



SPTC
Transformation
Our People, Our Journey & Our Success

March 2016

Our Journey – The Legal Foundations

It is ironic that one of the themes of the transformation project is “our journey”. Well every journey has its origins and this holds true for the transformation process that the Corporation has embarked on.

One of the drivers of the Corporation’s transformation journey is a result of noble Government initiatives to liberalise and introduce a competitive Communications industry through amongst others the passing into law in 2013 of the **Swaziland Communications Commission Act (SCCA)** and the **Electronic Communications Act (ECA)**.

The SCCA resulted in the creation of an independent industry regulator known as the Swaziland Communications Commission (SCCOM); however it is actually the ECA that sets the tone for the transformation purpose that the Corporation has embarked on.

In seeking to protect the Corporation and presumably due to investments made by the Corporation on infrastructure over the years, the ECA and in particular Section 53 (a) (1) gave the Corporation exclusivity to construct, maintain and operate the national backbone infrastructure, which includes the international gateway. In other words, only the Corporation can operate the national backbone infrastructure and receive or send electronic communication in and out of the country.

The exclusivity to operate the backbone infrastructure, including the international gateway, obviously gives the Corporation a competitive edge to other players in the industry. In order to create a competitive environment and attempt to level the playing field, the ECA and more specifically Section 53 (a) (4) makes it compulsory for the Corporation to create a subsidiary Company that will operate in the retail space.

Section 53(a) (4) actually reads as follows;

“After three years of coming into force of this Act, the Corporation shall establish a subsidiary telecoms service company that shall be afforded the same interconnection

conditions and rates like all other licensed service operators”

The spirit behind the above section is not difficult to glean: if the Corporation, which already has an exclusive right to operate the backbone infrastructure, were allowed to also operate in the retail space then it would obviously be at a competitive edge to other operators like the Internet Service providers or the Mobile telephony company.

Section 53 (a) (4) has the following implications for the Corporation;

- i. That it creates a subsidiary telecoms company by the 31st July 2016
- ii. That it separates the wholesale and retail functions of its telecoms division.
- iii. That SPTC offers wholesale services to other players in the industry

Once the creation of a subsidiary company and consequently a separation of the telecoms wholesale and retail functions have been achieved, there arises another problem from a competition standpoint because of the relationship between the subsidiary company and the Corporation, which enjoys exclusivity to the backbone infrastructure.

Interestingly and despite the ECA proscribing that the Corporation sets up a retail company, the ECA seeks to regulate anti-competitive practices in the industry and importantly prevent discriminatory practices and cross subsidies and introduce cost oriented pricing and accounting separation.

Sections 25, 26 and 27 of the ECA create obligations of non-discrimination, transparency and accounting separation on service providers.

The obligations of non-discrimination and transparency really sets the cat amongst the pigeons given the Corporation’s expected relationship with its subsidiary retail company and because of the relationship it would be

difficult, if not impossible, to ensure that SPTC does not favourably discriminate either in terms of pricing or wholesale services offered to its retail company when compared to competitors who seek similar wholesale services from SPTC.

Apart from the difficulties in ensuring non-discrimination, from a competition standpoint the Corporation's relationship with a subsidiary company in the retail space does not augur well for the competitiveness of the industry. Again the relationship between the postal and telecoms entities may also create problems of cross subsidies and difficulties with cost oriented pricing, which then brings the issue of the subsidiary/ holding company relationship envisaged by Section 53(a) (4) to further scrutiny from both a competition and best practice standpoint.

In order to ensure the avoidance of discriminatory practices, non-cross subsidisation and accounting separation that are required by Sections 25, 26 & 27 of the ECA, the Corporation has from a strategic standpoint considered the creation of three (3) separate and independent entities that will operate and help foster a truly competitive and liberal communications industry in the Country.

The creation of independent entities is really the one guarantee of ensuring the absence of discriminatory practices in the industry. Telkom South Africa has recently embarked on a drive to re-brand its wholesale and retail functions and despite all the rules they put in place to avoid discriminatory practices, Telkom has more often than not had to pay punitive fines to ICASA as a result of breach of non-discriminatory practices.

Perhaps it is no surprise that the Corporation has opted for the creation of independent and separate legal entities or in other words SPTC has opted to embark on a legal separation of its telecoms wholesale and retail functions as well as a separation of its postal functions.

It's a remarkable journey that the Corporation has embarked on and it all begins with the two (2) pieces of legislation; the SCCA and more importantly the ECA.

CUSTOMER SERVICE IS NOT A DEPARTMENT. IT IS AN ATTITUDE...

Know Your Transformation Team!!!

Mrs Sharon Maziya – Programme Lead



Sharon joined SPTC in 2014 as Corporate Services . A year later, she has been tasked with managing the transformation

program until completion. Sharon is an advocate for change and is looking forward to a meaningful engagement with the whole SPTC family.

Mr Nhlanhla Dlamini – Project Lead Telecoms



SwaziTelecom in 2002 as an Engineer Systems Maintenance. In 2006 he joined Network Development as an engineer. In 2010 he became Senior Engineer NGN Core Systems & Networks.

After studying an MSc in Communication Engineering in Taipei, Nhlanhla was selected by the MD to drive the Telecoms unbundling project. Nhlanhla is extremely infectious in his motivation and passion for his role which will ensure the success of his team

Ms Barbara Bhembe – Project Lead Postal



SwaziPost in 2003 as a Field Manager in the Lubombo region. In 2008 she transferred to Head Office as Regional Manager North and later become the Mail and Operations Manager for

SwaziPost.

Due to her exceptional knowledge of the business and her drive to see SPTC succeed in our transformation journey, Barbara was selected by the MD to lead the Postal and Telecoms separation aspects of our Transformation.

