Open access in Africa: APC moves on

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In 2006, a number of organizations came together to take up the issue of the high costs of international bandwidth in Africa. The Association for Progressive Communications (APC) together with Balancing Act, Kenya ICT Action Network (KICTANet), Collaboration on International Policy for East and Southern Africa (CIPESA), the African Internet Service Providers' Association (AfrISPA) and supported by InfoDev, the International Development Research Network (IDRC) the Open Society Institute (OSI) and the United Nations Development Programme (UNDP) convened a consultative meeting on the East African Submarine cable System (EASSY) in Mombasa, Kenya on 10 March 2006.[1]

The meeting articulated a number of concerns about how the EASSy cable would be owned and controlled and whether its business plan was such it would in practice bring down the cost of international bandwidth in Africa. Participation in the meeting was enthusiastic and a broad range of civil society, private sector and international organizations were present. There was extensive coverage in African newspapers and on the BBC. It served to put the EASSY consortium on notice that civil society was monitoring their activities and was concerned about the structure of ownership, the business plan, who would have access to the cable's bandwidth, whether there would be anti-competitive practices to exclude ISPs and the Bandwidth Consortium, UbuntuNet[2] and whether the price of bandwidth would come down significantly enough to make a difference. The organizers followed this up by attending a NEPAD Consultative meeting in Pretoria in April 2006[3] and by opening a mailing list discussion and a website (www.fibreforafrica.net) to continue the process of getting attention focused on the issue of open access to EASSY and to promote transparency about the policy and regulatory conditions under which access to EASSy was to be effected.

NEPAD, the governments, regulators and the EASSy consortium agreed to a set of policy and regulatory conditions for EASSy which were contained in a form of a Protocol on the NEPAD Broadband Infrastructure Network[4], which a meeting of Ministers of Communications from 15 member states agreed to in principle on 6 June 2006. A process for formal ratification of the protocol by participating governments was also put in motion. The Protocol separated the initiative into two components a regional backhaul network linking landlocked countries like Uganda and the submarine cable itself. Two Special Purpose Vehicles were to be created to own and manage each component and the principles of a policy and regulatory framework was put in place to ensure non-discriminatory open access to the two networks as well as a price cap regime to prevent monopolistic pricing on bandwidth. This was a successful milestone to have achieved by the participation of all stakeholders in the process led by NEPAD's eAfrica Commission. This consensus was not to last as some operators in the EASSy consortium baulked at the regulatory regime EASSy was to operate under and they started to undermine the protocol using non-transparent back door manoeuvres. The Kenyan government indicated it was not happy with the delays around EASSY and announced they would seek to develop their own

[1] http://www.apc.org/english/news/index.shtml?x=4513981
[2] http://www.ubuntunet.net/
[3] http://www.eafricacommission.org/News.html
[4] http://www.eafricacommission.org/docs/Final_draft_protocol.pdf

submarine cable and only 12 of the 23 governments had signed the Protocol by March 2007.[5]

Working as an informal open access coalition, APC, Balancing Act, OSIWA, AfrISPA and the LINK Centre also opened a campaign around the monopolistic pricing of the SAT3/WASC/SAFE cable up the west coast of Africa which was owned and controlled by a club consortium of network operators, which charged exorbitant prices for access to international bandwidth and exploited their national monopolies over international gateways to reinforce these prices. A meeting with regulators, organized together with the Communications Regulators' Association for Southern Africa (CRASA) was held in Johannesburg on 24-26 July 2006 to explore what could be done at the regulatory level to regulate the SAT3 cable, especially as its monopoly was due to end in 2007.[6] A useful strategy adopted by the Mauritius regulator to announce a pricing inquiry which had the effect of operators voluntarily lowering their pricing on international bandwidth was discussed and it was resolved that APC and LINK Centre would work on a toolkit for regulators on regulating submarine cables and landing stations. At the CRASA AGM in Windhoek on 26 March 2007, APC and LINK Centre made a presentation on the elements of regulating submarine cables and landing stations.

APC also initiated a research project to do an implementation audit of the SAT3 cable in five African countries in late 2006. The initial field research has been completed and the report is being written up at present. The aim is to provide evidence of the actual conditions under which SAT3 has operated and what pricing strategies have been utilized in its short history.

UNDP with support from APC has been undertaking research into the feasibility of community- based networks in four countries in East Africa and co-convened a workshop called "Dialogue and Exchange on promising options and critical issues for national policy and advocacy on 'open access' at local and national levels" held in Johannesburg on 6-8 November 2006.[7] UNDP also made a presentation at the CRASA AGM in Windhoek on the regulatory frameworks for encouraging community-based networks and the business plans that would support them. The purpose is to address how demand for bandwidth could be stimulated at the local access end of the NEPAD Broadband Infrastructure Network's backhaul network.[8]

Current state of play

At present the state of play regarding submarine cable initiatives on the east coast of Africa and attempts to focus on SAT3 includes these dimensions in addition to those mentioned above:

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[5] See Abiodun Jagun*: EASSY Stakeholder Analysis* http://fibreforafrica.net/main.shtml?x=5057715 and Mike Jensen: *Open access: lowering the cost of international bandwidth in Africa* http://rights.apc.org/papers.shtml

[6] http://www.apc.org/english/news/index.shtml?x=5038575

[7] http://africa.rights.apc.org/?apc=he_1&x=5043863

[8] See Mike Jensen: 'Building demand for national and international backbones' in *Interconnection Costs*, p 7 http://rights.apc.org/papers.shtml

- The Reliance-owned Flag Telecom announced on 28 December that it will spend US1.5 billion on three major international fibre projects.[9] One of these will go via its Gulf cable to Kenya and on to South Africa and be completed within three years. Contractors have been short-listed. It is committed to a "low-price, high-volume" strategy. This is what Kenya Data Networks (KDN) will buy capacity on. Early capacity buyers and those buying in volume will get considerable discounts. Those joining later will get higher prices. Others invest and get capacity by putting up the money for the landing station. Flag will own and operate the cable. There was speculation that Reliance's interest in the cable was related to its successful bid for the Kenyan second national operator licence, but this is not clear because Reliance defaulted on paying the licence fees and the Communications Commission for Kenya (CCK) rescinded the licence.

- The political track of EASSy is at an impasse but one that might be broken with skilful negotiation.[10] The rather heavy-handed draft of the Kigali Protocol that has been signed by a relatively small number of countries was the work of Dr Chasia of NEPAD. He is resisting changing it but the Rwandan Government that is leading the process knows that it has to be changed if the Kenyans and others (including Burundi) are to be attracted back into the fold. There is a way to get the private sector signed up to a particular approach but it will require a great deal of finesse. Several of the major players (including Telkom SA) are in discussion with Flag and another project promoter. The UbuntuNet alliance has attracted considerable energy from within the African university sector and has the potential to become an entity that will purchase bandwidth and make deals for its members. The EASSY Consortium signed an agreement with Alcatel in 9 March 2007 to start laying the cable.[11] This elicited a strong reaction from the South African government, which felt the network operators were trying to go it along and avoid the policy and regulatory framework laid down in the NEPAD protocol.[12] The accompanying political fallout seems to have led to the resignation of Telkom South Africa's CEO in April 2007. The second Interim Inter-Governmental Assembly (IGA) was held on 30 March 2007 in Zimbabwe and decided to bring the Protocol into force as soon as possible and get signatory countries to ratify it by the end of May 2007 and to register the Special Purpose Vehicle (SPV) for the submarine segment in Kigali, Rwanda.[13] The Interim IGA also noted that a number of telecom companies had signed a supply agreement with Alcatel outside the Kigali Protocol agreement and decided that members of the Interim IGA would take up the matter with the companies within their jurisdiction. In early June, Rwandan minister of communications, Albert Butare announced that ICT minister would meet in Malawi before the end of June to iron out controversies surrounding the ratification of the Kigali protocol.[14] At the same time, the EASSy Project Management Committee

[9] http://fibreforafrica.net/main.shtml?x=5051621&als[MYALIAS6]=Kenya-SA%20fibre%20route%20planned&als[select]=4887798

[10] http://fibreforafrica.net/main.shtml?x=5040615&als[MYALIAS6]=Kenya%20weakens%20cable%20plans&als[select]=4887798

[11] http://mybroadband.co.za/nephp/?m=show&id=5843

[12] http://www.itweb.co.za/sections/telecoms/2007/0703281100.asp?S=Broadband&A=BRO&O=FRGN

[13] http://www.eafricacommission.org/second_iga_meeting.html

[14] http://fibreforafrica.net/main.shtml?x=5071872

Chairperson, Sammy Kirui announced that once due diligence on the EASSy project and the West Indian Ocean Cable Company Ltd, the SPV set up to invest 40% in the project, was complete and the EASSY supply contract was approved by the investors (the development finance institutions), then funds would be made available to commence laying the EASSy cable.[15]

- The Kenyan Government teamed up with the United Arab Emirates telecom company, Etisalat and set up the East African Marine Systems or TEAMS project.[16] Kenya will finance 40% of the project, Etisalat 20% and private Kenyan investors the remaining 40%. TEAMS has enough money to carry out feasibility work but when it comes to raising capital, doing so through the Nairobi Stock Exchange will take it longer than has been publicly outlined in my view. Nevertheless the Kenyans are genuine about wanting cheaper prices and some form of open access. The existence of the project puts pressure on the EASSy political process. There is discussion of a Kenya-Ethiopia connection (at first on microwave, and then on fibre) that would connect internationally via Port Sudan. Ethiopia is now connected internationally by fibre through this route. The TEAMS project has been dogged by controversy.[17]

    - The South African Cabinet approved the establishment of a broadband infrastructure company (INFRACO) which combines the private networks of Electricity supplier Eskom and transport parastatal, Transnet into a broadband access supplier.[18] The minister of communications intends to make INFRACO a deemed holder of an individual electronic communication network services licence through the Infraco Bill, before Parliament. INFRACO plans to build a new $700-million submarine cable around the west of Africa to boost broadband capacity and cut internet tariffs in the continent. It would split the cable into two parts with one linking South Africa to Brazil and one to London. The main driving force for the fast-tracking of INFRACO is to make sure South Africa has adequate broadband capacity to broadcast the 2010 Soccer World Cup.

    - US-based Herakles Telecom is planning to build the SEACOM submarine cable along the east coast by 2009 at a cost of $300 million and will also connect major urban centres of Kenya, Madagascar, Mozambique, Tanzania and South Africa,[19]

- However, on the SAT3 route on the west of the continent much less has changed. Telkom SA is saying that it will bring their fibre prices down again. It is already offering Mozambique's TDM US$2500 per mbps to London over the fibre that now connects the two countries. Therefore it becomes much harder to sustain its prices above that level for any length of time. The national monopolies end in the second quarter of this year, although South African communications minister, Ivy Matsepe-Casaburri announced in her

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[15] http://allafrica.com/stories/200706050685.html
[16] http://www.timesnews.co.ke/27feb07/business/buns2.html
[17] http://fibreforafrica.net/main.shtml?x=5059578&als[MYALIAS6]=No%20let%20up%20in%20Teams%20controversy&als[select]=4887798
[18] http://www.doc.gov.za/images/stories/Speeches/min_budget_may07.pdf
[19] http://www.balancingact-africa.com/news/back/balancing-act_349.html

budget speech at the end of May that fair access to international submarine cables was key to driving down international bandwidth rates. She named 1 November 2007 as the date from when the exclusivity provisions contained in the SAT-3 agreement or arrangements entered into shall be declared null and void in South Africa. The minister further said that she directed ICASA to prioritise and urgently prescribe a list of essential facilities, ensuring that the electronic communications facilities connected to the SAT-3 submarine cable can be accessed soon.[20] The Association of African Universities has called for African leaders to use the end of the SAT3 monopoly to provide cheaper Internet access for students.

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- The three "price villains" are Angola, Cameroon and Gabon, all of whom are still charging above US$15,000. Unfortunately these are all relatively difficult countries in terms of policy processes. ISP Associations in Ghana and Nigeria have had some success in lowering the prices for their members. These savings have not always been passed on to their customers. APC has initiated a research project to look at SAT3 prices and their impact in a number of key countries and should be able to update the rates charged shortly.

- African Dark Fibre Communications Ltd requested expressions of interest from contractors to connect the South African Power Pool networks together using fibre. The first phase would complete and interconnect the fibre optic networks of three national electricity utilities with one another as well as to a competitive high-capacity undersea cable or equivalent. Phase 1 of the Project is scheduled for completion before the end of 2008. The three companies that to be linked would be South Africa's Eskom, Zimbabwe's ZESA and Zambia's Zesco.[21]

- The West African Festoon System (WAFS), a Telkom South Africa-managed project that seeks to connect South Africa to Nigeria to relieve capacity problems on SAT-3 has completed its feasibility phase. The WAFS project aims to connect countries along the western coast of Africa from Nigeria to Namibia. At present, only Angola, Congo-Brazzaville, Equatorial Guinea, Cameroon and South Africa have signed up although the project's promoters want to attract telcos in both Namibia and Nigeria to complete the route. The managing agent for the project is Telkom South Africa which will either connect via Botswana (who may become another consortium member) or Namibia. The consortium met in February 2007 to finalise the tendering process for the project. It appears that it will have the same governance structure as the SAT3 cable as well as also being managed by the same company Telkom SA. Prices on the cable have not yet been fixed. One of the purposes of building the cable is to ensure that some of the countries along its route have some redundancy capacity if there is a failure on the SAT3 cable and that inter-African traffic can be moved off of SAT3.[22]

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[20] http://www.doc.gov.za/images/stories/Speeches/min_budget_may07.pdf

[21] Balancing Act no 356: Two new fibre contenders – this time it's Southern Africa

[22] Balancing Act no 356: Two new fibre contenders – this time it's Southern Africa

- Both Mali and Burkina Faso are now connected to SAT3 via Senegal and there are emerging transit price issues. Niger has plans to connect to SAT3 within 12-18 months. None of the alternative fibre project promoters (Infinity, WAFS, Boucle de Sud) seem to be making any real progress. There are mixed reports about whether Globacom's London-Lagos cable is going ahead: its contractor Alcatel says not but others say it will. The Partnership for Higher Education is talking to SAT3 consortium member Verizon about trying to obtain free bandwidth for African University members.