

# **Telecommunications** *and* **Information Technology**

*Their Impact on Employment and  
Trade Unions in the Caribbean*

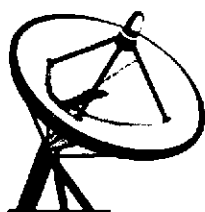
**Hopeton S. Dunn**

With an Introduction by Lloyd Goodleigh

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EBERT**   
**STIFTUNG**

# **Telecommunications and Information Technology**





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**THEIR IMPACT ON EMPLOYMENT AND  
TRADE UNIONS IN THE CARIBBEAN**

by

**Hopeton S Dunn Ph.D**

Communications Policy Analyst and Senior Lecturer  
Caribbean Institute of Media and Communication  
University of the West Indies, Mona

with an Introduction by

**Lloyd Goodleigh**

President of the Caribbean Congress of Labour

**A 00 - 01133**



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Friedrich Ebert Stiftung  
53 Old Hope Road  
Kingston 5, Jamaica  
E-mail: fes@cwjamaica.com

*and*

Hopeton S. Dunn  
CARIMAC  
University of the West Indies  
Mona, Kingston 7, Jamaica  
E-mail: hdunn@cwjamaica.com

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H.S. Dunn, CARIMAC, UWI

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## Preface

Like many other critical areas of public policy in CARICOM countries, industrial relations and trade union practices generally are subject to a plethora of influences at this time. One might argue that modern telecommunications and information technologies have the capacity to engender fundamental and irreversible changes in the social, political and economic landscape of the region. Globalized telecommunications and information technologies, globalized production strategies, integrated capital markets and market-driven institutions are some of the prominent features of this phase of the globalization process.

As a result, like national governments, trade unions are finding it increasingly difficult to maintain "a business-as-usual approach". The imperatives of the global economy now emphasize the importance of on-going training and the transfer of knowledge as well as careful study and analysis of how developments at global and hemispheric levels are impacting on Caribbean trade unions. It was in acknowledgement of the seriousness of these issues, particularly the impact of telecommunications and information technologies, that the Jamaica office of the Friedrich Ebert Stiftung (FES) agreed to support the holding of a regional conference on this subject in Belize in October 1998. The work of the conference was organized around the analysis and discussion of a study on telecommunications and information technology prepared by Dr. Hopeton Dunn for the occasion.

FES is pleased to have been able to support this conference as well as the publication of this book.

Friedrich Ebert Stiftung  
Kingston, Jamaica  
December 1999

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# Introduction

## Contemporary Industrial Relations in CARICOM

### *Challenges of Telecommunications and Information Technology*

by Lloyd Goodleigh

Contemporary analysis of the systems of CARICOM industrial relations have often focussed on a range of key issues. These include:

- The role of trade unions
- The role of the employer and management
- Collective bargaining
- The regulatory role of the State
- Industrial action
- Worker participation
- Enterprise decision makers

What has often been ignored are the theoretical constructs which have given rise to these systems. The fact is that industrial relations systems are reflections of their historical, political, legal, economic, ideological, social and cultural origins. Over time, changing circumstances dictate that trade unions have to review their industrial relations systems as the theoretical constructs that gave rise to them become altered.

In the last decade of the 1990s, Caribbean trade unions are obliged to revisit their assumptions and to:

- modernize, internationalize and regularize their theoretical models



- devise regional industrial relations systems built from the observed facts and continuously test the assumptions and where necessary, modify the systems based on any new information that becomes available.

## Current Industrial Relations Systems

Current industrial relations systems were designed in response to socio-economic circumstances that had the following main characteristics.

- The productivity of each individual worker is known and fixed.
- Each worker can only be motivated by wages.
- Total output is a simple summation of individual output.
- Efficiency is viewed as the sole objective in labour markets.
- An increasing pre-occupation of regional governments with accelerating economic development and with labour laws in the post-independence period being oriented more towards socio-economic development objectives, compared with pre-independence labour laws which were of a more protective nature.
- World trading systems of which preferential trade agreements were a feature
- Protected markets- in many cases coinciding with national borders.
- The control by national governments of exchange rates, interest rates and investment policy and decision-making processes.
- Social clauses in few commodity arrangements (e.g. sugar) and some trade agreements.
- Little reference to ILO Conventions/Standards in formulation of national labour laws or in trade agreements.

The theoretical constructs and socio-economic circumstances helped to produce industrial relations systems, that although reasonably successful in the environment for which they were created, were characterized by the following features.

- They (the systems) were national in focus, centered on dispute resolution and took a leisurely approach to the resolution of disputes.

- A pre-occupation with collective bargaining which was centered on wages and working conditions.
- Adversarial approach and a reliance on unilateral action by parties.
- A lack of encouragement for innovation in work organization or the promotion of new methods of compensation.
- The primacy of on-going training was not acknowledged.

The region is now confronted with markedly changing circumstances and an emerging paradigm, the main theoretical outlines of which are the following.

- A rejection of the price auction model and a growing acceptance of an explanation of labour markets that argues that labour supplies are endogenously acquired and that the labour market is not an auction market based on price, but one that is structured to maximize transfer of knowledge (training) over time. Static efficiency is relatively less important than dynamic efficiency.
- The productivity of each individual worker is unknown and variable. Motivation is important since individual workers control their own productivity and can offer a wide range of productivities.
- Wages are not the only motivation for workers.
- Total output is heavily determined by team as opposed to individual productivities.
- The objectives of a labour market have been re-defined (ILO definition) to include efficiency, equity, growth and social justice.
- Recognition by governments that priority needs to be given to the development of an institutional framework for a globalized economy, including strengthened mechanisms for ensuring social justice on a world scale (e.g. World Summit for Social Development)
- Trade agreements and the growth of trading blocks and liberalized markets which rapidly increase cross border trade and the production of goods and services.
- Social clauses increasingly advocated for inclusion in trade agreements as the emergence of the World Trade Organization has intensified the debate of linking free trade to social clauses.

- ILO Conventions and standards are increasingly being used as models for social clauses in trade agreements and in national labour resolution.
- Globalization has been accompanied by a technological revolution which has given primacy to market policies and market-driven institutions, integrated capital markets, globalized production strategies and telecommunications.
- National governments therefore find it increasingly difficult to defend their currencies in the face of huge flows of electronic transactions which are done everyday in industries in which the critical flows of knowledge, technology, information or capital take place electronically. National borders are rapidly losing meaning as economic constructs or as frontiers across which economically valuable flows can be monitored and controlled.

Kabrun (1995:24) notes that "The emerging integrated global economy is not an artifact of political relationships . . . it is an manifestation of fundamental and irreversible changes in industry structure". Recent developments in global telecommunications and information technology suggest that far-reaching changes are indeed taking place in this industry. Trade unions need, therefore, to study and analyze very carefully the impact of these developments on Caribbean countries. Of related and critical importance are the provisions of the World Trade Organization and the monopoly operations of Cable and Wireless in the region. There are several technological innovations which are likely to have serious and far-reaching implications for the labour force, emerging employment practices, trade union strategies and practices as well as public policy in the region. These are some of the imperatives in the new circumstances about which this publication has been written – imperatives which are propelling the Caribbean into the 21<sup>st</sup> Century.

## **The Challenge**

The challenge is to re-conceptualize industrial relations taking into account the new realities in order to cope with hemispheric and regional

integration, and increased global competition. This requires a commitment to a strategic plan which is based on the value-added approach to industrial relations in all sectors, including telecommunications and information technology, and which establishes systems that:

- are regionally and internationally focused
- promote productivity, efficiency and quality
- promote cooperation between social partners
- ensure on-going education and training for workers
- encourage innovation in work organization
- promote the improvement of work and environmental conditions
- are committed to the formation of a CARICOM tripartite working group to study economic integration in the hemisphere and its impact on Caribbean labour markets.

This publication reproduces the study on telecommunications and information technology around which the work of the 1998 Conference of the Caribbean Congress of Labour was organized. It provides trade unionists, and other readers with an excellent opportunity to take part in the further study and analysis of this subject, in preparation for their active participation in public policy formulation and monitoring in the telecommunications and information technology sectors.

## Reference

- Kabrun, S. Regional Integration is a Globally Retrenched Economy.  
Transnational Corporation Vol. 4, No. 2/1995, p.24.

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Thanks also to Ms Yvette Rowe who assisted with data gathering and to my wife Dr. Leith Dunn who co-authored with me the ILO study on Employment, Working Conditions and Labour Relations in Off-shore Data Service Enterprises in the Caribbean, a summary of which is included in this document.

Hopeton S Dunn Ph.D  
December 1999

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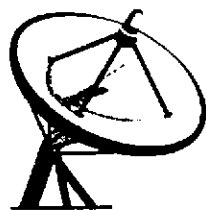
## Abbreviations

APUA	Antigua Public Utilities Authority
AT & T	American Telephone and Telegraph Company
BARTEL	Barbados Telecommunications Limited
BET	Barbados External Telecommunications Limited
C & W	Cable and Wireless
CCL	Caribbean Congress of Labour
CTU	Caribbean Telecommunication Union
DECFS	Digital Eastern Caribbean Fibre System
FES	Friedrich Ebert Stiftung
FCC	Federal Communication Commission
FIET	International Federation of Commercial, Clerical, Professional and Technical Employees
ILO	International Labour Organisation
IMF	International Monetary Fund
ITU	International Telecommunication Union
LEOS	Low Earth Orbiting Satellite
OFTEL	Office of Telecommunications (UK)
PTO	Public Telecommunications Operator
RBOCs	Regional Bell Operating Companies
TCS	Trans-Caribbean Cable System
TSTT	Telecommunications Services of Trinidad and Tobago
WTO	World Trade Organisation

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# Telecommunications and Information Technology:

## *Their Impact on Employment and Trade Unions in the Caribbean*



### Introduction and Terms of Reference

This study examines the development and impact of Telecommunications (Telecoms) and Information Technology (IT) policies and institutions in the English-speaking Caribbean. Its specific emphasis is on the implication of these developments for the labour force, trade union practices and public policy in the region. The study was conducted at the request of the Jamaica office of the Friedrich Ebert Stiftung (FES) for presentation at a conference of the Caribbean Congress of Labour (CCL), October 19–21, 1998, in Belize. The presentation provides, in sections, an analytical overview of the following issues:

- The need for regulatory and policy reform of the telecommunications environment in the region, in light of technological innovations, World Trade Organization (WTO) provisions and the monopoly operation of Cable and Wireless in the region.
- New types of contractual and teleworking arrangements arising from the emerging technologies of telecommunications and IT in the region's expanding service sector.
- Actual and emerging employment practices in the Offshore Information Processing sub-sector which challenge the International Labour Organization's (ILO) Tripartite Declaration.

The study considers the implications of these technological innovations for the future of the CARICOM Single Market and Economy as well as for Tripartism and the Social Clause. The recommendations are directed to the regional trade union movement and to other public policy-making bodies, with a view to addressing the needs identified.





# Telecommunications and Caribbean Policy-making

## 1.1 *The Global context*

In the decade of the nineties, the combined information and telecommunication industry has grown at about twice the rate of the rest of the global economy. Informatics is thus regarded as the fastest growing and most dynamic sector of the world economy. Between 1990 and 1995, the Asia-Pacific, and the Latin America and Caribbean regions both sustained a network growth rate of over 10%, exceeding the sector's performance in North America and Europe.

In 1994/95 alone, the top 25 information/communication companies grew in size by over 7% to a value of US\$ 770-billion, with their collective profits reaching US\$ 29-billion. That year saw unprecedented growth in the global subscriber base and overall infrastructure. According to the International Telecommunication Union (ITU) the four key networks of wired telephone services, mobile phone services, cable television and the Internet together accounted for almost 100-million subscribers in 1997, with similar positive growth since then.

## 1.2 *Telecommunications Infrastructure*

Frequently, we associate telecommunications with the delivery of messages through electronic transfer of information between distant points. That definition remains relevant, but the modes of delivery and the types of information delivered continue to multiply and converge. The

result is that telecommunications now involve an increasingly complex and sophisticated infrastructure, transmitting information in the form of voice, music, text, graphic symbols, moving images and all other forms of data.

As an example of the continuous workings of this telecommunication process, we may identify the world's 700 million telephone lines carrying over 50 billion minutes of international telecommunications traffic. The global telecommunications infrastructure is the largest interconnected system ever built by man. Its many tentacles include a vast network of land-lines, submarine cables, satellites in orbit, earth stations, other terrestrial receiving and switching stations, cell sites, Internet-linked computer networks, cable television, broadcasting systems and an immense array of support systems.

This telecommunications network underpins all other sectors of the economy and society. It is inconceivable to operate in the areas of banking, mining, entertainment, manufacturing, agriculture or government administration without the backbone of telecommunications and the related information services. These networked connections also transcend national or even continental boundaries.

Besides performing the function of interconnecting different elements of the economy and society, the telecommunications infrastructure constitutes a vastly profitable industry in its own right. According to the ITU, revenue from global telecommunications services in 1995 exceeded US\$600 billion. International telephone traffic accounted for about 10% of the overall industry total or some US\$63 billion in value in 1995.

The fastest growing sub-area continues to be the cellular and other mobile services, which yielded over US\$82 billion in revenue in 1995/96 or about 14% of overall industry income. The mobile telephony market is already poised for exponential growth with the advanced planning and testing of a new generation of satellites called Low Earth Orbiting Satellites (LEOS). The basic idea of this innovation is the launch of a large number (50-80) of electronically linked satellites in

various positions at a lower orbit than existing geo-stationary communication satellites.

These Low Earth Orbiting Satellites would then create a web of telecommunications links, which would allow for voice and other messages to be transported inexpensively to any part of the world, without regard to distance. In theory, messages could be dispatched via mobile, hand-held sets to anywhere, at any time at the rate of a local telephone call. Among major LEO satellite-based projects under implementation are the IRIDIUM project, being developed by a consortium led by Motorola and Globalstar, a project led by a group of mainly European telephone companies.

The implications of this and other alternative communication systems, such as INTERNET telephone, Call-Back services and Digital Interactive Radio are likely to present significant challenges to network monopolies and traditional operators.

The prospect for continued expansion and profitable growth of the entire global telecommunications industry remains strong, despite the recent economic fallout in Asia and the start-up difficulties of the Iridium project.

### ***1.3 Cable and Wireless and the Caribbean***

It is widely known that telecommunications in the English-speaking Caribbean region is dominated by the British transnational company Cable and Wireless (C&W).

The company is the monopoly operator of telecommunications in 14 Caribbean territories. The Table 1 sets out the extent of C&W ownership of operating companies in these countries as at October 1998.

In seven (7) territories the company holds 100% ownership of both the local and overseas operating companies. In these islands, five of which are British colonies, Cable and Wireless holds a monopoly in both ownership and total service provision. These include St. Vincent,

Table 1: Cable and Wireless Ownership Levels in Caribbean Telecommunications Companies

Territory/Operator	% C&W	% Local
C&W Anguilla	100	0
C&W Antigua/Barbuda (Overseas)	100	0
APUA - Antigua/ Barbuda (Domestic)	0	100
BARTEL ( Barbados Domestic)	85	15
BET Barbados (Overseas)	76	24
C&W British Virgin Islands	100	0
C&W Cayman Islands	100	0
C&W Dominica	80	20
C&W Grenada	70	3
C&W Jamaica	79	2
Jamaica Digiport Int.	60	5
C&W Montserrat Unit	100	0
C&W St. Kitts/Nevis	51	49
C&W St. Lucia	100	0
C&W St. Vincent/Grenadines	100	0
TSTT Trinidad and Tobago	49	51
C&W Turks and Caicos	100	0

Source: Compiled by H.S. Dunn, CARIMAC, UWI, from Company records, 1998

St. Lucia, Montserrat, the Cayman Islands, the British Virgin Islands, Anguilla and Turks and Caicos islands.

In five (5) other countries, Cable and Wireless is the majority shareholder in monopoly telecommunications companies which combine local and overseas service provisions. These are Barbados, Jamaica, St. Kitts/Nevis, Dominica and Grenada. These are among the larger and more lucrative Caribbean markets for the company, particularly in Jamaica where Cable and Wireless Jamaica, is the largest of the region's operating companies.

In Antigua/Barbuda, C&W operates the overseas carrier, with the domestic telephone company still locally owned and operated by government. In Trinidad and Tobago, the company has an overall minority equity position in Telecommunication Services of Trinidad and Tobago (TSTT). While the Trinidad and Tobago government holds a majority 51% of the company, Cable and Wireless was nevertheless authorised and contracted to carry out executive management of that integrated operating company.

In Jamaica, as well as in St. Lucia, C&W also operates teleport facilities: Jamaica Digiport International and the St. Lucia Teleport in Castries. Additional C&W enterprises in Antigua, St. Kitts, St. Lucia, St. Vincent and Jamaica operate mobile, cellular and boatphone monopoly services, co-ordinated out of Antigua by Cable and Wireless Cellular Limited. In Barbados, the company also spearheads Digital Information Systems Limited, providers of specialised services in computer sales and information technology, including consultancy and training.

The transnational company's dominance of the region is not confined to the these operating companies. It also has dominant ownership and control of the Digital Eastern Caribbean Fibre System (DECFS), which is the main telecommunications link between countries in the Eastern Caribbean. The DECFS is also the main cable backbone linking the eastern region with the rest of the global wired telecommunications infrastructure. This fibre optic network replaces the obsolete Digital Eastern Caribbean Microwave System, and before that the regional Troposcatter technology which the company also owned.

The Trans-Caribbean System (TCS), linking the northern Caribbean islands of Jamaica and Hispaniola with Florida in the north and the DECFS in the south, is also part owned by Cable and Wireless West Indies Limited, in association with AT&T. The monopoly or dominant control extends, as well, to most of the region's satellite uplink and downlink facilities. These include major earth stations in the territories, and the teleport facilities in Jamaica and St. Lucia.

## ***1.4 Policy and Corporate Influence***

This account of the company's level of ownership of the telecommunications infrastructure also reflects the extent of its control of policy and decision-making over what is emerging as a major new service industry in the region. Decisions relating to new technology applications, capital investment, intra-regional linkages, network security, interconnectivity with the global information infrastructure and potential competitors, the conditions of employment for many new categories of workers, their training and deployment are mainly in the hands of the C&W conglomerate.

Although the region has benefited from the company's drive towards modernization of the systems and infrastructure, the basis for this technological renewal lies in the global dynamics of profitability. In international telecommunications, high-quality end-to-end global connectivity is a key objective for corporate profitability. The often touted 'state of the art' facilities available to the region, while beneficial, are but part of the required seamless global network enabling a world telephone company to compete in global scale in voice, data and other forms of telecommunications traffic.

## ***1.5 The Social Partners and Collective Responsibility for Change***

Planning for the development needs of the region, whether at the level of employment, system capacity or technology choice, should not be based primarily on the corporate strategy of an external company. Governments, the trade union movement, the regional private sector, the NGO community and the wider public should have a voice in fashioning policy, in guiding the choice of technology and in monitoring and regulating the employment conditions within this emerging industry.

As workers in most of the C&W operating companies are unionized, trade unions have a direct interest and could be a significant influence

on the company's regional strategies. However, many of the wider policy issues will need to be pursued within the framework of the tripartite arrangements between government, the private and NGO sectors and the trade unions.

The trade union movement, as part of a triangular base of public responsibility for the effective management of industrial relations and economic development, should make its influence felt on these issues. The movement represents thousands of men and women who work in the industry. Together with private sector employers and governments, the labour movement in the Caribbean can face the challenge and opportunities of emergent technologies as regional partners. The character of the global labour force and the structure of the economies themselves are what will determine the region's future. It is telecommunications and information technology which should be at the centre of our strategies to prepare the Caribbean society and our economies for the new millennium.

## *1.6 Competition, Regulation and the Future*

Governments throughout the region are just now beginning to come to terms with the explosive and profound implications of many of their earlier policy decisions regarding telecommunications. They are now recognizing that this is one of the main sectors of the future. In Jamaica, at the end of the twentieth century, the monopoly arrangements with Cable and Wireless are being altered, following almost a decade of public advocacy for a competitive telecommunications environment.

This move, which is already being reflected across the region, followed earlier resolutions at the level of CARICOM, for reform and improved regulation. A report from a Caribbean Telecommunication Union (CTU) meeting in Jamaica, in October, 1998, noted that: "Regional Ministers with responsibilities for telecommunications criticised the agreements which Caribbean Community states have with

British telecom giant Cable and Wireless, saying there was need to regulate the sector in order for the region to benefit from the information technology sector." [Observer newspaper, October 7, 1998: 3].

The trade union movement needs to be in the forefront of calls for greater transparency and public dialogue about future reform in the information technology and telecommunications sectors. This public dialogue has been noticeably absent in the earlier planning for the existing arrangements. Many of these agreements were made by ministers, without adequate public or sectoral consultation and often on the basis of secrecy. Some were also the result of rubber-stamping of recommendations from the entrenched transnational interests and pressure from multilateral lending agencies. In Jamaica and Trinidad and Tobago, IMF debts and World Bank commitments have been shown to have forced the pace and extent of divestment and monopoly control by Cable and Wireless in the region during the 1980s and early 90s. (Dunn 1995)

The pressure for reform of monopoly control in the Caribbean region has come in part from demands for change in the wider global community. The World Trade Organisation (WTO) secured commitments for liberalisation under the Uruguay Round. In the United States, the Federal Communications Commission (FCC), has been avidly pursuing a policy of rate rebalancing with its telecommunications counterparts globally, with the effect being, pressure for reduced international telephone rates through more competitive business practices.

Earlier, a 1992 U.S. judicial consent decree broke up the dominant AT&T Bell system into a long-distance carrier and eight Regional Bell Operating Companies (RBOCs). To prevent re-monopolization, AT&T was prevented from offering local service and the newly created RBOCs forbidden to offer long-distance and telephone equipment manufacturing services. Despite modifications in these arrangements since then, the force of this regulation was to create a greater number of operating companies in the US telecommunications market.

In the United Kingdom during the same period, monopoly operator British Telecom was confronted with new pro-competition policies



which saw the emergence of the Cable and Wireless-owned Mercury Telecommunications in that market. The regulatory institutions were restructured to create the Office of Telecommunications (OFTEL) and new rules designed to introduce price capping and facilitate interconnectivity among competing network operators. Liberalized policies were implemented in several other countries, including Japan, Australia, New Zealand, Costa Rica, and more recently in South Africa, Mexico and Hong Kong, among others.

In contrast, within the Caribbean, the policy process allowed the strengthening of the monopoly company's presence without a commensurate strengthening of the regulatory institutions. The absence over a long time, of credible and effective regulatory institutions created a vacuum in the design, articulation and administration of public policy in this area. The creation in Jamaica of the Office of Utilities Regulation (OUR) with a dedicated telecommunications department represents an important start to the process of institutional reform and regulation.

This reform is being advocated against the background of an earlier period of government divestment of state-owned telecommunications holdings to Cable and Wireless. "The level of (C&W's) acquisition and expansion marks a new phase in the company's post-colonial relationship with the Caribbean region. It comes neatly at a time when the current received wisdom is for state dis-investment in telecommunications services. But even while responding to internationally driven demands, other Caribbean governments need to introduce the required level of regulation, both in terms of service provision to the public and in the operation of foreign monopolies and mergers within their economies. While in Britain, the C&W subsidiary Mercury is subject to overall regulation by an Office of Telecommunications (OFTEL), a C&W subsidiary in the Caribbean is subject only to a periodic rate increase enquiry by Public Utilities Commissions, dependent largely on statistics and expertise of the operator being regulated!" (Dunn 1991: 32. See also 1994: 23-26)

In discussing the wider issue of market reform, Melody observes that "The significant changes in the role of the market that are taking place in telecommunications internationally are not founded simply upon ideological shifts and a new found faith in the so-called free market. Nor are they a directly determined response to the dictates of new technologies. Rather, the inherited monopoly institutions (public or private) have had great difficulty adapting to changing economic, political and social conditions, of which changing technology is only a part. Monopolies operating in a protected, stable environment are not well suited to adapt to a new and increasingly diversified and dynamic market place." [Melody 1997:3]

The inherited or incumbent operating companies are not likely to surrender easily to the logic of an emerging new paradigm in service provision. The natural tendency is to resist the entry of newcomers and to preserve their operating bases and practices. Many such operators do not yet see that rejection of competition denies them an important motive for greater efficiency and global competitiveness. The monopoly provider has little or no incentive for improved efficiency, particularly when contracts and licences guarantee them specific levels of profitability and regulatory institutions are ineffective.

"The experience of the last 15 years," according to Melody, "has convinced most observers that effective regulation must be an essential component of the new telecom structure if industry reform is to succeed." [Melody 1997: 3]

In addressing these issues from a global vantage point, the former Secretary General of the International Telecommunications Union (ITU) Dr. Pekka Tarjanne pointed to four crucial trends in the restructuring of the telecommunications environment. Speaking directly to Caribbean telecommunications providers he noted that:

- "Many countries are abandoning monopolistic supply structures and are licensing new infrastructure providers. Such new market entrants have little interest in amortizing existing network capacity, given that

new network capacity can be constructed, owned and operated at a fraction of the price charged by the PTOs.

- Even where infrastructure monopolies still prevail, service monopolies are breaking down, especially in the area of capacity resale. The growth of the Internet and the spread of call-back services provide evidence for this. Where a monopolistic operator in one country charges too high a price for network capacity, it is often possible to bypass that country by hubbing traffic via a third country.
- As regulatory barriers to entry fall, so too do technical and financial barriers. It is possible to set up in business as a call-back service provider with the purchase of a computer workstation, some routing software and the rental of a few lines. Such new market entrants exploit the fact that most PTOs still have tariff structures which are far from being cost based.
- International transmission capacity – both via satellite and via cable – has traditionally been supplied by consortia of operators who have given themselves a double mark-up, firstly as capacity owners and secondly as capacity purchasers and providers. This double mark-up system has maintained capacity prices at a relatively high level to end-users. But now, providers of international capacity are increasingly becoming direct sellers of capacity. [Tarjanne 1995: 3-4]

His central argument was that supply side management techniques are breaking down in the telecommunications sector, with a rise in the need for better demand management and client-based responsiveness. Greater competitive diversity in service provision and strengthened regulation are the approaches recommended for the emerging environment.

### ***1.7 The WTO and New Trade Provisions***

The World Trade Organization, WTO, is an international body which oversees the rules of trade between countries. It assumed most of the functions of the General Agreement of Tariffs and Trade (GATT) in

1995, when it was inaugurated to implement the global agenda of the Uruguay Round of trade negotiations. One of the principal outcomes of this round of negotiations is the General Agreement on Trade in Services (GATS). This agreement set the stage for trading system rules to be applied to the area of services. This occurred in light of the increasing growth of global trade in services. According to trade figures from the GATT, the service sector in developed economies grew from 55% to 63% of the gross domestic product (GDP), and in developing economies from 45% to 49% between 1970 and 1987. A significant contributor to this was the growing telecommunications services sector, which became subject to WTO rules.

Henten notes that an important and explicit reason for including telecommunication services in multilateral trade negotiations is the special relationship between telecommunication services and trade in other areas [Henten in Melody 1997:414].

Among the most important general obligations under GATS and the WTO are:

- The elimination of monopolies and exclusive service providers (Article VIII)
- Discontinuation of the concept of Most Favoured Nation (MFN) in international trade in services.
- The conduct of trade with special regard for transparency.

One of the main engines of this is the liberalization commitment not to discriminate against other countries. Under the new MFN rules, governments must not discriminate between members or other non-member countries of the WTO. The principle applies to all services and all measures covered by the GATS agreement. The provision for transparency seeks to bring the services sector in line with trade rules in the wider arena, and includes transparent licensing agreements.

However, it is the section relating to excluding monopolies, which contains the most relevant provisions for reform of the Caribbean telecommunications regime. In requiring an end to exclusive privileges

and agreements, the WTO demands that its members ensure that all service suppliers seeking to take advantage of the commitments are able to get access to and use of basic public telecommunications. This applies to both networks and services, on reasonable and non-discriminatory bases.

Members are held to these obligations whether or not they have liberalized their system or scheduled commitments to do so in the basic sector. Under this provision, WTO members are committed to liberalizing basic telecommunications. Reference to basic telecommunications under WTO negotiations covers both private and public services that involve end-to-end transmission of customer supplied information. This includes the relay of voice or data from sender to receiver.

It was also agreed that basic telecommunications services provided over network infrastructure as well as those provided through resale would be part of the commitments. Market access commitments would apply to cross border supply of telecommunications, those provided through foreign firms or commercial presence, and would include the ability to own and operate independent telecommunications network infrastructure. Among the kinds of services subject to negotiation were: voice telephony, data transmission, telex, telegraph, facsimile, private leased circuit services, fixed and mobile satellite systems and services, cellular telephony, mobile data services, paging and personal communication systems.

Value-added services, which were not part of the extended negotiations, came in for later consideration when some countries made commitments for liberalization of access to these. Examples include on-line data processing, on-line data-base storage and retrieval, electronic and data interchange, e-mail and voice-mail.

It is acknowledged in the Agreement that in some cases the pace of liberalization has to be phased, particularly in developing countries. It is also accepted that political action will be required in instances where there is a dominant or monopoly provider. The agreement makes special reference to interconnection guarantees and the development of independent regulators.

All independent CARICOM countries are members of the WTO, with specific commitments under the GATS agreement. These commitments oblige the governments to review their existing telecommunications policies with a view to immediate or eventual conformity to the terms of the WTO Agreement. In particular, they will be required to timetable the end of the monopoly arrangements which some have with Cable and Wireless and introduce some degree of competition in the provision of telecommunication services.

Where countries have irrevocable contractual commitments for monopoly control of the wired network or basic services, they will need to look within the area of value-added services to initiate competition. In cases, such as Jamaica, where there are no contractual arrangements for cellular and mobile communication services, these should be the first base for the introduction of competition. (See Policy Framework – Appendix I)

In any event, the monopoly carrier of the region has already been served notice by the WTO agreements and pressure from such other agencies as the US Federal Communication Commission (FCC) and the ITU that the likelihood of renewal of exclusive agreements in the telecommunications and service sectors of the region are very slim. The major concern, however, is that many countries are locked into these arrangements for decades to come. Jamaica's contractual commitments for C&W monopoly control of the basic wired network expires in the year 2013. (See revised arrangements in Agreement – Appendix II)

In the meantime, major transformation would be taking place in the global information technology and telecommunications sectors, the maximum benefits from which would be inaccessible to parts of the region under monopoly arrangements. It is possible, however, that many of these commitments may be overtaken or circumvented by global market conditions and technological innovations within the next decade.

## **1.8 Telecommunications Reform: Jamaica's Experience 1988-1998**

In 1988, under the watch of a Jamaica Labour Party government, a 25 year exclusive licence was granted to Telecommunications of Jamaica (TOJ), then a majority government-owned company. The duration of the licence foreshadowed its other usually generous provisions. The fine print guaranteed a profit of "not less than 17% nor more than 20% on revalued assets annually". Whenever the company was in danger of falling below the minimum profit level, a rate increase would be automatic under the terms of the licence. Alarming as these samples of the contract may appear to be, they could have been defended on the basis that the company was majority owned by government, who would be the main beneficiary of this seeming largesse at public expense.

However, when Cable and Wireless acquired majority control of the company a year later, it inherited these generous licensing provisions. The new People's National Party (PNP) government which oversaw the transfer, made no attempt to review the terms or to ensure that adequate regulatory arrangements were in place to match the new ownership structure. Both majority equity control and effective regulatory control were divested by the government. The company effectively regulated itself, under directions from its London headquarters. It took public agitation from combined media, academic, civic and political lobby groups to create a strong public awareness of the issues at stake. Even so, the relevant Minister remained stubbornly defensive of the monopoly privileges of Cable and Wireless which controlled 79% of the operating company.

Following the 1997 re-election of the People's National Party to government in Jamaica, a new Minister was named to take responsibility for, among other things, telecommunications policy. The Minister formerly holding this responsibility had become the focus of a strident public campaign against his seeming support for the monopoly privileges of the company. The campaign agitated in favour of better

regulation and a competitive telecommunications environment in the country. Although the outgoing minister did not initiate the process of divestment of majority equity in TOJ, he presided over a consolidation of these gains during the decade or so of his incumbency. He became the cartoonist's symbol of public policy gone wrong.

The removal of this long-standing minister represented a triumph of sorts for the public agitation for change, and a vindication of the view that a partnership of public interest groups can influence public policy-making. The new Minister, with portfolio responsibility for Technology and Commerce, quickly joined the arena of public debate on the side of competition and improved regulation.

As a sign of the dawning of a new policy, a Cable and Wireless application for a rate increase was denied by the Minister in June 1998 and on August 8, 1998, within months of his appointment a pro-competition policy was declared. It was presented in the framework of the rules of the new World Trade Organization (WTO). (See Appendix I)

The new policy embraced competition as a policy framework for the sector and envisaged more immediate competition in the wireless and value-added services, in line with the demands articulated by advocates in the public debates. Greater transparency and independent regulation of the sector were among the provisions of the changed government policy. Despite the public denunciation and legal challenges to aspects of the policy by the company, the new approach has enjoyed widespread public support and is likely to be consolidated into a new and long awaited Telecommunications Act.

The changes in policy in Jamaica are part of a wider regional awakening, with government representatives or interest groups in Dominica, Antigua, St. Lucia and other CARICOM member states demanding reforms of the monopoly situation in their countries and in the region. [Observer October 7, 1998:3] Even one of the remaining colonial outposts, Bermuda, has negotiated its release from a C&W monopoly in order to gain access to its own competitive opportunities, as its larger Asian counterpart, Hong Kong, had done earlier [Daily Gleaner 27-8-98].



There are many lessons to be learnt from this Jamaican experience. Although the new policy framework was intensely contested by the Company, and legal challenges initiated, the change in the overall policy regime should be recognized. No triumph is yet conclusive, but the events have started to move in the correct direction. The factors contributing to this include:

- The success of public policy advocacy in securing change, underlining the need for constant vigilance over the process of policy-making.
- The insistence on transparency in the policy process and accountability of elected representatives. These are of the essence in helping to foster an informed and focused public debate.
- Perseverance in advocacy for change even in the face of more highly funded corporate public campaigns.
- Importantly, the supportive provisions in the WTO Agreements at the global level, which helped to overcome the C&W opposition to liberalization
- The willingness of the government after 1997 to respond to the demands for policy change, thus making the process of reform easier.

## ***1.9 Historical Context to the Dominance of Cable and Wireless in the Caribbean***

Understanding the historical origins and background of Cable and Wireless as a company is vital for the understanding of its entrenched nature and power in the region. Its association with the Caribbean dates back almost 130 years to the Victorian era when the company, then called the West India and Panama Telegraph Company, established the first telegraphic links between the British West Indies and the wider world. This development, achieved on December 15, 1870 via an inaugural Jamaica to Florida submarine cable, was part of a wider design by imperial Britain to exercise greater control over its colonies through faster and more effective telecommunication.

Nearly four years before the system was inaugurated, the British Colonial Secretary sent a circular to its Governors in the region, advising them of a "proposal . . . to establish telegraphic communication in the West Indian islands, one with another and between them and the continent of America", which would be the mid-point in linking with London, the hub of the empire. A follow-up directive reminded Governors to be guided by the

"Treasury's letter of the 7<sup>th</sup> of June as to the general principles to be observed . . . *particularly those of not granting exclusive privileges* and of securing priority for government messages." [my emphasis, source: Colonial Office despatches in January and September, 1867, quoted in Barty King 1979]

It is significant that the regulatory guidelines in force for colonial telecommunications over 130 years ago were well in advance of our present policy and practice. The Colonial Office was seeking to avoid the very monopoly privileges which are now the dominant feature of the telecommunications system in the region.

The idea at the time was to allow for a competitive and lucrative environment. According to the London *Times* newspaper of August 26, 1869 "*the most popular outlet now for commercial enterprise is to be found in the construction of submarine lines of telegraph*" [Barty-King 1979:30]. This declaration could be made with equal relevance in today's digital environment. However, by the time American investors began to take a renewed interest in cabling of these colonies, the open attitude of the British authorities changed to ensure British monopoly control over its links with the Caribbean colonies.

Although the early West India and Panama Telegraph Company was ostensibly a private firm, it operated, like the Cable and Wireless company itself later, under the direct control and patronage of the British imperial state. As Spackman points out, the joint stock companies of 19<sup>th</sup> century Britain were "*the state licenced means of mobilizing private wealth for state expansion. Later, it was adapted for the growth of domestic enterprise*" [Spackman 1975:344]

By 1928, wireless competition engendered by the inventions of Guglielmo Marconi, was incorporated into the cable operation of the old telegraph company, which adopted the name "Cables and Wireless" in 1929. Its remit was to keep the imperial centre in direct contact with the colonies all over the world, using all the technologies then available. In 1945, the British government further consolidated its age-long control into full state ownership by outright acquisition of the company.

The political challenges of a restless empire demanded more changes, including divestment from the renamed Cable and Wireless of the responsibility for the large dominions of Canada, Australia, New Zealand and South Africa, with India coming much later. The re-structured state-owned company was to concentrate on the smaller colonial territories, including Hong Kong, Bermuda, as well as colonies in Africa and all Caribbean colonies.

After nearly a century of unchallenged dominance in the region, the Company was constrained to yield some ground in the 1960s following demands for shared ownership during the 'Independence Era' in some territories. However, this initiative was to be short-lived, as the rapid emergence of new telecommunications innovations of the 1980s and early 90s mesmerised the region. Stagnating state-owned companies, long subscriber waiting lists and poor management of the network made the idea of restoring majority ownership or control to Cable and Wireless attractive. This renewed expansion of Cable and Wireless in the region over the last decade was facilitated by the capitulation of short-sighted governments, pressured by the prevailing policies of the western multilateral agencies, including the World Bank and the International Monetary Fund (IMF). [Dunn 1991:336].

### ***1.10 Cable and Wireless: the Modern Transnational Company***

The British 'domestic enterprise', as earlier described by Spackman, had grown into a modern global conglomerate, following privatization in

1981 under the liberalizing campaign of British Prime Minister Margaret Thatcher.

Today, Cable and Wireless PLC operates as an international provider of telecommunications services in over 50 countries in all continents. In 1997, the company acquired a controlling interest in Panama to create a new Cable and Wireless Panama. In 1998 the overall number of employees in the conglomerate totaled 37,500, dispersed across its eight regional administrative units:

- Africa and Indian Ocean
- American/Atlantic Ocean
- Asia
- Australasia
- Caribbean
- Central and Eastern Europe
- Middle East, and
- Western Europe

Although Cable and Wireless PLC is diversifying beyond voice into multi-media and information services, its voice telephone traffic remains a major revenue source. Outgoing traffic from C&W lines in 1997 exceeded 2-billion minutes.

Cable and Wireless, listed among the top 100 firms in the UK, is a highly profitable enterprise. In 1997, the company's overall turnover was 8.3-billion pounds sterling, an increase of 19% over the previous year. Hong Kong Telecom and associated companies contributed over 50% of total turnover after currency adjustments had been made. Turnover from all joint ventures and associates in 1997 increased 37% on the previous year. Pre-tax profit rose by 54% in 1998 to 2.1 billion pounds. Total operating profit increased by 19 % to top 1.6-billion pounds in the same period.

International traffic led domestic calls as sources of revenue although domestic call revenues are increasing at a more rapid rate. In fiscal year 1997, the company's international telecommunication revenues in-

creased by 7% to just under 3 billion pounds, while domestic telecommunications increased by 20% to contribute 1.8 billion sterling to revenues. While call volumes increased over the period, the cost of calls, particularly at the international level, continued to fall. The company recorded its first significant revenues from cable television and multimedia services, which amounted to 203 million pounds or 13% of Group revenue.

The company also operates a fleet of cable ships and submersibles within its Cable and Wireless Global Marine Company. Other pan-regional, companies include Cable and Wireless Global Markets, Cable and Wireless Global Mobile and a Cable and Wireless College in England. Revenue from these services and facilities also increased in the period under review.

According to the 1998 Annual Report, the Caribbean region contributed significantly to Group Revenues. Countries in this region include the English-speaking islands and the newly acquired majority company in Panama. The report said turnover in the area rose by 34% to record an income level of 809-million pounds. However a large contributor to that was a 163-million turnover from Panama. With this excluded and adjustments made for currency fluctuations, the region's underlying growth was 11%, with the main contribution coming from Jamaica and Antigua at 16% and 26% respectively. Strong revenue performances were also recorded from Dominica, Grenada and Cayman.

The overall profitability of the company contributed to an increase of 88% in earnings per share, and allowed very generous remuneration packages to senior executives and Board Directors. Notes to the financial statements indicate that then CEO Richard H. Brown received a total remuneration package in 1997/98 of 1.6-million pounds or just under US\$ 2-million. While this was a modest reduction on his emoluments for the previous year, his earnings for the year 2000 is set to jump significantly with bonus shares and other benefits. Total emoluments to Directors for 1997/98 was just over 4-million pounds.

While our many small countries negotiate individually with this global level negotiating partner, the company builds its corporate strategy on the region as a whole. Its regional strategic headquarters in Bermuda works closely with the corporate headquarters in London in devising common approaches such as the recent decision to re-brand with the Cable and Wireless name and logo.

Its promotional targets are regional in scope, such as the support for the West Indies cricket team, and its business units such as Cable and Wireless West Indies Limited, Cable and Wireless Caribbean Cellular and its Digital Information Systems unit, all treat the region as a single market. The regional governmental response in the Caribbean Telecommunications Union has been insufficiently funded and mostly ineffectual in providing the regional leadership in research, joint bargaining and shared policy and strategic planning at the level required.

## Recommendations

### *Telecommunications and Caribbean Policy-making*

- Caribbean trade unionists should strive to keep abreast of the policy issues affecting telecommunications and information technology (IT) in the region with a view to more active involvement in influencing policy-making both as single sector and as part of the tripartite arrangement with governments and the private sector.
- There needs to be greater awareness among trade union members and the general public about the strategic importance of telecommunications and IT to the future of their jobs, their communities and to the region as a whole. In this regard, periodic seminars, training courses and public discussions will need to be organized by delegates and leaders in the trade union movement.
- The recently concluded arrangement to restructure the monopoly position of Cable and Wireless in the region is an important factor in efforts to take advantage of the opportunities afforded by techno-

logical innovations and convergence of technologies. The struggle for a liberalised, competitive and well-regulated telecommunications environment should continue to attract region-wide attention, with a view to securing policy and regulatory reform in line with the needs of the region.

- Cable and Wireless, as a profitable multinational company, should be encouraged to expand the level of its contribution to the development of education and training for its employees and the industry generally.



# Globalization, Tele-Working and New Trade Union Strategies

## *2.1 Overview: Caribbean Labour Market*

Frequently, discussions of telecommunications and technology issues take insufficiently into account the policy context and socio-economic environment in which people live and work. The section which follows seeks to provide an overview of the Caribbean labour market as a basis for evaluating the implications of the emerging technology applications and practices on trade unions and public policy.

The traditional economies in the region are built around highly vulnerable industries. The tourism and agricultural sectors are frequently devastated by natural disasters and sometimes social upheavals. The ravages of hurricanes in the Caribbean, such as Georges in September 1998, can devastate human life and habitations, banana plantations, sugar estates, coffee and citrus farms, coastal resorts and the physical infrastructure.

The effects of such hurricanes and of tropical storms have been particularly felt in the economies of Antigua/Barbuda, St. Kitts/Nevis, St. Lucia, Dominica and Jamaica. Volcanic activity in Montserrat has more than halved the resident population and disrupted normal functioning of that society. Industrial accidents of the kind which occurred in Guyana in 1995 further reduced traditional mining output. And political upheavals like those which occurred in Jamaica, Grenada, Trinidad and Tobago and elsewhere, have on occasion wiped out projected earnings and displaced jobs in the fragile tourism industry.



In addition, global market conditions do not offer a bright prospect for our traditional agricultural and mining products, even if they survive the perils of natural disasters. The Common Agricultural Policy in Europe, where most Caribbean sugar and bananas are sold, has brought the European prices closer to the world market prices, thereby reducing the effective value of preferential access of our products to this market. The banana industry, which is still the mainstay of many of our Windward territories, must now compete in Europe with dollar bananas from large high technology-assisted Latin American producers. While the quota system remains tenuously in place, it is scheduled for elimination by the year 2001.

The impact of these developments on employment, labour productivity and overall economic performance is already being felt and may be disastrous in the medium- to long-term, if not addressed by all the social partners. The situation indicates the need not just for diversification of these economies but also for modernization of production processes. Forward-looking collective action may not be able to make the region hurricane proof, but it can help to create a wider spread of industries and higher levels of productivity and job security. Part of this involves an increased emphasis on the provision of non-traditional products and information technology-related services. According to the ILO, over 60% of net new jobs added in the Jamaican economy in 1996/1997, for example, were in the service sub-sectors.

Other available ILO figures for employment in the Caribbean in 1995/96 also suggest unacceptably high levels of unemployment and under-employment. In three of the region's largest economies, the unemployment levels all exceeded 15% in that period. In Barbados (19.7%), Trinidad and Tobago (17.2%) and Jamaica (16.2%) job losses, resulted from re-structuring of public enterprises, contraction in private sector operations and cyclical unemployment. In Belize and the Netherlands Antilles, unemployment figures ranged above 10% in the same period. Many people continue to operate at the margins of society, eking out an existence as part of the large pool of 'the working poor'.

Throughout the region, the groups with the highest levels of unemployment are women and young people. In the region as a whole, "women comprise just under sixty percent of the unemployed. In every country they experience a higher rate of unemployment than men, with the disparity ranging from a high of over twice in Jamaica to a low of 1.2 times in the Bahamas.

For youth, the experience (in 1995) was even more dismal. Those under 25 years represented just under a half of the unemployed for the countries taken as a group, with their unemployment rates in individual countries ranging from a high of 37.8 percent in Barbados to a low of 18 per cent in Belize. Their unemployment rate represented from more than twice the overall rate in the case of the Netherlands Antilles and Jamaica to a low of 1.2 times in Belize." [Digest of Caribbean Labour Statistics, ILO, 1996.]

Even while women and the youth are the greatest casualty of the existing employment processes, it is these exact population groups which are finding new forms of employment in alternative service industries, including information technology, data processing and data entry, technology training and tele-marketing.

If the productivity-related problems of the region are to be successfully tackled, all participants in the social context will need to contemplate new and innovative ways to achieve and sustain high employment levels within the limits of acceptable occupational standards and wider democratic freedoms. In this context, the emerging informatics sector and alternative ways of working have become very important to the future of employment and economic development in the region.

## ***2.2 Technology, Teleworking and New Trade Union Strategies***

One of the major effects of the advances in information and telecommunications technologies is the tremendous growth in the service sector, particularly in societies where deployment of the technologies is widespread. The inter-working of telephone devices, computers, satellites

and glass fibres has revolutionized the way in which information is processed. This convergence of functions allows for vast volumes of information to be manipulated and conveyed using digital bit-streams which travel at the speed of light through any compatible device, and without regard to distance or time of day.

Over the last two decades, this technological convergence has increasingly fueled a process of global information flow with profound implications for the organization of work. Suppliers of information intensive services can now engage in cross-border trade, in the re-location of work sites and in the concentration of certain jobs within specific cost effective social, economic and geographical zones.

These additional jobs, though sometimes tedious, are often welcomed in societies with high levels of unemployment and low per capita income. Jobs requiring higher skill levels and attracting better pay are frequently retained in the industrialised country, to which companies recruit highly skilled nationals of the South, such as India, to do these high-tech jobs at reduced rates.

According to Rifkin (1996) "The hard reality is that the global economy is in the midst of a transformation as significant as the Industrial Revolution. We are in the early stages of a shift from 'mass labour' to highly skilled 'elite labour', accompanied by increasing automation in the production of goods and the delivery of services." He argues that this process is leading inexorably to the displacement of many traditional jobs, with their functions replaced by computers, robots and so-called intelligent telecommunication devices.

Among the jobs he identifies as being most vulnerable to this process are: factory workers, secretaries, receptionists, clerical workers, sales clerks, bank tellers, telephone operators, librarians, wholesalers and middle managers. It is estimated that in the United States, with a labour force of about 120 million, as many as 90-million jobs in these and other categories are susceptible to displacement by automation. In the Caribbean area, the displacement of these categories of workers has already begun. In addition, other types of jobs which have been affected include

certain specialists in: printing, newspaper production, mining, the postal services, meter reading and accountants.

According to Rifkin, "Even if the entire workforce could be retrained for very skilled, high tech jobs, which of course it can't – there will never be enough positions in the elite knowledge sector to absorb the millions let go as automation penetrates into every aspect of the production process." In painting a pessimistic picture of the future, he notes that "Even if thousands of new products come along, they are likely to be manufactured in near-worker-less factories and marketed by near-virtual companies requiring even smaller, more highly skilled work-forces." [Rifkin: 1996] This re-structuring of the global working environment is said to impact particularly on the so-called 'white collar' occupations.

While noting the merits of these assumptions, one has to carefully examine them in light of the recent experience of the Caribbean, India and other underdeveloped areas. In these regions, a mitigating factor could well be the offshore data processing, garment assembly and other semi-skilled occupational activities which have emerged in export processing zones throughout the region.

Apart from the emerging technologies, the key motive forces for the re-construction of labour markets and the international migration of work are the transnational and multinational enterprises. These global companies are major employers and displacers of labour. Parisotto notes that multinational enterprises globally employ over 70 million workers, accounting for about 20% of paid employment in non-agricultural activities, in industrialised countries. The composition of this workforce will vary with skill levels and prevailing technologies and market conditions. Although the presence of these multinationals in underdeveloped countries is more modest, their economic clout and relative influence are greater, as "their employees belong to the core workforce in modern, technologically advanced and capital- and market-intensive industries."

It is these multinational firms that dominate the burgeoning service sector and that are in need of data-entry and other outsourced functions. Telecommunications and data storage companies, banks, insurance companies, airlines, publishing houses, legal and medical firms and other information-intensive enterprises from the global north route their labour-intensive back-office operations to low cost work-sites in the global south.

At the domestic level in many countries, employers are displacing workers from traditional offices into home-based jobs with lower overheads for the firm. At the same time, some employees are finding it more convenient to work from home, linked to their office or clients by telephone lines or computer networks. Those employees join an increasing number of freelance and part-time workers operating from home offices or cars, using mobile telephones and portable computers. And, some citizens are basing their income-generating occupational activity on home-based INTERNET-related activities, while others work on large shifts for data entry or in telephone call centres.

This re-structured system of work has attracted the attention of occupational and trade union specialists, giving rise to studies on the implications for traditional methods of labour organization and representation. The Trade Union Congress of the United Kingdom, in a 1996 Report, defines the emerging system of TELEWORKING as simply "distance working facilitated by information and communication technologies." One researcher, Ursula Huws, identifies five types of teleworking:

- **Multi-locational Teleworking:** partly based in the home, partly on employers premises. Typically involving skilled and trusted professional/executive type staff. Many covered by collective agreements
- **Home Teleworking.** Based entirely in the home. Typically involving low-skilled repetitive, paid by results. Workforce almost exclusively female.
- **Freelance Teleworking.** Wholly based in the home but carried out on a freelance basis for multiple employers/clients. Extension of

traditional forms of freelance work (e.g. translation, writing, editing, design, computer programming).

- **Mobile Teleworking.** Extension using new technology of traditional forms of mobile work (e.g., sales representatives, inspectors, maintenance engineers).
- **Relocated Back Offices.** Work carried out at a distance, on the premises of an employer, sub-contractor or telecottage.

[Huws in Bibby 1997:7]

These methods of work are expected to become more entrenched and commonplace as our societies incorporate more of the emerging technologies. Bibby observes that this development is not a passing phase but a fundamental re-ordering of the work environment towards more flexible forms of work organization. "It offers a challenge to conventional concepts of how work is organized - the assumption, for example, that work naturally takes place in a 'normal' workplace during 'normal' working hours." He argues that teleworking rewrites notions of where work takes place. It offers instead "the possibility of work migrating from large centralized establishments first created for workers in manufacturing during the Industrial Revolution and later re-created for white collar staff in mass office complexes." The normal work-week also comes under challenge by the new flexible work patterns, as people tailor their work time more closely to their personal and family lives.

Many of these adjustments have both positive and negative implications for the worker. The HBV Union of Germany examined the pros and cons of teleworking. It noted that while one beneficial element is a free choice of working times, the downside is the danger of overwork and the absence of specialised premium payments for nights, weekends and premium hours. While some teleworkers may prefer not to have work distributed among many employees as positive, illness of the single tele-worker can postpone jobs or cause physical deterioration by people attempting to work while sick.

The issue of an absence of direct supervision or of conflict with other employees may be a plus, but these can be offset by loss of beneficial

work evaluation and an absence of direct communication with colleagues. In any event, sometimes the data-entry teleworker can be excessively electronically monitored, including verification of total key-strokes and times spent away from the keyboard. The advantage of reduced travel cost and time may sometimes be offset by an absence of technical support and equipment inspection to prevent data loss or downtime. While there is greater ease in combining work and family responsibility, home-working can result in the invasion of private spheres.

Sometimes teleworking eases child-care responsibilities or is the only alternative to giving up paid work entirely. But time away from the office can mean exclusion from day-to-day life of the organization and can limit personal growth and promotion.

Decisions about choices in work organization are often highly personalized and some employees move between the different modes of working during different phases of their lives or careers. An acceleration in the development of teleworking as a distinct pattern has been taking place over the last 25 years.

Initially, trade unions reacted negatively, because it was seen as a means of undermining traditional trade union methods. Bibby observes that this response was to be expected as trade unions in their present form are creations of the industrial age, when their power and influence had developed through collective bargaining in the traditional work paradigm. Unions have got accustomed to communicating with a mass of employees at a single venue or work-site, and to face-to-face organizing.

The mainly negative early response to teleworking by some unions has been diminishing as more union leaders return to the Movement's core principles of mutual self-help and solidarity. In this frame of mind, many union leaders can see a continued, if modified role, for trade unions in the more fragmented, yet flexible and diverse working environments of the present and the future.

Among the issues seen to be arising for trade union involvement with teleworkers are those of:

- work organization and management,
- staffing,
- shift-working,
- career development and training, and
- future employment trends.

For further discussions of these issues, see Parisotto (1993) and Rifkin (1996).

## **Recommendations**

### *Globalization, Tele-working and New Trade Union Strategies*

#### **Modify and Restructure Systems of Communication**

- New ways must be found for unions to communicate with a more dispersed membership and for members to talk to each other using non-traditional means. Trade unions and delegate councils must set up their own electronic and on-line communication networks for interactive contact with members, including those working from home.
- Trade union leaders should know how to reach those delegates and members using computers or in home-offices. Addresses, telephone numbers, convenient times and more direct mailing will be essential, in developing contact methods which do not rely on workplace distribution.
- Use E-mail, where possible and appropriate. Trade unions should struggle for the right to use corporate e-mail, an issue currently under negotiation in several countries around the world. This method can be used to recruit and organize members, including those who are working remotely or in several locations.
- Use the INTERNET as a central platform for research and communication, including bulletin boards, list servs, websites and other addressable communication devices. Members can be assisted by referring them to key websites for educational and job-related assistance.



## **Union Organization**

Substantial re-learning and experimentation may be required to service employees in non-traditional work contexts. Traditional methods of union organization may fail to fit the needs of new, more educated workers, many of whom will be employed within 'virtual companies'. Members should be able to hold meetings electronically, and make decisions in a democratic and participatory manner despite the new form of organization.

## **Recruitment of members**

- At a time when many jobs are being lost and ex-members are resorting to self-employment, and when substantial numbers of people are self-employed by choice, unions will need to develop the capacity to represent self-employed and casual workers. The strength and relevance of unions in the future may well depend on how well they are able to represent diverse and non-traditional members in atomised forms of work.

## **Widen the Trade Union Agenda**

- Trade unions should be publicly identified with modern and creative approaches to addressing issues on the national agenda, including issues of technology and development, environmental protection, gender and equality of opportunities, education and training, health and safety, pensions and assistance to the disabled. This role, within the framework of tripartite co-operation, should help make teleworkers and other non-traditional sectors, including the unemployed, identify with a renewed trade union movement.

## **Strengthen Informatics Skills**

- Trade union employees, including their leaders and officers should be techno-literate and able to interact electronically with members and other leaders locally and globally. Where this is not yet the case,

specific budgetary and time allocations should be made to build this capacity.

- Such an approach would expose trade union leaders, firsthand, to the benefits and disadvantages of a digital, electronic working environment. It may also enable leaders to better utilize their time, improve work processes in trade union offices and develop a faster response rate to national and labour relations issues as they arise.



## Offshore Information Processing and the ILO Tripartite Declaration: A Caribbean Case Study

### 3.1 Case Study

While there is a growing volume of people whose work patterns conform with traditional and other types of home-based or mobile teleworking, the most extensive and systematic adoption of teleworking in the Caribbean has been in the area of the re-located back-office. The following section provides a report on a 1998 case study of the information processing sector in the Caribbean, with particular reference to Barbados and Jamaica where the practice is most developed.

In the context of our earlier discussion of teleworking, the case study provides up-to-date information on practices in the region which challenge the ILO Tripartite Declaration as well as traditional methods of union organization and work in the region. The case study research was conducted for the ILO by Leith Dunn and Hopeton Dunn in March 1998. Here is a synopsis of the issues:

**EMPLOYMENT, WORKING CONDITIONS AND LABOUR  
RELATIONS IN OFFSHORE DATA SERVICE ENTERPRISES  
IN SELECTED CARICOM COUNTRIES: A CASE STUDY**

The findings of the study confirmed the original hypothesis, that global competitiveness, technological change and national investment policies, do influence the content and quality of jobs, the choice of the workforce and working conditions in offshore data service enterprises. It also highlighted the fact that together these factors result in limited adher-

ence to the ILO's Tripartite Declaration of Principles concerning Multinational Enterprises and International Labour Standards.

### ***3.2 Impact of Telecommunications***

Global competitiveness and technological advances in telecommunications and computer industries have had a major impact on the offshore data services sectors in Barbados and Jamaica. Telecommunications infrastructure, pro-IT policy frameworks and generous export incentive packages, have contributed to increased employment, the numerical size of the IT sector, as well as the scale and diversity of companies operating in the last thirty years. Results of the current research also confirmed the findings of previous studies which established a strong correlation between gender, technology and labour practices.

Offshore companies in the Caribbean use a range of technologies to provide services to clients in the USA and other industrialized countries. Most of this work however involves basic data-processing which is at the lower end of the technology market and uses a female-dominated workforce. Smaller pockets of medium- and high-tech jobs are found in scanning, imaging and software development. Characteristics of the work force however change from female to male in line with the sophistication of the technology. Labour practices also varied in direct correlation to the level of technology used. The gap between wages and working conditions for data-entry workers and software programmers was quite wide. The common factor however, was that skill and technology did not affect unionization. Most of the sector was not unionized, although there were efforts to do so in Barbados. In general, the struggle for global competitiveness was being advanced to the detriment of the labour rights of workers in the sector. Evidence of body shopping emerged, which is the practice of using migrant workers to fill technology skill gaps. In Barbados, one company had imported over 300 Indian software programmers, while training Caribbean nationals. A few Jamaican companies had also done the same, but on a smaller scale.

To improve global competitiveness in the IT sector, both Jamaica and Barbados had created attractive export incentive policies to encourage overseas investors, with a view to expanding employment, upgrading IT skills and generating foreign exchange. A variety of education, training and marketing strategies had been initiated to improve the region's comparative advantage of: proximity to the United States (which reduces shipping costs); the natural English language facility and comparable levels of speed, accuracy, security and dependability in relation to other offshore data service destinations.

An important finding was that low wages were less important to maintain global competitiveness than the comparatively high cost of telecommunications, in relation to other offshore destinations. Domination by one international telecommunications company with monopoly status in the region has made Caribbean offshore data service sites more expensive than other competitors such as Mexico, Costa Rica and the Philippines.

Global competitiveness was also influenced by the high cost of marketing the region as a location for offshore data service industries within the United States, which is the largest client base. Fragmentation and a variety of ownership structures within the sector have limited the capacity of the two Caribbean countries to collectively market the region as a destination for offshore data services industries. A collective marketing strategy is therefore needed, if opportunities for investment and employment are to expand significantly. Marketing in this area is particularly challenging, as the region is best known as a tourist destination and creating the image of workers who are capable of providing speedy and accurate data services will be difficult.

### ***3.3 Survival Strategies***

Innovative marketing strategies have been adopted. For example, Barbados' flagship trade fair, "BISC 98", which has been held on four occasions was highlighted. Similarly, JAMPRO's Target Europe Pro-

gramme has also been profiled. The former is an IT trade and promotion fair organized by the Barbados Industrial Development Corporation (BIDC), the company responsible for export promotion and investment. The BISC 98 programme included: presentations on state-of-the-art technologies, seminars, workshops, an IT exhibition and site visits to a range of offshore data service companies. This provided hands-on, face-to-face opportunities for potential investors and service providers to learn about the industry. Both countries also market their offshore data service industries on the World Wide Web, participate in overseas trade and investment fairs and do promotion through their embassies in the USA and the UK. For Jamaica, the Target Europe programme is being developed to focus on upgrading a core of companies to provide reliable efficient offshore services to enterprises in Europe.

Emerging trade agreements have also impacted on global competitiveness. Mexico's position within the Free Trade Area of the Americas (FTAA) for example, makes it a preferred site for many US companies and a number of companies have relocated there. Much lower wage rates and telecommunications costs in China and Eastern Europe also reduce the region's global competitiveness in labour costs.

Technological change has also affected competitiveness and the sustainability of jobs. New technologies such as scanning and imaging have eliminated some labour-intensive jobs in data-entry and data-processing, which form the IT services in the region, but have created other opportunities. Further research is needed to get a more accurate picture of these trends.

A comparison of research findings against the background of the ILO Tripartite Declaration, showed that employment promotion has been enhanced, and employment has expanded over the years but this has not been consistent.

Equality of opportunity and treatment are influenced by gender, although there was no evidence that male and female data entry workers were paid at different rates. Women dominated the ranks of lower-paid,

less skilled workers, while the majority of software programmers (with high skills and high wages) were males.

Security of employment was influenced by the ability of companies to acquire and retain contracts from overseas companies, and to upgrade their technology. There was evidence that technology had eliminated some jobs, created others and improved efficiency.

Training opportunities existed but varied widely. Barbados had introduced a training scheme, as an incentive to investors to encourage technology and skill transfers to locals. Most companies provided limited on-the-job training and liaised with national training and educational institutions.

### ***3.4 Wages and Working Conditions***

The study confirmed a wide disparity in wages between Caribbean workers and their counterparts in the USA and other industrialized countries. At the most basic level of data entry, findings indicated that this could be as low as one tenth of the rate in the USA (in the case of Jamaica). This confirmed that the main motivation for moving offshore was usually to take advantage of lower wage costs in countries like Barbados and Jamaica. Low wages in the latter country were apparently insufficient to provide basic needs. This, combined with other factors, led to high labour turnover among data entry workers. Most workers saw data entry employment as a transitional phase, which they could not sustain as a career choice. Company managers in Jamaica also confirmed the high staff turnover rate and a tendency by employees to use the training to seek less stressful employment elsewhere.

Wages in the sector were both fixed and based on productivity, depending on the level and type of job. Employees at the lower skill levels received basic wages and productivity incentives based on speed, accuracy and the number of keystrokes per hour. Employees at the higher levels of skill or in supervisory positions received fixed wages. Benefits to data-entry and data-processing workers usually included

coverage for national insurance, holidays and sick leave. Some companies offered health insurance and life insurance but this was not uniformly practiced. Shift work was the norm and most companies operated two shifts, although a few had three.

Concerns about working conditions focused on low wages, the pace of work and occupational safety and health issues but there were few complaints about the physical work environment. Physical layout and design of most of the companies visited, were quite good and in some cases were excellent. Criteria for evaluating the work environment included: the provision of anti-glare filters on VDU screens and footrests under VDU terminals; space between work stations; overhead lighting in offices and the existence and frequency of exercise breaks. Most managers responded to queries about low overhead lighting by indicating that this was done at the request of employees. The main areas of concern were the presence of occupational illnesses, the absence of adequate protective equipment and inadequate lighting.

The study confirmed that while exercises and regular breaks were used in many companies, the practice was not uniform and some workers were not aware of the importance of these breaks. Education, training, further research and improved monitoring are recommended for the sector as a whole.

The major occupational safety and health (OSH) issues which emerged, related to visual and musculoskeletal disorders associated with exposure to VDUs for extended periods sometimes without protection from anti glare filters. Reports of pains in the neck, shoulders and wrists associated with rapid and sustained keyboard use also emerged. The study confirmed findings of previous researchers that these problems were associated with poor seating equipment, poor seating posture and limited knowledge of OSH issues, which contribute to problems such as repetitive strain injury and other illnesses. Stress emerged as a major issue affecting workers in the sector. Apart from the excessive demands of the work itself, conflicting reproductive and productive roles added to stress, because the majority of workers were women with children.



Practical gender needs such as child care and proximity of housing to work centres, had not been included in planning for the sector. Transportation was also a problem and some companies provided limited support. Employees therefore experienced considerable stress and had varying levels of productivity and attendance. Together these factors gave the perception that workers had poor work attitudes.

### 3.5 Industrial Relations

Analysis of the industrial relations climate in the sector across both countries, indicated that freedom of association and the right to organize were generally not respected in the sector. *Most companies were not unionized.* In Barbados, in the context of a social partnership, the Barbados Workers Union had attempted to unionize four data-entry companies and had met with considerable resistance, (especially on the part of one American company) There were also threats of companies to relocate operations to other destinations.

Non-unionization meant that collective bargaining was generally not used to establish wage rates. Instead, some companies developed wage rates based on a review of compensation packages offered in other IT companies, as well as in the public and private sector for comparable jobs. In the absence of a unionized workforce, procedures for consultation, the examination of grievances and the settlement of industrial disputes are left up to the individual companies. Further research is needed but may be difficult, given the limited access that researchers have to the sector.

An interesting case profile emerged of one company in Barbados which was not unionized but tried to create an atmosphere of mutual respect between workers and management and had introduced worker-friendly policies and practices. Of particular note were their efforts to improve occupational safety and health and provide treatment for work-related illnesses. The manager of this company was a Barbadian woman who had entered the sector as a data-entry operator and had

several years of experience working in the sector. In many respects this company had several features of a good practice model, although it was not unionized.

Reports of worker-management relations included both positive and negative experiences. Size of company and ownership patterns appear to have some effect on this relationship. Small- and medium-sized local companies may be able to offer a less attractive working environment than larger foreign companies, but further research is needed to confirm these observations.

### **3.6 *Issues emerging***

In summary therefore, it can be argued that knowledge-based industries have become the key factor of production, development and human welfare as noted by the World Bank (1992:1). Computer and telecommunications technologies have combined with globalization, to have a major impact on the Caribbean offshore data industry. Lower labour costs and proximity to the United States have helped to expand the sector. Gender emerges as an important feature because the majority of low-skilled jobs are held by women and the majority of high skills jobs are held by men. But the overwhelming need is for reduced telecommunications costs, more training and efforts to attract a greater flow of investment into the region, while maintaining vigilance around working conditions and trade union rights.

## **Recommendations**

Against this background, a number of recommendations are made to tripartite partners to address the need for policies, strategies and programmes to increase employment in higher skilled higher waged occupational groups, improve working conditions as well as labour relations in the sector. Good practices in employment and labour relations will promote global competitiveness, greater efficiency and improve chances of the Caribbean becoming a world leader in the high skill, data services sector.

## ***Offshore Information Processing and the ILO Tripartite Declaration***

**Trade unions and workers in the offshore data services sector are encouraged to:**

- Increase their knowledge of the sector at the global, regional and national levels, especially to understand factors which affect competitiveness.
- Agree on strategies to support the expansion of employment opportunities and improved working conditions and good labour practices.
- Organize public education and training programmes for trade union members and employees, especially in the area of occupational safety and health.

**Caribbean governments are encouraged to:**

- Intensify the efforts towards greater competition in the market for telecommunications services to expand the number of service providers and reduce costs of telecommunications between the region and clients in major destinations like the USA. This would increase the region's global competitiveness and attract more foreign investment and jobs in the data and information services.
- Promote and build market linkages between unions and companies within the Caribbean region, and those in North America, Latin America, Asia, Africa and Europe through research, enhanced overseas marketing initiatives and training.
- Promote dialogue among these partners towards speedier implementation of contracts, their more effective and efficient management and identification of means to facilitate timely payment for contracts completed.
- Strengthen the technological, management and financial capacity of local companies to offer higher quality, efficient and reliable offshore data services using state of the art technology.
- Provide training to build the human resource capacity of Caribbean workers in technical and technological skills, especially in software

development, and local companies providing services to offshore data service companies.

- Use investment incentives to reward linkages between local and foreign companies to enhance the developmental effects of the offshore IT sector. This could boost the employment and foreign exchange potential of the offshore service companies
- Collectively market the region as a reliable, efficient location for offshore data services through CARICOM or other appropriate mechanisms. Countries could target specific sub-sectors in the market, or focus on clients from certain regions to reduce competition
- Improve monitoring and promote good practices in offshore companies by increasing public education and training in OSH and ILO standards for the data-entry industry targeted at workers in the sector, labour officers, trade union members and private sector companies.
- Use incentives to reward data service companies and contractors who adhere to ILO standards, practices and local laws, especially those which relate to occupational safety and health and good labour relations.

Offshore data service companies or contractors are encouraged to:

- Adopt policies and practices consistent with ILO Standards and Agreements to ensure a healthy industrial relations climate, conducive to high productivity and efficiency.
- Provide appropriate equipment, regular breaks and support services, to reduce the incidence of RSI and related illnesses among employees, which adversely affect productivity and profitability of the company as well as staff morale.

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**Publisher's note:** The following appendices are prepared as a part of the context for the foregoing analysis of telecommunications and labour practices, and to facilitate critical analysis of public policy in this sector.

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# Appendix I

## Telecommunications Policy: A Framework

Prepared by: Ministry of Commerce and Technology July, 1998

### Summary of Principles of the Policy Framework

Jamaica's Telecommunications Policy is to be based on the following:

1. An independent telecommunications Regulator mandated to facilitate effective competition and regulate the telecommunications sector in a transparent, non-discriminatory and accountable manner.
2. Introduction of competition in the provision of value added and wireless services.
3. Honouring licences granted to the incumbent PTC and, where necessary for national development, negotiating changes with the PTC.
4. Fulfillment of the Regulatory commitments made to the WTO as a signatory to the Basic Agreement on Trade in Telecommunication Services.
  - a. Universal service that will be administered in a transparent, non-discriminatory and competitively neutral manner.
  - b. Interconnection with the PTC made available on a fair and non-discriminatory basis with recourse to the Regulator in case of dispute.
  - c. Implementation of modern spectrum and numbering management principles.
5. Development and use of telecommunications technology to meet and enhance social objectives in education, health and national security.
6. Maximising the benefits of convergence for national development.
7. Active participation in international and regional forums to ensure Jamaica benefits fully from cooperation in telecommunications.

## Context of Policy Framework

As the new millennium approaches, dramatic changes in communications are occurring with the convergence in telecommunications, media services and information technologies.

Globally telecommunications is moving from a monopoly based industry to one which thrives on competition. Jamaica, recognising this, has become a signatory the Basic Agreement on Trade in Telecommunication Services.

Existing laws and regulations governing telecommunications in Jamaica are now outdated and need to be recast to enable the creation of a modern telecommunications sector that allows the population vital access to telecommunication and information services.

## Executive Summary of Framework

1. Telecommunications is to be regulated by an independent Regulator, the OUR, operating in a transparent, accountable and non-discriminatory manner.

The Regulator will be mandated to facilitate effective competition, except where ruled out by Government commitments to honour existing licences.

2. The laws relating to telecommunications will be modernised by introducing a new Telecommunications Act to replace the 1893 Telephone Act and the 1973 Radio and Telegraph Control Act.

The licences issued to the incumbent PTC will be honoured while at the same time competition encouraged in areas which do not infringe on its licences. For example, competition will be introduced in the provision of value added and wireless services. Where necessary for national development, licence changes will be negotiated with the PTC.

The Regulatory commitments made by Jamaica to the WTO will be fulfilled.

4. The Universal Service policy will ensure that all households, including rural communities and the urban poor, can have access to basic telecommunications, and to promote the special interests of schools, hospitals, and the handicapped.

5. Interconnection will be required to ensure access to the incumbent PTC's public telephone infrastructure in a fair and non-discriminatory manner, with recourse to the Regulator in case of dispute.
6. Spectrum management and numbering administration will be carried out by the Regulator within a defined Government policy framework to ensure that common resources are exploited for the benefit of the people of Jamaica.
7. In light of the reform of the international accounting rate system, and any imbalances identified between the structure of rates and costs, a rate rebalancing strategy will be developed by the Regulator following consultation with interested parties.
8. It will be the policy of the Government to use telecommunications technology to enhance education, health and national security. No private monopoly will be entertained in this area.
9. The Government, the OUR and Broadcasting Commission will explore convergence and develop a regulatory framework that balances promotion of the use of interactive media with the protection from abuses of such media
10. The Government and the OUR will seek to ensure that appropriate and adequate representation is made of the telecommunications interests of Jamaica and the Caribbean internationally.

## **ANALYSIS & FRAMEWORK OF TELECOMMUNICATIONS**

### **1. Regulating Telecommunications**

There is currently a global revolution in telecommunications technology and policy. A modern telecommunications infrastructure is required not only to facilitate sustained growth in the economy but also to be an engine of development.

The Government has designated the Office of Utilities Regulation (OUR) to regulate the telecommunications industry, thereby to encourage investment and protect the consumer's interests. The OUR shall issue telecommunication licences and ensure compliance with the terms and

conditions of these licences. Breaches of telecommunications legislation and regulations will attract stiff penalties.

**Telecommunications is to be regulated by an independent Regulator, the OUR, operating in a transparent, accountable and non-discriminatory manner.**

Globally, an environment now exists in which competition in telecommunication services within a modern regulatory and policy framework has proven to be beneficial in many developing and developed countries around the world. Consumer welfare and economic development will be enhanced by the introduction of competition.

**The Regulator will be mandated to facilitate effective competition, except where this would infringe the PTC's licences.**

## **2. Rate Rebalancing**

Rate rebalancing is a change in the structure of telephone prices, but not the overall level (which is the subject of rate reviews). Economic efficiency is enhanced by a rate structure that appropriately reflects the underlying structure of costs. It is likely that at present the rates for domestic telephone service are subsidised by profits obtained by the incumbent PTC on international calls. The growth and expansion in the network, universal service obligations and the development of competition will need to be examined against this background.

One of the pressures for rates to be rebalanced in the future is the reform of the international accounting rate system. Reductions in accounting rates, which govern the payments between operators on international calls, may limit the extent to which the incumbent PTC will be able to continue to subsidize domestic telephone rates.

A rebalancing strategy will be developed by the OUR after consultation with the PTC, consumers and other interested parties. As a necessary initial step, before the rebalancing of rates can be implemented, the incumbent PTC will be required to provide sufficient robust cost information to enable the extent of any rate imbalances to be identified. Although many consumers will benefit from rate rebalancing, appropriate transitional measures and targeted assistance will be developed for those consumers that might otherwise suffer unduly from the movement of rates closer to costs.



In light of the reform of the international accounting rate system, and any imbalances identified between the structure of rates and costs, a rate rebalancing strategy will be developed by the Regulator following consultation with interested parties.

### 3. Telecommunications Legislation and Licences

The two Acts which deal with telecommunications in Jamaica are the 1973 Radio and Telegraph Control and the 1893 Telephone Act. Both Acts are outdated.

The laws relating to telecommunications will be modernised by introducing a new Telecommunications Act to replace the 1893 Telephone Act and the 1973 Radio and Telegraph Control Act.

The incumbent PTC holds five licences. The All Island Telephone Licence held by the PTC confers on it a monopoly on basic voice wire line telephony. The PTC is not considered to have an exclusive monopoly on wireless services or value added services. The introduction of competition in the provision of these services will be beneficial for business and residential consumers in terms of choice, quality, efficiency, and value for money.

The licences issued to the incumbent PTC will be honoured while at the same time competition encouraged in areas which do not infringe on its licences. For example, competition will be introduced in the provision of value added and wireless services. Where necessary for national development, licence changes will be negotiated with the PTC.

### 4. World Trade Organisation (WTO) Agreement on Basic Telecommunications Services

Jamaica is a signatory to the WTO agreement to liberalize international trade in basic telecommunications services which came into effect on 5 February 1998.

Jamaica has committed to all the regulatory disciplines in the Reference paper of the Agreement.

These commitments are as follows:

- The creation of an independent regulator
- The public availability of licensing criteria

- Allocation of Scarce Resources
- Universal service
- Safeguarding competition and
- Guaranteeing interconnection.

The Regulatory commitments made by Jamaica to the WTO will be fulfilled.

## 5. Universal Service

Jamaica like other countries has pursued universal service goals in basic voice telephony. Although the provision of telephone service is seen as an essential service for full participation in society, for a large part of the population in remote rural areas and poorer areas of urban centres, it is not readily available. The provision of service to these areas requires large capital expenses which in low density rural or poor urban areas may be difficult to recoup.

One of the central points of telecommunications regulation is to ensure that services are provided efficiently and that they are available widely at affordable prices. The Government intends to achieve universal service, namely that there will be a line to all households that wish to be connected to the network. Jamaica has been making progress towards universal service – in 1990 there were only 8% of households with a telephone, but by 1995 this figure had risen to 21% [Source: *Jamaica Survey of Living Conditions* 1995]. With the implementation of this policy, significant further advances will be made. Another aspect of the universal service objective will be to promote the interest of specific groups, such as hospitals, schools and the handicapped.

Following consultation with the public and telecommunications providers, the Regulator will develop an implementation plan to attain the universal service objectives. The plan should be informed by an investigation into the resource costs, net of revenues, of different ways increasing teledensity. It may be that as a stepping stone to the achievement of universal service, universal access to telecommunications should be promoted in the short and medium run, e.g. through the use of shared lines and call boxes.

The provision of universal service will not be restricted to the incumbent PTC. The Regulator will oversee the identification of the net cost to the

providers of universal service and will consider appropriate, competitively neutral methods of funding, such as a Universal Service Fund.

Universal Service will ensure that all households, including rural communities and the urban poor, can have access to basic telecommunications, and to promote the special interests of schools, hospitals, and the handicapped.

## 6. Interconnection

This is a complex area as the Government must balance two competing policies, namely the preservation of a monopoly in basic voice wire line telephone communications and the promotion of competition in other services to ensure efficiency, innovation and economic growth.

Interconnection will be divided into three classes:

**Class 1:** This is the connection or attachment of Customer Premise Equipment (CPE), the connection of private networks and the interconnection of value added or enhanced service providers. For example pre-paid calling cards, PBX and Internet Services.

**Class 2:** This is the connection of new public fixed long distance or local networks. For example Jamaica Digiport network.

**Class 3:** This is the connection of cellular networks and other wireless systems, and the connection of satellite systems.

Interconnection will be permitted in all classes except basic voice wire line telephony, which is a sub-category of Class 2.

The OUR will develop and make available guidelines which should be used in commercial negotiation of the terms and conditions of interconnection contracts between the entrant and the incumbent PTC. If an agreement cannot be reached, either of the parties will be able to refer the matter to the Regulator for resolution.

In carrying out its functions, the Regulator should have regard to the following guiding principles:

1. **Non-discrimination.** To ensure fair competition, there should be non-discrimination in the charges for and quality of interconnection that the incumbent PTC offers to itself and to others.
2. **Fair terms and conditions.** Technical standards and specifications should be reasonable and appropriate points of interconnection should be made available. Charges should be cost oriented, and interconnec-

tion services should be sufficiently unbundled that the purchaser need not pay for components or facilities that it does not require.

3. Inclusion of relevant elements in the charge. In addition to the cost of provision of interconnection services, the Regulator may also take into account, as appropriate, the net cost to the PTC in providing Universal Service and requirements to provide free access to the emergency services, and constraints on the rebalancing of rates.
4. Transparency. Interconnection agreements or a reference interconnection offer by the incumbent PTC should be made publicly available, setting out the basis on which interconnection will be provided. All elements of the charges to be paid for interconnection should be explicitly identified, and sufficient information should be made available to justify the charges, within the reasonable bounds of commercial confidentiality.

Interconnection will be required to ensure access to the incumbent PTC's public telephone infrastructure in a fair and non-discriminatory manner, with recourse to the Regulator in case of dispute.

## 7. Spectrum and Numbering Regulation

The radio frequency spectrum and numbering are valuable finite resources which must be carefully managed to ensure that they are exploited to the maximum benefit of the people of Jamaica.

The spectrum and numbering resources will be managed in the national interest by the Regulator. Regulation of the spectrum by the OUR is consistent with Government policy and commitments to the World Trade Organisation, which requires that telecommunications be regulated by an independent, accountable non-governmental organisation. The OUR's activities relating to radio spectrum and numbering management will be focused on serving the consumer and business interests and implementing Government policy, including the establishment and maintenance of effective competition.

### *Spectrum regulation*

Spectrum management will continue the traditional licensing of use of the spectrum. The OUR will issue both telecommunications licences and

access rights to spectrum. Where appropriate, licences should be granted by way of public auction. The auction process is intended to enhance efficiency by allowing allocation to the party that places the most value on it, and avoids the need to make subjective judgements.

The following should form key elements in the management of the spectrum by the Regulator:

1. Spectrum will always be made available for essential National Safety and Security needs.
2. Spectrum will be made available for broadcasting and subscriber television services, and the Regulator will be required to consult with the Broadcasting Commission on such allocations.
3. Special interests will be provided for, such as aeronautical, maritime and emergency telecommunications needs.
4. Spectrum will be made available as appropriate for innovative uses.
5. Conflicts of interest will be managed in accordance with Government policy.
6. Adherence to international treaties will be ensured.

### *Numbering policy*

The OUR will be responsible for numbering policy and the management of the numbering plan in the national interest. It will be responsible for reservations of numbering capacity and allocations of numbers.

The numbering policy should take account of the following issues:-

1. Flexibility to meet future needs. Increasing demand for numbers will arise from the introduction of new telecommunications services as well as the growth of existing services.
2. Facilitating effective competition. All telecommunications providers will receive fair and non discriminatory treatment in the allocation of numbers. Number portability will be introduced where appropriate.
3. Cost effectiveness. The development of the numbering plan will take account of the costs that may be imposed on consumers, operators and service providers.
4. Provision of information to consumers. Where possible, numbers will indicate meaningful information to callers, such as the type of call and the price band.

### *Telecommunications Common Resource Manager*

The OUR will create the post of Telecommunications Common Resource Manager, which shall be equivalent to a Deputy Director General, to be directly responsible for spectrum management and numbering plan administration. A Frequency Allocation Table will be maintained and made available to the public. Channel assignments will be recorded and maintained in a register that is confidential for reasons of national security. A Numbering Plan will be developed and published.

Payments to the Regulator from fees for licences and spectrum access rights in excess of the amount required to finance its budget must be put into a fund managed by the Ministry and the Regulator. The fund may be put to appropriate uses, such as contributing towards the funding of Universal Service provision.

**Spectrum management and numbering administration will be carried out by the Regulator within a defined framework to ensure that common resources are exploited for the benefit of the people of Jamaica.**

## **8. Social Policy Regulation**

### *8.1 Education*

Significant advances in educational opportunities are attainable with broad-band interactive video and voice hookup systems between schools and colleges. Broad-band networks directly connected to schools will allow students to access highly qualified teachers, especially in the physical sciences where the shortage is acute. The opportunities exist to bridge the gap between well-endowed schools and poorly endowed schools, especially disadvantaged and rural schools by creating telecommunications classrooms. Tertiary institutions also stand to benefit as they can now be connected with several overseas universities, significantly affecting the cost of the delivery systems for education. Educational networks will allow for training at home as an alternative to college-based educational seminars.

### *8.2 Health Care*

Broad-band networks provide the opportunity for significant improvements to health care access and significant reduction in health care costs. Expensive and hard-to-reach specialists can now be connected to patients allowing for the transmission of patient images to distant locations for

diagnosis. Government could concentrate x-ray analysis in Jamaica to one single point providing for more effective use of scarce radiology services. Networks connecting medical databases could provide immediate emergency access to patient records located at different parts of the island.

**It will be the policy of the Government to use telecommunications technology to enhance education, health and national security. No private monopoly will be entertained in this area.**

#### **9. The Internet and other Interactive Telecommunications Media**

The convergence of telecommunications, information technology and media services is resulting in a blurring of the distinctions between the forms of delivery used to carry different types of content. The Government intends to promote the use of the internet and electronic commerce, but is mindful of the potential dangers inherent in interactive media, such as abuse of privacy, infringement of copyright and computer hacking.

**The Government, OUR and Broadcasting Commission will explore convergence and develop a regulatory framework that balances promotion of the use of interactive media with the protection from abuses of such media.**

#### **10. International and Caribbean Representation**

Telecommunications is a truly global industry that thrives on competition and multilateral co-operation. For Jamaica to benefit from developments in telecommunications, it must actively participate in the formulation of telecommunication policy and regulations internationally and regionally.

**The Government and the OUR will seek to ensure that appropriate and adequate representation is made of the telecommunications interests of Jamaica and the Caribbean internationally.**

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## Appendix II

### Cable & Wireless Agreement with the Government of Jamaica

THIS AGREEMENT is made this 30th day of September 1999

BETWEEN

The Government of Jamaica ("Government").

AND

Cable & Wireless Jamaica Limited ("CWJ") whose registered office is at  
47 Half Way Tree Road, Kingston 10, Jamaica.

#### WHEREAS:

- (1) CWJ is the telecommunications carrier in Jamaica operating under five telecommunications operating licences (the "Existing Operating Licences") granted by the then Minister of Public Utilities and Transport each dated 31st August 1988 and each for a period of 25 years. By virtue of the Existing Operating Licences, CWJ has authority to provide telecommunications in Jamaica.
- (2) CWJ has agreed to surrender the Existing Operating Licences in consideration for the adoption and implementation and bringing into law new legislation that fully reflects the Drafting Instructions approved by Cabinet and issued to the Chief Parliamentary Counsel and the issuance of new licences as set out in Annexures A, B and C to this Agreement, consistent with the Drafting Instructions and resulting legislation.
- (3) The Drafting Instructions are consistent with the Government's telecommunications Policy, and a copy of those Drafting Instructions has been seen and accepted by CWJ.
- (4) CWJ has agreed to perform certain obligations in relation to the provision of telecommunications lines and investment in informatics development in Jamaica, as provided for in this Agreement.
- (5) The Drafting Instructions and any resulting legislation are intended to establish a framework whereby all sections of the telecommunications market will move towards full, fair and competitive conditions on a phased basis and will ensure that existing and future services to



uneconomic areas and uneconomic customers will be supported by universal service contributions from all licensees on an equitable basis. (6) CWJ and the Minister of Commerce and Technology ("the Minister") are parties to legal proceedings under Suit No. M-89 of 1998 (the "Proceedings") in which CWJ has applied to the Full Court of the Supreme Court of Jamaica for Orders of Certiorari and Prohibition in respect of certain licences granted by the Minister for the operation of radio and telegraph stations for the purposes of international wireless telecommunications under the Radio and Telegraph Control Act of 1973. CWJ claims that these licences and the Kasnet Licence issued on similar terms (collectively, "the VSAT Licences") breach its exclusivity under the External Telecommunications Special Licence for external telecommunications. The Minister has contended that CWJ has no such claim to exclusivity. The Proceedings are currently part heard.

- (7) CWJ and the Minister now intend to resolve their differences with respect to the Proceedings and to facilitate the new framework for the licensing and regulation of competing providers of telecommunications services and equipment in Jamaica. They have entered into this Agreement for the purpose of setting out the terms of such resolution and to give effect to such terms and to the new framework.
- (8) The parties recognise that before the Drafting Instructions can be implemented into law the Bill prepared consistent with those Instructions will be the subject of Parliamentary debate and possible modification or rejection by Parliament. The parties also recognise that such modification or rejection may give rise to certain rights including, inter alia, an obligation on the Government to compensate CWJ in accordance with this Agreement.

NOW THIS AGREEMENT WITNESSETH that, in consideration of CWJ agreeing to the surrender of the Existing Operating Licences on the terms set out herein and of the mutual covenants herein exchanged, the adequacy of which is hereby acknowledged and agreed:

1. **Representations by the Government**
- 1.1. Government represents that it will lay before Parliament a bill ("the Bill") that fully reflects and implements the Drafting Instructions

together with such other proposed amending legislation (collectively with the Bill, being "the New Telecommunications Legislation") as may be necessary to give full force and effect to those Drafting Instructions. The principal purposes of the New Telecommunications Legislation are as described in the Recitals to this Agreement. In particular, Government agrees that during the transition to full competition as contemplated in the Drafting Instructions (the "Transition Period"), providers of telecommunications services and owners and operators of telecommunications facilities will be licensed strictly in accordance with, and as contemplated by, the Drafting Instructions and in the terms of the licences set out in Annexures A, B and C to this Agreement.

**2. The New CWJ Licences**

- 2.1. The Minister agrees to issue to CWJ in the manner, and at the time specified in, and contemplated by, the Drafting Instructions, licences in the form provided for in Annexure A (the "New CWJ Licences").
- 2.2. Upon issuance of the New CWJ Licences, CWJ shall surrender the Existing Operating Licences and is hereby released from all obligations under the Existing Operating Licences.

**3. Other Licences under the New Telecommunications Legislation**

- 3.1. Subject to the coming into effect of the New Telecommunications Legislation, the Minister agrees that all licences issued under the New Telecommunications Legislation other than the New CWJ Licences (the "Competitor Licences") will be issued in accordance with, and as contemplated by, the Drafting Instructions governing the grant and issuance of those licences and in the form as set out in Annexure B. Further, during the Transition Period, the Competitor Licences will authorise the holders of those licences to own and operate only those facilities, or to provide only those services, that are permitted from time to time in accordance with, and as contemplated by, the Drafting Instructions.
- 3.2. The Minister will procure that all existing holders of VSAT Licences (other than CWJ) will surrender those licences in exchange for new VSAT licences in the form provided for in Annexure C (the "New VSAT Licences") so as to ensure that during the Transition Period, the existing holders of VSAT Licences will only be authorised to own and

operate those facilities, or provide those services, as contemplated by the Drafting Instructions and permitted under the New VSAT Licences.

- 3.3. For the avoidance of doubt, the Minister acknowledges that the Drafting Instructions contemplate that during the Transition Period, the New Telecommunications Legislation will restrict the Government from issuing any international facilities licences (including VSAT licences) other than to existing holders of VSAT licences as provided for in clause 3.2 above and to persons eligible to hold Free Trade Zone licences consistent with, and as contemplated by, the Drafting Instructions.

#### **4. Regulations**

- 4.1. Subject to the coming into effect of the New Telecommunications Legislation, the Minister agrees to issue regulations in conformity with the terms provided for in the Drafting Instructions ("Regulations").
- 4.2. Subject to the coming into effect of the New Telecommunications Legislation, the Minister agrees to procure that the OUR issue rules in conformity with the terms provided for in the Drafting Instructions ("Rules").

#### **5. Discontinuance of proceedings**

Forthwith upon execution of this Agreement, CWJ and the Minister shall discontinue the Proceedings without prejudice to either party's rights. CWJ and the Minister shall take all such steps as are necessary to have Proceedings discontinued by consent and on terms that the parties thereto will each bear their own costs.

#### **6. Settlement of claims**

- 6.1. Save as regards any claim for damages under clause 9.4 and subject to the coming into effect of the New Telecommunications Legislation and upon issuance of the New CWJ Licences in accordance with clause 2.1 above, the Government accepts this Agreement in full and final settlement of any demands or claims that the Government has or may have against CWJ under the Existing Operating Licences and for the purposes of this clause 6, the expression "Government" shall include any member of Government and any department or agency.
- 6.2. Subject to the coming into effect of the New Telecommunications Legislation and upon issuance of the new CWJ Licences in accordance

with this Agreement, and save as regards CWJ's right to claim damages or compensation in accordance with the provisions of this Agreement, together with its right to pursue any claim or claims against any third parties arising from any infringement of its rights under its Existing Operating Licences (all of which are expressly reserved) CWJ accepts this Agreement in full and final settlement of any other claims and demands that it has, or may have, against the Minister and/or the Government under the Existing Operating Licences. For the avoidance of doubt the provisions of this clause 6.2 will not apply if CWJ gives notice under clause 9 or if a Defined Event occurs as contemplated by clause 9.

## **7. CWJ and Government Commitments**

7.1. Subject to the rights of CWJ under clause 9 below, CWJ shall install:

7.1.1. 100,000 Lines (gross) within 1 year of the coming into effect of the New Telecommunications Legislation; and

7.1.2. 217,000 Lines (gross) within 3 years of the coming into effect of the new Telecommunications Legislation, which for the avoidance of doubt will include the Lines specified in clause 7.1.1 above, where a "Line" means a physical or logical (wireless or wireline) connection to CWJ's public voice network capable of allowing a customer to be provided with telephone services. For the avoidance of doubt, this does not include mobile (cellular) lines.

7.2. The Government shall use its best endeavours to procure for CWJ low cost, long-term financing from the World Bank to support the roll-out of Lines including those provided for in clause 7.1.

7.3. Both parties agree to keep each other reasonably informed as to their progress in fulfilling their commitments under this clause 7.

7.4. Subject to the rights of CWJ under clause 9, CWJ shall:

7.4.1. Install 60 Internet terminals allowing members of the public access to the Internet, to be provided in post offices in the manner agreed between the Government and CWJ, such installation to occur within 18 months of the coming into effect of the New Telecommunications Legislation;

7.4.2. Provide scholarships for the Caribbean Institute of Technology to the value of J\$16 million per annum for the first three years after the coming into effect of the New Telecommunications Legislation;

- 7.4.3. Make contributions, in payments or goods or services provided in lieu of payment, towards the refurbishment of the Goodyear factory in St. Thomas to the total value of J\$90 million within the 3 year period from the coming into effect of the New Telecommunications Legislation; and
- 7.4.4. Pay J\$80 million to the agency created to perform the duties of spectrum management as contemplated under the Drafting Instructions, within 30 days of the later of the formation of that agency or the coming into effect of the New Telecommunications Legislation.
- 7.5. In consideration for CWJ agreeing to pay the monies referred to in clause 7.4.4 above, the Government agrees that CWJ will not be liable for any licence or spectrum fees during the Transition Period, but may, for the avoidance of doubt, be required to pay administrative costs based on the reasonable costs of the regulators only as specifically provided for in the Drafting Instructions.
- 8. Orderly Transition to Competition**
- 8.1. The Government and CWJ agree that bypass of CWJ's international gateway in the provision of international voice telephony ("Bypass") contrary to the Drafting Instructions and/or the New Telecommunications Legislation is detrimental to the interests of Jamaica and that:
- 8.1.1. From the date of this Agreement, during Phases 1 and 2 of the Transition Period, and during the time that Bypass is prohibited under the New Telecommunications Legislation, both parties will, from the date of this Agreement, use their best endeavours:
- (a) to prevent and stop Bypass, whether by taking regulatory or other action, to the full extent permitted by law;
  - (b) to ensure that the Jamaican public understands that during the Transition Period prohibition of Bypass is necessary in order to promote an orderly transition to competition and:
    - (i) that Bypass is detrimental to Jamaica and is illegal,
    - (ii) that the Government will not tolerate Bypass in any form; and
    - (iii) that the Government will act to prevent and stop, and will support action by others to prevent and stop, such Bypass to the full extent permitted by law.
- 9. Termination**

- 9.1. If, for any reason:
  - 9.1.1. The New Telecommunications Legislation does not come into effect within 6 months of the date of this Agreement, in accordance with clause 1.1, and no extension of time is granted by CWJ; or
  - 9.1.2. The Government takes any action (including issuing any licence) which is inconsistent with the Drafting Instructions prior to the New Telecommunication Legislation coming into effect, then this Agreement may be terminated by CWJ upon written notice to the Minister.
- 9.2. If this Agreement is terminated in accordance with clause 9.1 above, the parties agree that:
  - 9.2.1. Government shall pay to CWJ damages to be assessed based on CWJ's loss, such assessment to include a determination as to what rights CWJ has lost (including, but not limited to, any loss arising from any rights to exclusivity under the Existing Operating Licences) as a direct or indirect consequence of the issuance of the VSAT Licences (including but not limited to loss arising from Bypass by the holders of the VSAT licences or loss from action under clause 9.1.2) and CWJ shall not be taken to have waived any of its rights under its Existing Operating Licences (including, but not limited to, its right to claim compensation or damages) as a consequence of the discontinuance of the Proceedings as contemplated in clause 5.1; and
  - 9.2.2. This Agreement shall not be deemed to have affected or otherwise prejudiced any claim or claims that might be pursued by CWJ against the Minister and/or Government and/or any third party under its Existing Operating Licences or any position of the Government in relation thereto, and any such claim or claims shall not be deemed to have been prejudiced by any act carried out in performance of this Agreement.
- 9.3. If this Agreement is terminated under clause 9.1, notwithstanding any other provision of this Agreement, CWJ may elect to be released from its obligations under clause 7.
- 9.4. If CWJ fails to meet any of its commitments under clause 7, the Government is entitled to claim and recover from CWJ such damages as are available at common law arising from CWJ's failure to meet that commitment.
- 9.5. If, for any reason:

- 9.5.1. New telecommunications legislation comes into effect which is inconsistent with the Drafting Instructions and the New Telecommunications Legislation as contemplated in clause 1.1, or which incorporates provisions not included in the Drafting Instructions, in a way detrimental to CWJ (such detriment includes, but is not limited to, a negative effect on the value of CWJ); or
- 9.5.2. The Government takes any action (including issuing any licence) which is inconsistent with the Drafting Instructions prior to the New Telecommunication Legislation coming into effect;
- 9.5.3. The Minister fails to issue to CWJ the New CWJ Licences in accordance with clause 2.1 above; or
- 9.5.4. The Competitor Licences are not issued in accordance with clause 3.1 above; or
- 9.5.5. The New VSAT Licences are not issued in accordance with clause 3.2 above; or
- 9.5.6. The Minister acts contrary to his acknowledgement in clause 3.3 above; or
- 9.5.7. The Regulations are not issued in accordance with clause 4.1 above; or
- 9.5.8. The Minister fails to procure the issuance of Rules in accordance with clause 4.2 above; or
- 9.5.9. The New Telecommunications Legislation, New CWJ Licences, Competitor Licences, New VSAT Licences, Regulations or Rules are subsequently amended or re-issued or any other action taken to the detriment of CWJ (such detriment includes, but is not limited to, a negative effect on the value of CWJ) or so as to adversely affect CWJ's rights; or
- 9.5.10. Parliament amends or further amends the New Telecommunications Legislation (including but not limited to the transition period provided for in the Drafting Instructions), or brings into effect any other legislation; or
- 9.5.11. Any of the provisions of the New Telecommunications Legislation and/or of this Agreement are for any reason determined by a court of competent authority to be void and/or unenforceable, (each of the circumstances described in 9.5.1 to 9.5.11 above being a "Defined Event"), and the Defined Event has a detrimental effect on CWJ (such detriment includes, but is not limited to, a negative effect

on the value of CWJ), then the Government shall pay to CWJ (upon receipt of written notice to the Minister from CWJ) an amount equivalent to the loss arising in connection with the ending of the Existing Operating Licences such assessment to include a determination as to what rights CWJ has lost (including, but not limited to, any loss of exclusivity under its Existing Operating Licences) from the date of effective termination of the same under this Agreement until the date on which those Licences would otherwise have expired at the end of their term.

- 9.6. In the event that Government defaults in paying all or any part of the amounts due to CWJ under this Agreement including this clause 9, CWJ may set off the balance outstanding from Government from time to time against any liabilities, licence fees or cesses due and/or against sums due to be paid by CWJ in accordance with its universal service and/or informatics obligations under this Agreement or the terms of the New Telecommunications Legislation and/or against any other liabilities to Government, howsoever due.
- 9.7. If a Defined Event occurs, notwithstanding any other provision of this Agreement, CWJ may elect to be released from its commitments under clause 7 above.
- 9.8. If a Defined Event occurs, this Agreement shall not be deemed to have affected or otherwise prejudiced any other claim or claims which might be pursued by CWJ against the Minister and/or Government under this Agreement or under its Existing Operating Licences or any position of the Government in relation thereto and any such claim or claims or position shall not be deemed to have been prejudiced by any act carried out in performance of this Agreement. All of CWJ's rights under its Existing Operating Licences shall be reserved and CWJ may also claim compensation from Government in accordance with this Agreement.

## **10. General**

- 10.1. This Agreement shall be deemed to have been made in Jamaica and shall be governed by and construed in accordance with the laws of Jamaica.
- 10.2. If this Agreement terminates for any reason, the following provisions shall continue to apply: clauses 6, 9 and 10.



- 10.3. All disputes, differences or questions between the parties with respect to any matter arising out of or relating to this Agreement including but not limited to any claim or claims for compensation or damages and/or for any other relief pursuant to clause 9 above or any claim or claims for compensation and/or for any other relief arising from any breach of this Agreement shall be resolved in the first instance by consultation between the Minister and a person nominated by CWJ and in the event the parties are unable to resolve their differences within 30 days then the dispute shall be referred to arbitration in accordance with the provisions of the Jamaican Arbitration Act. The parties agree to reserve their right to appoint an arbitrator who is not a Jamaican or British citizen or resident in Jamaica or in the United Kingdom if that person so appointed has suitable knowledge, skills or experience relevant to the matters in dispute.
- 10.4. If, for any reason, any provision or provisions of this Agreement is or are deemed to be unenforceable and void, the remaining provisions shall be severable and shall remain in full force and effect.
- 10.5. This Agreement shall enure for the benefit of the parties and their respective successors and assigns and shall continue in full force and effect save that no entities other than the parties hereto and their successors and assigns shall be a third party beneficiary of this Agreement.
- 10.6. Notices may be given hereunder by any party by fax, hand delivery or courier and addressed to the other party concerned in the case of CWJ at its registered office for the time being, in the case of the Minister at 36 Trafalgar Road, Kingston 10 in the parish of St. Andrew and shall be deemed to have been received in the case of a fax at the time of despatch (or if the day of despatch is not a business day, on the next following day), in the case of a courier on the business day after despatch and in the case of hand delivery when delivered (or if the day of delivery is not a business day, on the next following business day).
- 10.7. Headings in this Agreement are for convenience only and shall not affect the interpretation of any provisions in this Agreement.
- 10.8. The failure of either party to enforce any of its rights or to require the performance of any obligation, responsibility or liability of the other party under this Agreement shall not of itself be taken as a waiver of

that party's rights, obligations, responsibilities or liabilities under this Agreement.

This Agreement together with Annexures A, B and C to this Agreement represent the entire agreement between the parties and replaces all previous agreements, writings and understandings between the parties with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF this Agreement has been signed by the Prime Minister and the Minister who each have hereunto set their hand and the Company has caused its Common Seal to be hereunto affixed the day and year first above written.

Signed for and on behalf of  
THE GOVERNMENT OF JAMAICA

by

The Hon Prime Minister  
PERCIVAL JAMES PATTERSON

PHILLIP PAULWELL  
Minister of Commerce and Technology

The Common Seal of CABLE &  
WIRELESS JAMAICA LIMITED  
was hereto affixed in the presence of  
Chairman .....

Director/Secretary .....

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# Bibliography

- Barty-King, Hugh – *Girdle Around the Earth: The Story of Cable and Wireless* – London 1979.
- Bibby, A – *Teleworking and Trade Union Strategy* – FIET, 1997.
- Cable and Wireless PLC – *Annual Report 1998* – London.
- Dunn, Hopeton S – *Globalization Communications and Caribbean Identity* – Ian Randle Publishers and St. Martin's Press, Kingston and New York, 1995.
- Dunn, Hopeton S – *Caribbean Telecommunications Policy: Fashioned by Debt, Dependency and Underdevelopment* – Media, Culture and Society, SAGE, London, Thousand Oaks and New Delhi, Vol. 17 (1995) pp. 201-222.
- Dunn, Hopeton, S – *Caribbean Telecoms: A Call for Competition, A Call for Regulation*, InterMedia, April-May 1994, Volume 22 No. 2.
- Dunn, Hopeton S – *Monopoly or Competition in Communications: the Case of the British Caribbean* – InterMedia, January-February 1991, Volume 19, No.1.
- Dunn, Leith L and Hopeton S Dunn – *Employment, Working Conditions and Labour Relations in Offshore Data Service Enterprises in Selected Caricom Countries: A Case Study* – ILO Forthcoming Publication, 1998.
- Goodleigh, Lloyd – *Current Issues in Caribbean Labour Markets* – mimeo, 1997
- Henten, Anders – *Trade in Telecom-based Services in W.H. Melody (ed.), Telecom Reform: Principles, Policies, and Regulatory Practices* – Den Private Ingeniorfond, Technical University of Denmark, Lyngby, 1997.
- Huws, Ursula – *Teleworking and Gender* – European Commission DGV, 1996.
- International Labour Organisation – *Digest of Caribbean Labour Statistics*- ILO, 1996.
- International Labour Office – *Conditions of Work Digest*, Vol. 9, Geneva 1990



London *Times* Newspaper August 26, 1869.

Melody, William H. (ed.) *Telecom Reform: Principles, Policies, and Regulatory Practices*, Den Private Ingeniorfond, Technical University of Denmark, Lyngby, 1997.

Parisotto, Aurelio, *Direct Employment in Multinational Enterprises in Industrialized and Developing Countries in the 1980s: Main characteristics and Recent Trends* – in P. Bailey, A Parisotto and G Renshaw, *Multinationals and Employment: The Global Economy of the 1990s*, International Labour Office, Geneva, 1993.

Rifkin, Jeremy – *Vanishing Jobs in the Information Age* – Mother Jones, USA, 1996.

Spackman, Ann – *The Role of Private Companies in the Politics of Empire: The Case Study of Bauxite and Diamond Companies in Guyana in the Early 1920s* – Social and Economic Studies , Vol. 24 No. 3 UWI, ISER, Jamaica, 1975.

Tarjanne, Pekka – *Trade in Telecommunications Towards a New World of Telecommunications Development* – Mimeo, International Telecommunication Union, 1995.

The *Daily Observer* newspaper, October 7, 1998 (Jamaica).

Trades Union Congress of the United Kingdom, *Annual Report* 1996



# Telecommunications *and* Information Technology

The study which this publication reproduces, examines the development and impact of telecommunications and information technology policies and institutions in the English-speaking Caribbean. Its specific emphasis is on the implication of these developments for the labour force, trade union practices and public policy in the region. The study was conducted at the request of the Caribbean office of the Friedrich Ebert Stiftung (FES) for presentation at a conference of the Caribbean Congress of Labour (CCL) in October 1998, in Belize.

**Dr. Hopeton Dunn** is a Communications Policy Analyst and Senior Lecturer at the Caribbean Institute of Media and Communication at the University of the West Indies, Mona campus. His career in media and communication spans 25 years, as broadcaster, writer, lecturer, and critic, among other roles. Dr. Dunn is editor and leading writer for an earlier book *Globalization, Communications and Caribbean Identity*, and is a regional specialist on media and telecommunications policy.

**Mr. Lloyd Goodleigh** is currently the President of the Caribbean Congress of Labour, General Secretary of the Jamaica Confederation of Trade Unions, General Secretary of the National Workers' Union, and a member of the Board of several government and statutory organizations.

**Friedrich Ebert Stiftung (FES)**

53 Old Hope Road

Kingston 5

Jamaica, WI

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