.2 Radio spectrum for mobile operators

Effective competition in the ICT sector is vital in order to improve access to affordable telecommunications services by the people of Kiribati. Accordingly, the Government intends to offer radio spectrum for additional mobile operators, initially for one new entrant. The Government expects that the new entrant will compete head on for customers with the incumbent operator, TSKL.

Radio spectrum is a finite natural resource and it is important that all mobile operators who hold spectrum rights will use it efficiently and effectively, in the best interests of all of the people of Kiribati. A beauty parade or similar mechanism will be used in order to identify the preferred entrant – the criteria for selecting between bidders will include coverage, service availability and quality targets.

As noted in Section 6 of this Policy, the Government is also developing mechanisms for improving the coverage and quality of service offered to the Outer Islands and remote areas. The Government believes that a targeted subsidy regime may also be needed to complement any service and coverage obligations agreed with licensees.

11 Other obligations, taxes

There will be no special exceptions or exemptions from taxes applied to normal commercial companies. In other circumstances, it may be appropriate to provide ICT sector specific exemptions in order to avoid duplicating regulation and to assist with the development of the ICT sector generally. For example, (1) foreign investment matters may be dealt with solely under the telecommunications licensing regime, and (2) telecommunications equipment may be exempted from import duties.

12 Strengthening Telecom Services Kiribati Limited

It is critical to the success of the ICT sector that Telecom Services Kiribati Limited (TSKL) is transformed into an efficient company that is capable of competing on its merits against new and efficient entrants. The Government is mindful that the immediate introduction of a new competitor could risk the financial viability of TSKL. The Government will prepare a comprehensive program for strengthening TSKL, including transitional mechanisms.

Government efforts to transform TSKL will be undermined if open competition is introduced too early with potential external investors and managers possibly deterred. In an extreme case, if open competition is introduced in circumstances where TSKL is unable

to compete effectively, a new entrant could undermine the financial viability of TSKL and reinstate a network monopoly in Kiribati.

At the same time, the Government is not prepared to forego the benefits that will accrue to Kiribati from competition in the ICT sector. The Government intends to move quickly toward reforming TSKL into an effective and competitive operator. The Government will look at all options, including PPP type collaborations, which may assist TSKL to access the expertise, financial and other resources it needs to develop its network and expand its services.

Government has already started actions aiming at strengthening TSKL.

13 Government's ICT activities

Government will improve the internal ICT communications facilities between the ministries and other entities for the three main purpose of

- making Government work more efficient;
- improve the possibilities to offer e-government services; and
- improve access of the public to Government entities and officials.

The work will be done as a co-operation between ministries, agencies and other entities, with the Ministry of Communications, Transport and Tourism Development as the lead agency. The work will pursue efficient utilization of human resources as well as ICT resources across all involved agencies.

These activities do not require separate legislation.

14 Further development of the Policy

This policy for phase 1 reform of the ICT sector does not cover broadcasting services (radio and television). However, in light of the increasing convergence between telecommunications and broadcasting, the Government anticipates that it will need to develop a comprehensive policy for converged services in due course.

Similarly, new policies relating to cyber issues will also need to be introduced in the future. The range of issues to be addressed include online contracts, electronic signatures and authentication, mobile banking, online payments and consumer protection, personal data protection, online content, cyber-crime, spam and privacy issues.

To the extent that the existing *Telecommunications Act* currently deals with broader ICT matters, these provisions will be carried over to the new legislation which will implement this policy. However, substantive reform awaits further policy development in this area.