

ABSTRACT

EVALUATING THE INDEPENDENCE OF THE TELECOMMUNICATIONS REGULATOR IN TRINIDAD AND TOBAGO

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A key feature of liberalisation has been the creation of independent sector-specific regulatory bodies. There is no blueprint for creating an independent regulator and a divergence in design of institutional structure and regulatory framework has emerged, based on the particular constitutional, legal, political and economic characteristics of each country. The concept of independence is therefore subject to different interpretations and the issue of the Regulator's independence from the government in particular, remains a contentious one.

This Paper critically examines the Telecommunications Act 2001 ("the Act") which established the Telecommunications Authority of Trinidad and Tobago ("the Authority"); with a view to assessing its appropriateness for achieving the objective of "independence" as defined according to a set of criteria developed on the basis of international best practices. The clear intention of the Act was to provide for the independence of the Authority from the providers of services; and therefore in developing a governance structure, independence from the political authorities was not a priority. There is evidence of structural separation of the Authority from the Ministry and the former enjoys relative security of tenure. The Authority has established transparent procedures for consultation with operators and the public in making its decisions which are subject to review by the courts. The Act's greatest weakness lies in its failure to provide a clear, unambiguous mandate for the Authority.

With any newly created Regulator, it is expected that there will be a period of uncertainty after a major structural reform. It is therefore critical that such an agency should have a clear mandate in the form of a detailed legislative blueprint that can be implemented quickly and without undue delays caused by disputes over boundaries and interpretation of the rules.

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