THE POLITICS OF TELECOMMUNICATIONS REFORM IN NEW ZEALAND

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This paper presents an historical account of the reforms to New Zealand's telecommunications policy which have occurred since 1986. The history is set around three stages: the period leading up to the review of the New Zealand Post Office in 1986; the corporatisation and subsequent privatisation of Telecom New Zealand in 1990; and, the implementation of the so-called 'light-handed' regulatory regime since 1990. This paper focuses on the period up to 1990 to address the question why telecommunications reform took place in New Zealand. It is argued that the ideological disposition of the New Zealand Treasury was very influential in determining the outcomes of the reform process. This paper also makes some observations on the broader political aspects of the reform process.

Keywords: politics, policy, telecommunications, New Zealand

INTRODUCTION

As the experience of many countries with telecommunications deregulation and liberalisation continues to grow, there has also been an increasing interest in studies assessing individual country experience as well as international comparisons [1]. New Zealand is a particularly interesting case since, as a developed country, its government embraced competition law as the main vehicle for telecommunications reform, electing not to establish a telecommunications regulatory body. As one commentator has put it, the New Zealand experience was effectively 'testing the limits of nonregulation' [2]. Why and how this situation came about is the subject of this paper. An understanding of the politics of this process in New Zealand provides a different perspective from which to view deregulation and privatisation in telecommunications, the conventional accounts of which often emphasise preceived benefits arising from competition and efficiency.

The aim of this paper is to review the historical changes which have occurred in telecommunications policy in New Zealand in recent years from a political per-

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spective. Sweeping changes to economic management made by the Fourth Labour Government since 1984 have provided the context for the reform process. However, many of the preconditions for change in telecommunications were set well before 1984 when the Labour Government took office. Easton [3] has argued that pressures for change which manifested themselves in economic rationalist thinking in the 1980s can be traced back to fundamental shifts in New Zealand's economy in the 1960s and 1970s. New Zealand's export sector (heavily based on primary products) was required to diversify during the 1970s in response to changing international circumstances. As a result, new growth opportunities presented themselves to the domestic sector (eg. financial services and manufacturing) which was traditionally heavily protected. The integration of the external and domestic sectors of the economy which occurred during the 1970s provided the basis for new political alliances. Traditional alliances supporting a protected domestic sector based on government subsidy were being challenged by a new coalition of interests which saw political and economic gains from less regulation, especially in financial markets. What resulted was a relationship between the Labour Government (elected in 1984) and the financial sector which intensified over time. As economic circumstances changed, privatisation became a vehicle for achieving the political objectives of what had become by the late 1980s, a power elite in New Zealand. Easton has argued that the 'business knows best' ideology espoused by industry and parts of government provided a convenient way for the new power elite to justify its actions. Telecommunications, as an important valuable service and national asset, naturally became part of this changing political and economic environment.

With these broader economic and political changes as background, the following discussion about telecommunications is set around three stages[4]. The first stage covers the period prior to the major review of New Zealand's Post, Telegraph and Telephone (PTT) organisation, the New Zealand Post Office, in February 1986. In this first stage, with the reorganisation of the Post Office, the scene was set for more radical changes to follow. The second stage from February 1986 to October 1990 involved a process of liberalisation of telecommunications and a Government program of corporatisation of State-Owned Enterprises, culminating in the privatisation of Telecom New Zealand and the defeat of the Labour Government in the October election. The final stage from October 1990 involved the privatised Telecom New Zealand exercising its power in the co-called 'light-handed' regulatory regime.

SETTING THE SCENE: THE PERIOD UP TO THE REORGANISATION OF THE NEW ZEALAND POST OFFICE (FEBRUARY 1986)

The 1960s and 1970s in New Zealand can be described as a period of growing expectancy with respect to telecommunications. As a relatively small but wealthy nation, New Zealand enjoyed easy access to the latest telecommunications and computing technologies. Within government there was a growing awareness of the increasing role of information and communications in modern New Zealand society[5]. The central government was responsible for providing public telecommunications services through the New Zealand Post Office and the Broadcasting Corporation of New Zealand[6]. While the official planning and coordination functions rested with Cabinet, the Postmaster-General and the Minister for Broadcasting, the New Zealand Post Office had considerable power since it was directly involved in many of the key policy committees and provided technical advice to government. In 1982, the telecommunications staff of the New Zealand Post Office numbered just under 25,000[7].

Throughout the late 1970s and early 1980s, centralised planning and policy coordination underwent somewhat of a resurgence in New Zealand. For example, in June 1976 the National Government established a Communications Commission to investigate the nation's forward planning needs in telecommunications. The resulting report recommended that there was a greater need for coordinated policy making in telecommunications[8]. As a result the Communications Advisory Council was established to recommend long-term telecommunications policy to government[9]. Because of the influence of overseas technology on New Zealand, policy development had frequently led public perception of the need for change[10].

By the early 1980s, New Zealand's economic position had deteriorated. In its planned approach to economic management, the National Government led by Sir Robert Muldoon had taken a very interventionist approach[11] . New Zealand had become one of the most regulated economies in the world. In response to rising energy prices, the National Government embarked on a 'Think Big' growth strategy where the government invested heavily in energy projects such as petrochemicals and the New Zealand Steel Mill. The Government was forced to borrow heavily in order to fund these projects. In line with these broader economic problems, the New Zealand Post Office was also operating under increasing financial difficulty. Despite this, new telecommunications services were introduced. For example, international subscriber dialing (ISD) was introduced in December 1979 and subscriber toll dialing had reached about 50 per cent of the population by March 1981[12]. The information technology sector of the economy continued to grow but the Post Office still adhered to a dominant and monopolistic attitude towards this emerging industry[13].

After surviving a very close election in 1981, the National Government introduced a 'wage and price freeze' in 1982. By 1984, the overseas public debt was about NZ $8.3 billion with a budget deficit of NZ $3.1 billion. The deficit in external trade was about NZ $1 billion[14]. Within Government ranks at this time there was a growing disquiet with the extent to which the economy was managed. While such criticism was not tolerated by Sir Robert Muldoon, it indicated that an approach which placed an emphasis on a greater role for market forces was gaining political momentum[15]. Economic rationalism was starting to become influential as an alternative to the heavy regulatory approach which was by 1984 obviously not working[16]. New Zealand's growing debt also meant that interests of international capital had to be taken into account to a greater extent than ever before. The new economic fundamentals now facing New Zealand promoted a growing alignment of interests between the Labour Party and elite business interests, cemented by a rhetoric of economic rationalism.

Following the snap-election of July 1984, the Labour Party was swept into office with David Lange becoming Prime Minister. A currency crisis faced the new government and this adversely affected the country's competitive position. The country's poor economic performance between 1974 and 1981, low economic growth, high inflation and rising levels of debt and unemployment had by this time convinced Labour caucus that industrial restructuring had to occur - 'inefficient' industries had to be phased out. However, at the time of the election, there was still considerable division within the Labour Party over the most appropriate approach to economic policy. One strategy advocated market liberalisation. Opposed to this was the more traditionalist strategy (for Labour) of involving the government in the economy. The tensions between the latter, the 'corporatist' strategy (which involved government, industry and the unions in partnership) and the market liberalisation strategy were to manifest themselves after the election[17].

The extent to which the Labour Government was likely to adhere to market liberalisation was not apparent to the electorate in 1984[18]. The shift to a market driven approach to economic management and the decline in the influence of the 'corporatist' approach divided the Labour Party[19]. While numerous factors were undoubtedly involved in this power struggle, the influential position held by the 'elitist' Finance Minister, Roger Douglas, and the powerful position of the New Zealand Treasury as an unchallenged source of 'free market' advice to the Government meant that

> The dominant feature of the Labour Government in its first term was its adoption of the economic policies of deregulation, monetarism, and taxation reform associated with international neo-liberal economic theories, known as 'Rogernomics'[20].

Thus, 'Rogernomics' became 'a vehicle by which a coalition of Treasury, business and others pursued their own narrow objectives'[21]. Within six weeks of the election, the Treasury had identified public enterprises as a source of great inefficiency in the economy. Areas of state involvement in energy, lands, forests and the Post Office were cited as being 'inefficient'. In the absence of accurate or detailed information of the operation of public enterprises, the Treasury belief that the 'organisational principles and practices of firms can be applied with advantage in the public sector' gained in political authority[22].

The first Labour Budget in November 1984 which advocated the application of the user pays principle to state involvement in energy and agriculture set the scene for what was to follow[23]. Corporatisation of public enterprises was firmly on the political agenda for the Government and in a short time the Post Office was to be caught up in the change.

During 1984 investment in telecommunications continued to rise as demand for services increased. For example, at a cost of $ NZ20 million, a digital toll link between Auckland and Wellington came into operation in November 1984[24]. Also during 1984, a team from American Telephone and Telegraph (AT&T) visited New Zealand and recommended that there should be greater interaction between the Post Office and telecommunications users[25]. By August 1985, the Government had announced that it intended to invest NZ $500 million in telecommunications capital expenditure over the coming year and that this was necessary because of new technology and the need to maintain a competitive infrastructure[26]. The recent changes to telecommunications structures in the USA were also influencing government thinking at this time together with the question of providing industry with telecommunications at affordable cost[27]. During 1985 the Telecommunications Users Association was formed and immediately called for the Post Office to reduce charges for its packet-switched data network[28].

In line with the push for more efficient public enterprise, a review of the Post Office structure was announced in September 1985. The review was carried out by Wellington businessman Roy Mason and accountant Michael Morris. The recent deregulation of the banking sector had made it imperative that the Post Office Savings Bank become more competitive. Up until that time, it had been cross-subsidised by the telecommunications operations of the Post Office. One of the reasons put forward by the Postmaster-General for the review was changing technology:

> Rapidly changing technology, particularly with the convergence of the twin technologies of computers and communications means it is no longer practical nor appropriate for the Post Office to be the sole supplier of some goods and services such as terminal devices...The Government wishes to see the Post Office structured in such a way that it can compete effectively and fairly in the provision of such services[29].

It was not surprising that the prospect of privatisation was soon considered as a likely outcome of the review and the Government was at pains to allay fears that this would happen[30]. Visiting overseas advisors to the Post Office at this time, such as Professor Herbert Dordick from the US, stressed the need for change but stopped short of recommending privatisation[31]. By December 1985, the Government announced a statement on the principles for the operation of public enterprises after lengthy debates. Paradoxically, while corporatisation was gaining momentum, the Communications Advisory Council was recommending a greater role for planning in the electronics industry[32].

The Government had just committed NZ $420 million to telecommunications network modernisation when the Mason/Morris review was completed in February 1986[33]. Most significantly the review recommended that the old government department be transformed into three modern new state-owned business corporations handling telecommunications, banking and postal and agency activity. With respect to telecommunications, the review recommended that basic network services should remain under monopoly control of the government but that a staged process of deregulation should be introduced - customer premises equipment (CPE) should be deregulated approximately 12 months after the decision to reorganise the Post Office and that 6 to 12 months after CPE equipment was deregulated, enhanced network services were to be opened up to competition[34]. In the review, the Post Office's telecommunications operations were considered not responsive enough to the demands of a rapidly changing economy[35]. This review went to Government for consideration.

THE ROAD TO CORPORATISATION AND PRIVATISATION (FEBRUARY 1986 - OCTOBER 1990)

The Mason/Morris review report was released in April 1986 and this immediately generated discussion on how telecommunications should be organised in New Zealand. One key question was the need for an independent regulatory body separate from the old Post Office. The issue of broadcasting came into the equation[36]. The deregulation of telecommunications provided an opportunity for the Post Office to argue to the Royal Commission into Broadcasting (due to report later in the year) that it should take over all the Broadcasting Corporation's functions in radio and television transmission and network linking. The Mason/Morris report did not mention the role of broadcasting. By July 1986 the government had appointed Roy Mason to chair the establishment board to oversee the transformation of the telecommunications operation of the Post Office into a distinct business enterprise. The establishment board went to work quickly to address inefficiencies in the old system where 'billing was right out of the ark'[37]. In order to allay fears of privatisation and job losses to the union movement, the government continued to stress its commitment to public ownership. Postmaster-General Hunt declared in July 1986

> Today I would like to reiterate the Labour Party commitment, as long as we are the Government, the control of the Post Office, in whatever from it evolves, will remain with the state[38].

The Royal Commission reported in September 1986 and recommended that a single carrier for transmission was inappropriate on competitive grounds[39]. It was recommended that a Department of Communications be established to promote coordination and formulation of policy[40]. While the Post Office's aspirations were thwarted on this occasion, considerable attention was now being devoted to corporatising the Post Office's telecommunications operations. Less attention was devoted to the organisation of telecommunications policy within government as the market was expected to play a major role in regulation. For example, a report by the Communications Advisory Council on communications policy structures at about the same time had little impact[41].

The increasing reliance on the market was reflected in the State-Owned Enterprises (SOE) Bill presented to Parliament on 30 September 1986. The emphasis was on turning major sectors of state trading activity into profitable operations[42]. Eight new SOEs were to be created of which Post Office Telecommunications Ltd was one. The Government lost no time in introducing an initial timetable for reform:

- the creation of a telecommunications SOE (viz. Telecom Corporation of New Zealand) was to occur by 1 April 1987;
- the competitive supply of telex machines would take effect from 1 October 1987;
- the sale of telephones from 1 May 1988; and
- the sale of PABX equipment from 1 April 1989[43].

The Labour Government was returned to power in the general election in early 1987. Just prior to the splitting of the old Post Office into New Zealand Post, Postbank and Telecom New Zealand on 1 April 1987, the public debt was reported to be NZ $42 billion (81 per cent of gross domestic product)[44]. The Treasury began to see asset sales as a necessary part of economic strategy in a way which was not evident before the election. As Mascarenhas has observed, corporatisation may have been necessary but deregulation and privatisation were imposed following the 1987 election[45].

At the broader political level during 1987, changes reflected a move towards a free market, monetarist approach to economic policy. The government announced in the June 1987 (Douglas) Budget that it intended to sell Air New Zealand and strongly implied that asset sales would be necessary to reduce the national debt[46]. The influence of Treasury hard-line economic rationalism and the dominance of Finance Minister Douglas together with the Assisting Finance Minister Richard Prebble started to cause tensions within Labour caucus with fears that the move towards privatisation had gone too far and was out of control. Prime Minister Lange, in a bid to weaken the domination of economic rationalist thinking on policy, shifted Prebble to the SOE portfolio in August 1987 from his position of Associate Minister for Finance [47]. The growing divisions within the Government itself did not prevent the Treasury with pushing ahead with its reform agenda. For example, Treasury's brief on 'Government Management' in September 1987 highlighted the need for less intervention and more competition in the economy[48]. Indeed, this report went further and argued that private ownership was better than public ownership. The sharemarket crash of October 1987 together with increased influence of the business lobby (eg. the New Zealand Business Roundtable) on overall policy formation within the state helped to intensify the ideological shift towards economic rationalism[49]. By the time Roger Douglas delivered his Economic Statement on 17 December 1987, privatisation had become policy and a convenient way of reducing public debt. Previous Government commitments to protect public ownership of assets, such as Telecom, were forgotten and this undermined public trust in the Labour Government to keep its promises.

Within telecommunications, the move towards privatisation reflected the larger political changes just described. The Communications Advisory Council was disbanded in March 1987 in the 'great quango hunt' and so an advocate for a more planned approach to telecommunications policy disappeared[50]. In order to reflect the more commercial role of Telecom, radio frequency management responsibilities were transferred to the Department of Trade and Industry (DTI)[51]. DTI proceeded to review the telecommunications regulatory environment together with the Treasury and in mid-1987, international consultants Touche Ross were engaged to advise on the prospect of introducing competition in telecommunications. The Management Board which included Mason as Chairman and Telecom Managing Director Pat McInerney proceeded to change Telecom but at a rate which accommodated old Post Office values. With the new emphasis on privatisation during 1987, an issue which the Post Office Review carefully avoided, the Management Board itself became vulnerable to pressure to speed up change. On the union front, the Post Office Union had up to this point accepted the need for corporatisation but began to campaign against the costs of deregulation and probable privatisation. The Union's concerns were not heard as public demand for change in telecommunications, especially in the cities, was increasing[52]. The Auckland telephone crash of July 1987 (not an uncommon occurrence) helped to galvanise public opinion in favour of reform[53].

The latter half of 1987 saw an increasingly complex web of connections being built up between key players in industry, the Treasury and Telecom. For example, Sir Ron Trotter, chairman of Fletcher Challenge, replaced the ill Mason as Telecom chairman. He was also chairman of the New Zealand Business Roundtable, an influential lobby group for large corporate interests which published reports advocating privatisation. Trotter was also later acting as an advisor to the Government on privatisation. Former Treasury officials took up posts in industry. As Hyde has pointed out

> This cross-fertilisation between Treasury and the private sector created a power elite, but there is no evidence to suggest the result was scandalous or corrupt in any way. This is a small country - that's just the way it is[54].

The pressure was building up to ensure that competition was introduced into telecommunications. The New Zealand Business Roundtable sponsored a report advocating competition in telecommunications and the Touche Ross Report merely 'rubber-stamped' the decisions that the Government was inevitably moving towards[55]. On 17 December 1987, Richard Prebble, Minister for State-Owned Enterprises announced that the Telecom monopoly would end from late 1988 and that other companies could set up in competition with Telecom for the provision of telephone and other services[56]. Attempts by the unions to oppose the deregulation process 'failed even to cause Government to blink'[57].

With network competition in place, the move to privatisation picked up speed despite statements from senior Government ministers that it was not possible. The appointment of former British Telecom executive Peter Troughton to the position of Managing Director of Telecom in March 1988 brought sweeping changes to the organisation. With his appointment, Telecom underwent 'the most impressive telecommunications turnaround in history'[58]. Network services were upgraded, prices were shifted to reflect costs to a greater extent and the company was reorganised into several regional operating companies. To many observers, Troughton was preparing Telecom for competition and eventual sale.

By early 1988, Prebble and Douglas had written to heads of the SOEs indicating that privatisation was a means of reducing debt[59]. With the prospect of Telecom's monopoly being removed, Troughton advised both Douglas and Prebble that the company would provide fair interconnection deals with competitors and work with government to achieve the goals of deregulation[60]. This undertaking by Telecom to support the spirit of government policy to promote competition can be interpreted as contributing to the fact that an independent regulatory authority was not seen to be necessary - competition was the best regulator of the industry. However, the Treasury's hard economic line on minimal regulation was most likely the more dominant factor. The July Budget established criteria for asset sales and emphasised that inadequate efficiency gains had been achieved from corporatisation[61].

November 1988 was a significant month in New Zealand politics. Prebble was sacked from the Cabinet after calling Prime Minister Lange 'irrational' and by mid-December Douglas had also resigned saying he could no longer work with the Prime Minister[62]. Rifts within the Labour Party had now become very deep indeed. In November, legislation removing the Telecom monopoly for telecommunications services (from 1 April 1989) was introduced. The newly created Ministry of Commerce took over responsibility for telecommunications regulation and policy advice with the closure of the old Department of Trade and Industry in December 1988. The Commerce Act became the central legislation for telecommunications. Also Television New Zealand (TVNZ) and Radio New Zealand were created SOEs in December 1988[63]. In the newly deregulated environment, TVNZ was to play a significant role as a telecommunications provider - a role that it successfully preserved for itself from the aspirations of the Post Office in 1986.

The imminent end to Telecom's statutory monopoly brought rapid change to the existing telecommunications environment. Broadcasting was also affected. The Government introduced legislation which shifted the allocation of radio frequency spectrum away from an administratively based system to a market-based system. In broadcasting, TVNZ was preparing for competition with a new entrant TV3 and at the same time was taking steps to consolidate its position in telecommunications by exploring links with Bell Canada for the provision of telecommunications services.

In telecommunications, New Zealand Rail began negotiations with Telecom on interconnection soon after competition in network services was permitted in April 1989. Later it joined forces with MCI International and Todd Corporation to investigate the possibility of providing long distance and international services. A consortium of TVNZ and Bell Canada was also established in 1989 and both groups began discussion with Telecom in interconnection late in 1989. By May 1990, the two groups had joined forces to form an 'Alternative Telecommunications Carrier' which was later to become known as Clear Communications[64]. As the competitor to Telecom was organising itself, Telecom was being challenged by the Information Technology Association of New Zealand (the equivalent of the Australian Information Industry Association) over its pricing policy for its Megaplan service[65]. The complaint was referred to the Commerce Commission and this was the first of a long series of legal battles which Telecom was to become involved in over the next couple of years.

As early as February 1989, the Treasury was keen to sound out buyers for Telecom[66]. The July Budget gave a strong indication that Telecom would be sold but as late as August 1989, Prime Minister Lange was still insisting that the sale of Telecom was 'inconceivable'[67]. The re-election of Roger Douglas to Cabinet by Labour caucus in August precipitated Lange's resignation as Prime Minister. Geoffrey Palmer replaced Lange as Prime Minister but this did not halt the moves to privatise Telecom. In fact, rights to the radio frequency spectrum were auctioned in December 1989 in a further measure to generate funds. These moves towards competition did not apparently stop Telecom consolidating itself as the dominant player in the market and in doing so, receiving some criticism from industry for its strong-arm tactics[68].

Throughout 1989, leading New Zealand businessmen, Alan Gibbs (Chairman of

Freightways Holdings) and David Richwhite (Fay Richwhite) were active in arranging a buyer for Telecom. The most fruitful talks were held with the US Bell Operating Companies Bell Atlantic and Ameritech which took a leading interest amongst a range of possible buyers, including Australia's OTC.

By early 1990, of the 14 SOEs mentioned in the original 1986 SOE Act, 4 had already been sold, 4 were in the process of sale and another 4 were under consideration for sale[69]. Following the retirement of Stan Rodger, Minister of SOEs in December 1989, Richard Prebble returned to Cabinet in charge of that same portfolio. 1990 was an election year for the Labour Government. The successful sale of Telecom which he strenuously advocated would reduce debt and so make the Government more acceptable to the electorate. Under pressure from industry and the Treasury to speed up asset sales due to the worsening economic situation, the Government moved closer to a decision to sell Telecom during March 1990. Government backbenchers continued to oppose the scheme to sell Telecom[70]. Based on the advice given to the Minister for SOEs (Prebble), the sale was highly desirable:

> Sale of the corporation should permit the Government to repay well over $2,500 million of the nation's public debt. This would permit the Government to have at its discretion more than $100 million each year for expenditure in pursuit of the Government's other goals, for example, health and education. Selling the Corporation will yield the Government more in terms of sales proceeds than the value of the business to the Government if it is retained[71].

On 14 June 1990, the Government announced the 100 per cent sale of Telecom[72]. The sale took some 11 weeks to complete with the 5 final contenders being: Bell Atlantic, Ameritech, Freightways and Fay Richwhite; Fletcher Challenge and Cable and Wireless (UK); Southwestern Bell and Australia's OTC; Brierleys; and Cable and Wireless for 49 per cent only[73]. The Bell Atlantic-led consortium was successful with a final sale price of NZ $4.25 billion - a figure which far exceeded the Government's expectations. As part of the sale, a 'Kiwi Share' was to be held by the Government in which it would exercise controlling interest. The Kiwi Share guarantied that: free local calling will continue to remain available to residential customers; standard residential rental for a phone line will not rise faster than the cost of living unless Telecom's regional operating company profits are unreasonably affected; and phone line rentals for residential customers in rural areas will not be higher than in the cities and residential service will remain as widely available as it is at present[74]. Bell Atlantic and Ameritech took 100 per cent ownership of Telecom initially and agreed to sell two 5 per cent parcels of shares to the New Zealand companies Fay, Richwhite and Freightways Holdings Ltd - the advisors to the successful bidders during the sale. Bell Atlantic and Ameritech were required to reduce their holding from 90 per cent to 49.9 per cent over the next three years.

While public opinion was apparently not in favour of the sale of Telecom[75], this did not stop Prebble from claiming that 'since the announcement of the sale, public opinion had moved sharply to be more in favour of the sale as New Zealanders recognised the benefits the deal would bring'[76].

By the time the final payments on the sale of Telecom were made in September 1990, the Labour Government was facing electoral defeat. Prime Minister Palmer resigned just before the election and was replaced by Mike Moore. In the October general election, the National Government led by Jim Bolger won in a landslide. Labour was distrusted but National Party policy did little to reverse the asset sales process already underway with Labour.

THE REGULATORY ENVIRONMENT SINCE OCTOBER 1990

With the election of the National Government, the pledge by the former Government that a percentage of the proceeds of the Telecom sale would be redirected to health and education was abandoned. By the time the National's had won government, Labour had achieved some NZ $9,000 million in assets sale with Telecom (NZ $4,250 million) accounting for nearly 50 per cent of the total[77].

In early 1991, Fay Richwhite became the underwriters for the first NZ $500 million of Telecom shares to come on the market[78]. At about the same time, the Government began considering selling Broadcast Communications Ltd (BCL), a 100 per cent owned subsidiary company of its SOE, TVNZ[79]. BCL was responsible for the only alternative to the Telecom network at that time and sold services to TVNZ, TV3, Sky and Clear[80].

By March 1991, Clear had finalised the first of its interconnection agreements with Telecom prior to commencing entry into the market. This interconnection agreement on long distance calls had taken almost two years to finalise. Also in March, Prime Minister Bolger announced the removal of all foreign ownership restrictions in the broadcasting industry[81]. Consequently, Ameritech together with Bell Atlantic, the US cable television companies Tele-Communications and Time Warner Cable Inc acquired a 51 per cent share of Sky Network Television which was providing a subscription TV service to large New Zealand cities. The result of deregulation has therefore seen the emergence of complex cross-ownership arrangements in both broadcasting and telecommunications.

By mid-1991 while the Ministry of Commerce was defending the Government's policy of leaving telecommunications regulation to the industry itself, relations between the Commerce Commission and Telecom had deteriorated rapidly[82]. Because of the excessive number of complaints received by the Commission in the telecommunications industry, it initiated its own inquiry into the state of competition in the industry in November 1991. The Commission noted that from 1990 to mid-1992 there had been 4 private sector actions under the Commerce Act 1986[83]. The Commission concluded in its June 1992 report that

> ...Telecom has become the de facto industry regulator; it owns or controls most of the critical inputs, it competes with all the firms to which it supplies those inputs, and, by and large, it makes the rules under which competition is permitted to take place[84].

Complaints to the Commerce Commission ranged over a number of issues including interconnection, the disclosure of customer information, access to radiofrequency spectrum rights as well as the Megaplan charge increases. Telecom and the Ministry of Commerce were quick to contest the claims of the Commerce Commission indicating that court proceedings were an effective way of solving disputes[85].

Since 1992, policy discussion was focussed on the extent to which Telecom has dominated the actual market and where greater government intervention may be required[86]. The new owners of Telecom have also started to agitate to be freed from their obligations under the 'Kiwi Share'[87]. In the meantime, New Zealand telecommunications companies have taken steps to consolidate their position in international markets. For example, Todd Corporation (a shareholder of Clear Communications) took a 25 per cent holding in the Australian re-seller AAP[88]. Todd joined its Clear partner MCI which already had a share in AAP. As well, Telecom joint-venture company Pacific Star Communications was successful in its bid to supply telecommunications management services for the Queensland Government's communications network[89]. In early 1993, Telecom had announced that it was on track for a record profit but that staff numbers were to be reduced by 5000 from about 12,500 to 7,500 by March 1997[90]. At the commencement of deregulation in 1987, about 25,000 people were employed by the Post Office in telecommunications, however, this reduction in workforce may have been offset to some extent by contracting out.

The telecommunications market structure in New Zealand resembles that of a duopoly even though new entrants have commenced operations. For example, in late 1994 Telecom New Zealand remained the leading supplier of telecommunications services, providing about 1.5 million customer lines to New Zealand's population of 3.3 million [91]. Telecom New Zealand is very profitable for its shareholders, achieving a record net earnings of NZ $528 million on total revenue of NZ $2.8 billion in the financial year ending 31 March 1994 [92]. On the other hand, Clear showed a profit in 1994 after approximately three years of operation. 'Clear's market share in the national toll market is approximately 19 per cent and 23.5 per cent in the international toll market' [93]. Other significant operators include Bell South New Zealand and Telstra in the GSM digital cellular market and Global Telecom Systems, BCL and Synet Communications in other network services [94]

Over the past couple of years, the judicial process has come to play an increasingly important role in the 'light-handed regulatory' regime. While disputes have ranged over a variety of issues, New Zealand's handling of interconnection issues has raised the most serious questions [95]. The most celebrated case to date has been the expensive and protracted dispute between Telecom New Zealand and Clear on interconnection for local calls which resulted in an appeal to the UK Privy Council [96]. At the centre of the dispute was the Baumol-Willig pricing model as an appropriate model for local interconnection pricing [97]. The Privy Council found that Telecom New Zealand did not act in an anticompetitive manner towards Clear Communications by using this model. The decision has highlighted serious problems with New Zealand's 'light- handed' regulatory approach in that the courts have no way of determining interconnection agreements between two parties and competition law as a regulatory tool may not effectively promote the concept of economic efficiency. The protracted nature of the dispute and the failure of Telecom and Clear to reach an agreement had the potential for reducing any economic efficiences that could be attained through this form of 'competition'. As a result, the Government acted in August 1995 to address these shortcomings in the Commerce Act by circulating a discussion document on regulatory issues like interconnection [98]. At the time of writing, the outcome of this consultation process was not known.

WHY THE DEREGULATION TAKEN PLACE IN NEW ZEALAND TELECOMMUNICATIONS?

The answer to this question presupposes two other questions: why did deregulation occur in New Zealand generally; and why did telecommunications reform and the resulting regulatory regime take the form that it did? [99] The answer to the first question is complex and will depend on the political perspective chosen.

Why has deregulation occurred generally?

On the one hand, it is reasonable to conclude that there was an overall mood swing in 1984 (when Labour took office) away from the heavily regulated economy typified by the Muldoon era. Lack of investment in telecommunications, leading to frequent network crashes no doubt galvanised public opinion in the cities that some reform to telecommunications was necessary. However, it appears that this mood swing was never really reflected by Labour's party platform and between 1984-87 the 'hidden agenda' of economic reform espoused by the New Zealand Treasury and business interests had it genesis[100]. This is further supported by reports that public opinion did not favour the sale of Telecom New Zealand in 1990 and that only senior members of the Government had planned the sale with little consultation with backbenchers or with the Labour Party as a whole[101].

In a very poor economic situation blamed on the failure of past interventionsist approaches, a corporatist approach was rejected by the Labour Party. Economic rationalist thinking dominated policy making and combined with the power of senior Ministers such as Prebble and Douglas, the reform agenda was set. There seems little doubt that pressure from without in the form of capital markets (eg. the International Monetary Fund and the World Bank)[102] and from within (eg. New Zealand business) meant that asset sales were an inevitable consequence following liberalisation of telecommunications [103].

However, on the other hand, if Easton's view is accepted, the process of deregulation represented more fundamental shifts in the nature of the economy and with that were associated power shifts [104]. It was convenient for a power elite representing new industry interests (especially the financial sector) to promote change using a rhetoric of economic rationalism. This perspective sees economic policy as being much more dependent on structural aspects of power, with the specificed goals of competition and efficiency being subordinate to the interests of these powerful elites. In the case of New Zealand, privatisation becomes less of an imperative to improve efficiency and more of a convenient way of assisitng the transfer of power from one group to another.

Why did telecommunications reform and the resulting regulatory regime take the form that it did?

The answer to this question depends on the weighting one is prepared to give to the influence of the Treasury. It seems reasonable to conclude that the 'light-handed' regulatory approach with its reliance on competition law without an industry regulator was due to Treasury's dominance at this time. This point is supported by Gabel and Pollard who point out that 'the policymakers for the New Zealand government felt that the nation's telecommunications infrastructure would improve more rapidly if it substituted deregulation and competition for the traditional concerns about rates and profits' [105]. Treasury also seems to have played a big role in the privatisation of Telecom New Zealand. The privatisation of Telecom New Zealand conferred benefits on the financial sector at the time and transferred ownership of public assets into private ownership. In this sense, it was more than just economic efficiency considerations that prompted the state to privatise Telecom New Zealand. The state was conferring benefits on particular industry sectors by letting the market be the regulator. For example, if it was not for the considerable state investment in network modernisation (about NZ $3 billion) by the state in Telecom as an SOE, its eventual sale at an acceptable price would have been more difficult[106]. However, as the previous discussion has shown, the link between competition and economic efficiency in the 'light-handed' regime has been difficult to achieve. A more balanced approach to regulation seems to be gaining some ground in New Zealand at present.

GENERAL OBSERVATIONS

Some general observations can be made from the above analysis. First, whatever the causes of deregulation in a country are, the receptiveness of a country to particular models of regulation will depend very much on the local political environment. In New Zealand's case, the ideology of economic rationalism was dominant and coupled with the ascendancy of the Treasury, a minimalist regulatory approach was able to easily prevail. This raises the interesting issue of how countries model policy after other countries and the mechanisms by which they do so [107]. In New Zealand's case, there may have been a need to take into account national conditions but this required an active input from policy-makers. In the non-interventionist environment, this advice may have been ignored or at least, those areas of the state responsible for providing such advice may have been marginalised.

Second, the New Zealand experience highlights the close relationship between the market and the state. While the rhetoric of economic rationalism sees the market and the state as essentially in opposition, the reality is much more complex. As Moran and Wright have noted

> States are something more than guarantors of contracts, or mere obstacles to the efficient workings of markets. Competitive markets are themselves social arenas where the key institutions - the giant firms - have their own complex political systems. And state power is the essential precondition for the function of markets.....The point is not simply that markets need states; it is that the more brutally competitive are market processes, the more vital is the role of state power [108].

In New Zealand, it may seem ironic to some that, given the emphasis placed on the rhetoric of economic rationalism in New Zealand in the past, the state is now faced with increasing pressure to intervene in order to defend a competitve market in telecommunications. However, if it is acknowledged that political rhetoric is vital to achieving instrumental gains in politics, then the outcome is not so surprising.

CONCLUSION

The recent history of telecommunications reform in New Zealand can be characterised by three phases. The first, up to the reorganisation of the New Zealand Post Office, highlighted the need for SOEs to become more efficient. This goal was reflected in the Labour Government's approach to economic management. The second phase was linked to a marked ideological shift in the Labour Government towards economic rationalism. The result has been a program of corporatisation of SOEs followed by privatisation. Telecom was the largest SOE to be sold. The third stage related to the implementation of the 'light-handed' regulatory regime and the increasing role for the courts in determining policy issues.

The liberalisation of telecommunications followed by the privatisation of state-owned assets (of which Telecom formed a major component) was promoted in New Zealand by an elite coalition of interests within Government and industry. Privatisation had a political agenda and telecommunciations formed part of that agenda.

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