

Telecoms Regulator To Be Demoted

Government to replace independent regulator with government-controlled panel

By Dan McGarry

THE GOVERNMENT OF VANUATU seems intent on interfering in the telecommunications sector.

One of the key components of the telecommunication reforms of the late 2000s was the creation of an independent industry regulator to preside over the sector. Now, the government is proposing to demote the role of the regulator to an administrative capacity.

This came about following a 2004 World Bank study, which researched the existing conditions in Vanuatu and determined that the too-cozy relationship between government and the controlling monopoly had created an un-competitive and slow-moving telecommunications sector that reached only a tiny fraction of the population.

A direct result of these findings was the creation of an independent telecommunications regulator. In conjunction with the Government Chief Information Officer, the TRR (as it was then) was tasked with implementing a series of policies created by the OGCIO, and ensuring what one regulator called 'an enabling environment' which emphasised consumer uptake.

The idea was simple: instead of high-priced services affordable to a tiny few, create lower-priced services accessible to the entire nation.

The results are indisputable. In just four years from 2014 to 2017, telecoms sector revenues rose by nearly 40%, half of that in 2017 alone.

Bandwidth usage has risen by 4,000%. That's right—the amount of mobile data used by people in Vanuatu increased by a factor of 40 between 2014 and the end of 2017.

The number of mobile data subscriptions more than doubled in the same period.



Now the Prime Minister is introducing legislation to place the independent regulator at the beck and call of the very people they're supposed to be regulating.

If they're passed, a new set of amendments to the telecoms regulation act will create a panel that sits above the Regulator. The members will be selected by the government, by the telecoms sector members themselves, or by people on the public payroll.

The explanatory note accompanying the bill states clearly that these changes are designed to limit the authority of the Regulator.

"This amendment is necessary to meet good governance and accountability practices to allow for checks and balance to decisions released by the Office of the Regulator in relation to the competition between the service providers."

Currently, complaints arising from regulatory orders and decisions have a formal review and appeal process, and can be sent for judicial review to

the courts. Presumably these changes would short-circuit that process.

The note states, "In the past, there have been numerous issues encountered from this institution compared to any other independent regulatory agency."

It provides no evidence to support that assertion.

There were two independent regulatory bodies set up as a result of the 2004 World Bank report. The Utilities Regulatory Authority, which regulates power and water concessions, has contended for years with a series of legal challenges to its authority.

The URA is set up in a similar fashion to what's proposed in this bill. The government has failed to take any action on several URA findings that suggest UNELCO collected hundreds of millions of vatu without authorisation, and used sibling companies to inflate profits.

UNELCO maintains that it acted appropriately in every respect and has

said it would welcome arbitration if the government so wished.

Until recently, the TRR avoided outright conflict with stakeholders, but in 2016, following complaints from telcos, the TRR issued a series of orders, and ultimately fixed the wholesale price of fibre-optic bandwidth provided by Interchange Ltd and FCC, a wholesaler.

Both of these parties complained to government about what they considered to be unfair and discriminatory treatment. Attempts to suspend the TRR were rebuffed by the Supreme Court, which found that the personnel at the OGCIO and elsewhere colluded and conspired against the Regulator.

Now, it seems, they're using legislative measures to achieve what the courts wouldn't let them do.

The explanatory note justifies the changes thusly: "The current Act does not require the Regulator to comply with the National Sectorial Policies determined by the Minister and

endorsed by the Council of Ministers." This implies that the Regulator is supposed to do the will of government.

The current legislation makes it clear that the job of the Regulator is to ensure a fair playing field, taking policy and the law into account.

But what if the policy is wrong? The Regulator is mandated to advise the government on request. They are also required to implement the Universal Access Policy—one of the main reasons the telecoms sector has expanded so rapidly.

Under the current law, the Regulator is free to question government policy if it's not in the interest of the sector as a whole—before it's implemented, of course. The Regulator has to follow the law just like everyone else.

In the past, the close relationship between the old monopoly provider and some members of government resulted in severe distortions of the local market. Lack of leverage meant that internet prices remained high, and mobile coverage barely extended beyond Vila and Santo.

The government is a stakeholder in this sector. It is one of the largest telecoms customers, and it has a financial stake in Interchange Ltd, which operates Vanuatu's submarine cable.

Along with the VNPF, it has an innate conflict of interest in the telecoms sector. On the one hand, it has a responsibility to consumers to ensure lower costs. On the other hand, it has a financial duty to get the best possible dividend from its shares.

And now it wants to control the Regulator, too. The amendments create the right of government to "provide instructions to the Regulator", who has been demoted to a merely administrative capacity.

The amendment bill is expected to be tabled in next week's Second Ordinary Session of Parliament.

WEATHER ICONS & MEANING			TODAY FORECAST OUTLOOK				TOMORROW FORECAST OUTLOOK			
Icon	Meaning	Icon	Weather Forecast	Wind Dir	Wind Speed	Temp.	Weather Forecast	Wind Dir	Wind Speed	Temp.
	Sunny		Fog		Showers/Thunder					
	Mostly Sunny		Light Showers		Heavy Rain					
	Mist		Showers		Storm DownDraft					
	Mostly Cloudy		Light Rain		Wind Speed & Direction (kt)					
	Cloudy		Rain		Temperature					

PROVINCE	WEATHER FORECAST	WIND DIR	WIND SPEED	Temp.	WIND DIR	WIND SPEED	SEA STATE
TORBA		East	15kt	32°C / 25°C	South-East	25kt	Moderate seas to 1.5m
SANMA		East	15kt	31°C / 24°C	North-East	25kt	Moderate seas to 1.5m
PENAMA		East	15kt	33°C / 25°C	East	25kt	Rough seas to 3m
MALAMPA		East	20kt	32°C / 23°C	East	25kt	Rough seas to 3m
SHEFA		East	20kt	30°C / 23°C	East	25kt	Rough seas to 3m
TAFEA		East	20kt	33°C / 25°C	East	30kt	Rough seas to 3m

SUNRISE/SUNSET TIMES	
TODAY	TOMORROW
05:03 AM	05:04 AM
18:13 PM	18:13 PM

TIDES FOR PORT VILA & LUGANVILLE		TODAY				TOMORROW			
TIME	HEIGHT (m)	0011	0645	1210	1800	0047	0725	1248	1835
HIGH & LOW TIDES FOR PORT VILA		0.26	1.32	0.74	1.48	0.26	1.30	0.78	1.43
HIGH & LOW TIDES FOR LUGANVILLE		1.41	0.71	1.71	0.30	1.37	0.77	1.65	