



REGULATING THE CHANGING FACE OF ELECTRONIC MEDIA IN JAMAICA

Hopeton S. Dunn Ph.D., Chairman

**Chairman's Presentation to Annual Retreat of the Broadcasting Commission of Jamaica
December 5-6, 2008**

TABLE OF CONTENTS

Introduction.....	2
Global Trends in Media.....	4
Media Trends in Jamaica.....	6
Regulatory Issues and Challenges.....	8
Possible Policy Approaches.....	12
Moving Forward Strategically.....	12
Conclusion.....	15

Broadcasting Commission of Jamaica

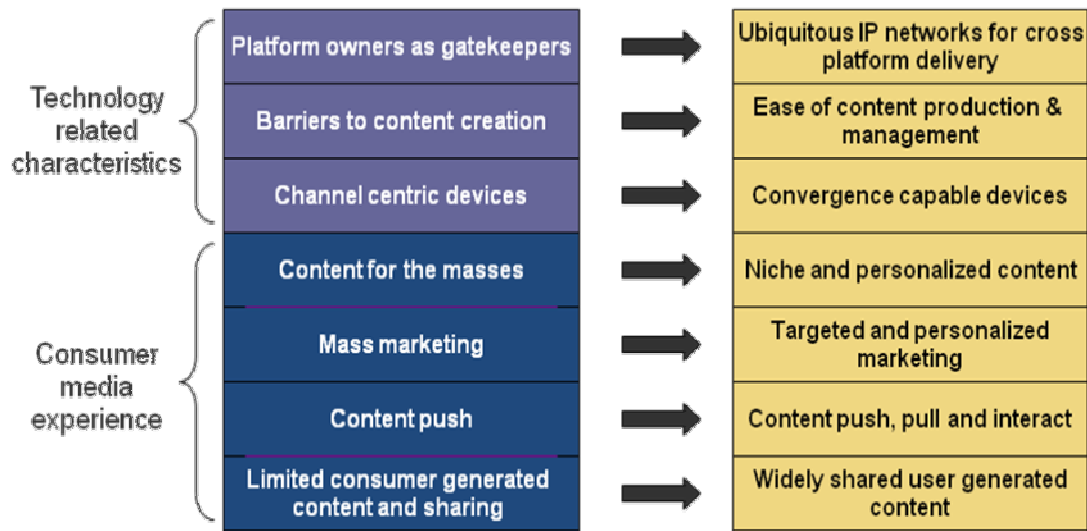
Chairman’s Presentation to Annual Retreat – December 5-6, 2008

REGULATING THE CHANGING FACE OF ELECTRONIC MEDIA IN JAMAICA

Hopeton S. Dunn Ph.D., Chairman

1.0 Introduction

In the rapid transformation of the traditional media of print, radio and television, the last 25 years have seen the emergence of digital, computerized, networked information and communication technologies. This constantly evolving digital age has occurred with the superimposition of new business and distribution models, new delivery platforms, new usage behaviours and some enhancements onto the traditional media. The changes from traditional media forms to New Media are aptly represented in the diagram presented as Figure 1, with changes taking place on two levels: the technology and the consumer.



Source: Bueti, C, Obiso M. ITU/EBU, 2007. Content Delivery Platforms in a Converging World.

The cornerstone of this digital age is the Internet, which can be regarded as the most revolutionary and transformative of all the communication technologies that have preceded it.

This Digital Age is transformative because:

- It alters the meaning of geographic distance and blurs geographical boundaries, the age of **Globalization**.
- It represents not just the emergence of new and alternative media distribution systems, but it directly impacts all existing media by bringing them all on a single digital platform, allowing for the overlap and interconnection of communication and heralding the age of **Convergence**.
- It represents changes to the volume and speed of information, with voice, video and text that can be saved and delivered, anytime, anywhere in a digital format, distributed via the Internet, marking the age of **Digitalization**
- It represents changes to infrastructure with the movements towards wireless, enabling ubiquitous always on access to information, the age of **Next Generation Broadband Technologies**
- It represents changes to the business models of the traditional media industry, mixing mass media controlled by a few to also include individual control of information, experience and resources, heralding the age of **the Personal Citizen Media**, complete with an array of personal mobile devices.

The emergence of the Internet with all its accompanying changes has spawned what is now referred to as **New Media**, operating in association with the pre-existing network of more traditional electronic media outlets. Unlike traditional media which can be defined in terms of a particular technology: radio, television, print - new media are device, platform and application neutral. The devices used and the activities involved in new media are constantly changing and therefore the definition remains fluid. At this point in time, New Media refer to any outlets that are related to the Internet and cover a wide array of content carriers including internet news, entertainment and electronic mailing, electronic/mobile billboards, mobile and digital cameras, gaming devices, global positioning systems, digital high definition television, and satellite radios.

New Media also cover what is known as Citizen or Social Media where individuals not only consume content, but are also active producers of content (prosumers). This would

include social networking sites such as Face Book, Hi5, Twitter, Virtual Reality online worlds such as Second Life, Podcasting, Blogosphere etc. which all now constitute an integral part of the emerging media landscape.

However, despite the fluidity of what constitutes New Media, there are two defining characteristics of emerging media systems in this new digital era of Web 2.0 and beyond:

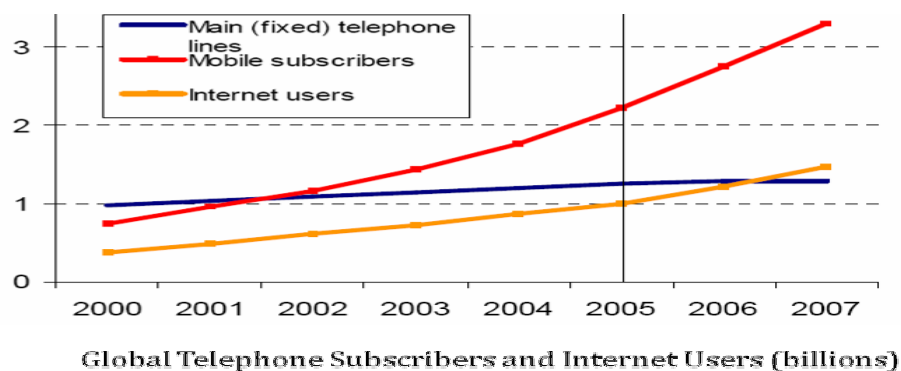
- They can deliver uniquely individualized information simultaneously to an infinite number of persons globally.
- Content can be accessed, modified and shared by all players involved, that is, publishers, broadcasters and consumers.

These changes have a transformative impact on the communications landscape and generate several regulatory challenges.

How should the sector be regulated, if at all? What are the emerging issues and what is the role of the Regulator with respect to these? How should the Regulator re-engineer itself to adequately meet the challenges presented in this new era?

2.0 Global Trends in Media

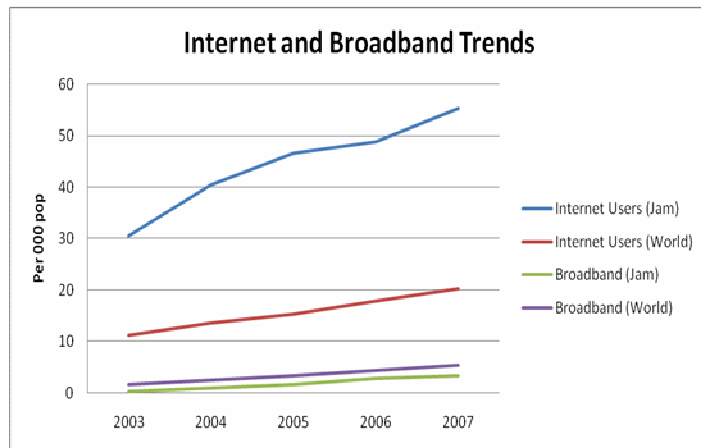
This changing face of the media has been facilitated by trends in Internet, mobile and broadband usage. Global data indicate continued growth in Internet traffic, broadband usage and mobile usage. Since the beginning of this decade, there has been a steep and consistent increase in the global number of mobile telephone subscribers, concurrent with a slowdown in the number of fixed line subscribers. The numbers of Internet users have also been increasing over the seven year period, though not as sharply as mobile phone users, as illustrated in Figure 2.



Source: Report on the World Summit on the Information Society Stocktaking, 2008

The percentage of the population per 100 persons who have access to the Internet grew from 11.25 in 2003 to 20.2 in 2007.

Furthermore, according to new data from TeleGeography, international Internet traffic grew 53% between mid-2007 and mid-2008. They point to the fact that “Traffic growth is fueled by consumer demand for video, delivered via web browsers, peer-to-peer services, or streaming protocols”.



Source: ITU Data Bases Various Years

The Jamaican data mirrors the global trend with the percentage of the population per 100 persons having internet access moving from 30.45 to 55.27 between 2003 and 2007 (Figure 3).

What has been the impact of this explosion in Internet, mobile and broadband use on the media? Statistics from the developed world point to worrying signs of the decline or at least stagnation of traditional media. At the very best, traditional media have adopted the survival tactics of using New Media techniques and the convergence of Internet and television is projected to intensify. Research in the USA has also pointed to a trend of increasing **use of Internet video in place of cable television subscriptions**, making Internet video streaming now mainstream media. A research firm Neilson Online reported that in June 2008, approximately 3.2 million Internet users watched more than 106 million video streams.

Other research statistics showed that approximately 20% of viewers watched some prime time network television online and a half of those viewers indicated that they no longer watched those programmes on the television. Studies of blog traffic in the UK indicate that blogging is now an essential part of the Internet, displacing the traditional media usage.

It should be recognized however, that these trends are not consistent globally and there is a Digital North- South divide in the pace of transformation between developed and developing countries.

3.0 Media Trends in Jamaica

There has been a significant transformation of the media landscape in Jamaica within the past decade; an increase in the number of free to air television stations to three, an explosion in the number of radio stations to 20 including a number of niche and community radio stations. With the new licensing regime for cable television, this sector has seen significant growth and in more recent times some amount of consolidation. The number of STV providers in Jamaica in 2008 is 41 companies, with a projected contraction as market forces contribute to further consolidation and larger islandwide operating groups emerge. Against the background of these overall changes in the sector, the 2008 Jamaica All Media Survey has noted some interesting trends.

1. Though there has been an increase in the number of radio stations, moving to 20 in 2007, the number of radio sets have declined from 2.1 million in 2000 to 1.237 million in 2008. There has also been a decline in the size of potential audiences for radio.
2. Whilst there has been an increase in the number of television sets, the potential audience to television has remained stable and there has actually been a fall off in Free to Air TV audience since 2005.
3. Against the background of the fall off of the potential audience to television and radio is an increase in the number of potential newspaper readers, now 1.6 million up from 1.4 million in 2007.
4. The cable television audience has also been increasing, with the rise in the number of STV operators. There has been some amount of consolidation in the sector with FLOW acquiring a number of the smaller operators. The survey found that approximately half of the television sets in Jamaica have cable installed.

There is anecdotal evidence of a growth in new media such as independent content providers; however it would be useful to have further studies to show the use of video streaming, social networking media, blogging and other new media forms by Jamaicans.

With the growth in traditional media and also in ICT in general, the local media sector has also witnessed a number of mergers and acquisitions, as companies seek to consolidate their investments in the sector. The RJR group represents a merger of television, radio and stv, as does the CVM group. The sector has also seen the introduction of the first truly triple play provider FLOW (voice, data and video). The projection is that more companies will follow suit as the competition intensifies in the telecoms/media sectors, as evidenced by the recent licence for subscriber television to Digicel.

While the developments in Jamaica reflect the broader shifts which have been happening globally from the traditional media to the new media, it should be noted that the changes being observed locally in terms of new media are not as dynamic as those occurring on a more global level or at least in the developed countries. The rate of adoption of New Media could be considered low due to various factors including low internet and broadband penetration and economic constraints which inhibit more widespread acquisition. Old media have started to expand into the new media, but with little substantial change to content and ownership, so the development of economically viable New Media in Jamaica is still in the embryonic stage.

Media Regulation in Jamaica

Amidst all the changes that have taken place, media regulation has also been evolving through the work of the Broadcasting Commission, the Caribbean region's oldest and most established communications regulator.

The primary functions of the Commission include.

1. Administration of the Broadcasting and Radio Rediffusion Act 1995 and the Television and Sound Broadcasting Regulations 1996;
2. Ensuring compliance with standards for radio and television customer service, technical quality and programming content;
3. Provide advice to policy makers; and
4. Conduct research on media issues.

Over the years the BCJ to date has inter alia:

1. Facilitated investments and competition in the cable television sector through its licensing regime. In recent times, it has adjusted this licensing regime to accommodate entry and competition into the sector.
2. Been involved in content regulation through the development and implementation of the Children's Code for Programming.
3. Engaged in media literacy efforts.
4. Led the engagement of the industry on public on issues such as Digital Switchover, through company visits and consultations.

However in going forward the question arises “Is the Regulator equipped to provide a proactive approach and deal with the current and future challenges of regulating the industry or is its continued credibility and existence threatened by emerging issues and challenges”?

3.0 Regulatory Issues and Challenges

Eli Noam suggests that “all regulation will converge around a single platform, the Internet, thereby changing the nature of all regulation to become, in essence, telecom regulation”.¹ However, with the ever-changing landscape and the nuances of Media, policy makers and regulators face a challenge more complicated. Regulation in this new era has been described as cyclical and transient in nature. There is need for a delicate balance of various regulatory models, holding the scale between the needs of the varied stakeholders in the industry.

In light of current and emerging developments, among the most pressing issues facing media policy makers and regulators in Jamaica are Convergence, Content, Media Literacy, Competition, Digitization and Spectrum Reform, Public and Community Broadcasting and Institutional Strengthening for the Regulator.

1. Convergence – There is not just a convergence of technology platforms, but of services, businesses, markets, user perceptions. Numerous challenges are presented as a result of these developments. The increase in the variety and number of players in the media market add a wide array of push factors that influence the shape and direction of the market. Additionally, there is the cross-over of services as traditional broadcasters move into new media markets, traditional telephony providers move into the broadcast market, which blurs previously distinct lines between broadcasting, telephony and other communication forms. The cases of the CVM Group, RJR Group and Digicel are good examples. Policy makers and regulators need to be constantly aware of the factors which influence each of these players in the new media landscape and seek to promote an environment which will be conducive to the development of the sector and at the same time promoting its perception of the public interest.

All the challenges of convergence require a unified policy, legislative and regulatory response, implying inter alia moving to a unified institutional structure with a converged licensing regime. For example, the new question would be how do you regulate mobile television? Examination of global examples such as the UK Code of

¹ Eli M. Noam, “Why TV Regulation will become telecom regulation” OFCOM, <http://www.ofcom.org.uk/research/commsdecade>

Conduct in relation to content on mobiles now becomes necessary, which will have to involve issues of telecommunications and broadcasting. It has been and will continue to be impossible to respond effectively to the changes brought about by convergence if the entire regulatory framework remains fragmented. Cases of regulatory convergence to deal with the myriad of issues presented in the new and emerging landscape can be seen in the US, UK, Australia, Trinidad and Tobago and South Africa, as examples.

- 2. Content** – The proliferation of content, anywhere, any time and created by anyone poses many challenges. New Media is characterised by participative web use and user created content (prosumers) and this is an emerging industry in Jamaica. In the first place, it challenges the current regulatory approach, self-regulation or co-regulation in order to ensure continued quality of content. It also presents challenges in the areas of Privacy and Cyber Security, which, while not the direct remit of the BCJ, will require input as a part of the unified approach that is required. These issues will need to be addressed through various legislations aimed at protecting the consumer.

Quality of content is a key remit of the Regulator. The BCJ has in place the Children’s Code for Programming and Rating Standards and has a system for receipt and investigation of complaints and recommendations for various types of sanctions. Nevertheless there is a continuation of production of questionable content, lack of diversity and generally poor quality. A look at the approach taken in Australia and UK shows that content is regulated by Codes and in a manner that encourage good self-regulation by industry. This is different from the more command/controlled type of regulation currently practices in Jamaica. In Australia, for example, various codes of practice are developed by industry groups (TV, Radio, Cable), including those for children programming. The Codes are registered by the Regulator after public consultation and satisfaction that there are appropriate safeguards. Additionally, there are other standards that deal with specific issues, for example standards requiring disclosure of commercial agreements by presenters of current affairs programmes. The Authority also deals with complaints from the public on programming matters, with strict procedures for dealing with such complaints. It should be noted that responsibility for ensuring that the codes are adhered to rests with the broadcasters.

3. Media Literacy

Discussions on content management inevitably lead to the issue of media literacy. Though there are no data to demonstrate the level of media literacy in Jamaica, observations would suggest that it is at a low level. In order to create that ideal media

landscape, a well-defined and structured programme of media literacy will need to be developed. A study on Media Literacy prepared for the Australian Communications and Media Commission suggested that a guide for promoting “digital literacy” would be found by answering three questions:

- “How can we help to prepare people to participate in the new convergent culture?
- How can we help them see how the media are shaping their understandings?
- How can we help them make informed value judgements about their digital practices?²”

For Australia, the study recommended active monitoring of developments to which would lead to evidence based policy decisions, based on actual experiences.

- 4. Competition** – The overarching approach to regulation should be to promote competitive outcomes, based on coherent and transparent regulation and technology neutrality. The emerging threats to competition would include content monopolization and piracy, abuse of market power, new ownership structures in the media, with cross ownership and the creation of barriers to entry. In this new order, issues of new ownership rules, appropriate fair competition regulations, intellectual property rights, digital rights management should be among the key policy and regulatory considerations.

5. Digitization and Spectrum Reform

The global move toward digitization has made this an imperative for the industry in Jamaica. However, the challenge has been how to guide this process forward and how to deal with the associated spectrum issues. At the recent consultations hosted by the Broadcasting Commission, main challenges included timing and pace of conversion, costs to the industry and availability of spectrum. While there is not an issue at this time with respect to spectrum availability for television, there is limited spectrum for radio broadcast compared with the demand. An additional issue is the matter of the spectrum dividend and the use of freed up spectrum, for broadcasting or for 3G services. Broadcasting reform will need to go hand in hand with spectrum reform in order to address these issues.

² Penman, R, Turnbull S. Media Literacy, Concepts, Research and Regulation www.acma.gov.au

6. Public and Community Based Broadcasting - Even as there is the effort to promote a market based, competitive media environment, it must be recognized that the market will fail in areas such as the provision of Public and Community Broadcasting. We must recognize that even though the rest of the world is racing towards this new media era, our citizens still get their information, education and entertainment primarily from traditional television and radio. Broadcasting as a public service is critical for development in many parts of the world including Jamaica and the Regulator still has a role in ensuring that this is maintained. A key issue/challenge in this area is enabling public broadcasting to move into new media so that it can fulfil its mandate.

7. Institutional Strengthening for the Regulator

The issue of institutional capacity to regulate beyond today is of acute importance to the survival and maintenance of credibility of the BCJ. A challenge to any regulator is the need to constantly adapt itself to deal with the changing media landscape and its continued capacity to regulate effectively. This involves strategic planning to determine changes in visions, missions, objectives and activities. The view of capacity building goes beyond the usual perception of training and covers both institutional and individual capacity building. Using the McKinsey Capacity Assessment Grid, the BCJ can objectively examine various facets of the organization and identify strengths and weaknesses. These include the Commissions:

- **Aspirations and Strategies:** Are these aligned to the current and future environment? Choices for structure, functions and approach to regulation must be guided by best practice.
- **Organizational Skills:** These refer to the development of conceptual skills of the organization for research and planning, the efficiency of routine processes for licensing and monitoring of the sector, the implementation of technical standards for the industry, and development of skills in relation to the management of the legal and economic aspects of regulation.
- **Human Resources** assessment would cover strategies for recruitment (ensuring the right skill sets for the organization), retention, compensation and training and development. Are the skill sets now present fit for regulating going forward and if not what are the required skill sets?
- **Information Systems** – As a regulator operating in the digital era, the organization must be so equipped with the necessary tools to effectively manage and communicate with the industry, as well as the internal policies and processes to ensure consistent, transparent and credible regulation.

- **Corporate Culture:** The Digital era demands a service-oriented culture along with constant engagement of internal and external stakeholders. To what extent is this culture present or being developed within the BCJ?

4.0 Possible Policy Approaches

Having identified the myriad of challenges faced by the Regulator in this Digital Era, an approach to addressing these must now be conceptualized. Three possible approaches can be identified:

Incrementalism: This approach seeks to formulate and implement policy changes gradually, over time, and in small stages.

Comprehensive Rationality: In this instance, all possible options and approaches are considered and a single comprehensive policy is formulated

Mixed Scanning: This approach represents a mixture of the above, where a comprehensive policy is formulated, but executed in stages with a built in mechanism for evaluation and adjustment before moving on to the next stage.

The approach taken should bear in mind inter-alia, the stage of development of the local sector, peculiarities of the market and its responsiveness to global developments, as well as the capacity of the Policy, Legislative and Regulatory framework to deal effectively with the changes.

5.0 Moving Forward Strategically

The strategy for moving forward must be addressed against the background of a broader vision. For Jamaica the immediate vision for the wider ICT sector includes as articulated in the PIOJ Vision 2030 Plan includes, the attainment of the Millennium Development Goals by 2015, “the integration of ICT in all aspects of life and at all levels of society including education, private and public sectors and civil society. This will involve, inter alia, the enhancement of the legislative and regulatory framework, attraction of investments in the areas of infrastructure and software development, fostering niche markets in which Jamaica has competitive advantage in the areas of services, manufacturing, agriculture and tourism and the establishment and growth of a vibrant content industry”.

- What would be the ideal broadcasting landscape for Jamaica? One characterized by plurality and diversity in the number of players in the sector, and forms of broadcasting, that is, public/commercial/private/community. It is also characterized

by content that is accessible and affordable. With this mix of traditional and new media, there can be no one size fits all regulation. There should be a combination of controlled and light-touch regulation, bearing always in mind that the potential for opportunities for education, access to knowledge and information, and technological advancement in the digital age can be diminished by an unsuitable regulatory environment.

- To promote a fair, equitable and competitive environment, in which New Media can thrive along with traditional media, policy and regulation have to be coherent, transparent, proactive, flexible and based on technology neutrality. This will require some amount of institutional and process convergence, reinforcing the still valid case for institutional convergence including inter alia, a unified licensing process among the various regulators now existing in Jamaica. Policies should help to create a level playing field, taking account of the diversity of the business models, that is, the traditional broadcast house, vis-à-vis virtual Internet content provider. Best practice regulation also calls for flexibility and establishing a framework for cooperation and consultation between the regulator and the industry.
- New Media Regulation will be about economics as much as it is about content management. This new dispensation will require new skill sets on the part of Regulators to understand the dynamics of the various business models, competition issues, intellectual property rights, digital rights management, management of spectrum and other scarce resources. To be effective, the Regulator must ensure that it has access to the relevant resources to deal with the myriad of issues
- The models for content management in the UK and Australia are instructive in determining the best way to go forward. In the case of OFCOM, there is a Content Board, whose role inter - alia is to consider issues related to negative content and issues related to public broadcasting. The Australian approach of having the codes and standards being developed by the industry can be explored. An inclusive and consultative approach will foster ownership of the Codes of conduct in relation to content and any other relevant issues, thereby reducing the level of regulatory effort required.
- In the process of creating that ideal media landscape, regulating the media will become more difficult and media literacy will become an important tool in preparing citizens to participate responsibly in the various forms of new media. Much like the trend among European Regulators, we should be establishing the framework to allow a move away from censorship and toward the provision of consumer advice and

advocacy for media literacy. Training of media licensees should also form a part of this literacy drive. As an example, OFCOM promotes the development of training opportunities and a framework for self-evaluation and requires that all broadcast licensees get training.

- Some of the regulatory issues are not confined within the boundaries of Jamaica, but will require a regional approach, including issues of digitization, spectrum and mobile television regulation. Therefore, as is the case in Europe, regulators will need to start discussing a harmonized approach to these issues. The Broadcasting Commission can play a lead role in advancing discussions and efforts in this direction. The issue of Digital Switchover and the attendant spectrum issues is one such matter of regional importance.
- The discussion about regulating in the changing face of media has been ongoing and especially in Europe, a number of regulations, legislation and standards have been adopted. There is the opportunity to benchmark and learn from the best practices of these countries, to review and implement new codes of regulatory operations, of course taking account of the peculiarities of our national circumstances. In this respect, the establishment of linkages with other media regulators and industry visits to learn from best practice regulators will prove beneficial to the Commission. This will provide input for further discussion on the future strategic direction of the Commission.
- Institutional Strengthening of the BCJ - A strategic approach to institutional strengthening with a mechanism for continuous review will ensure that the BCJ utilizes best practice regulatory principles and has the operational and human capacities to manage the changes which will be constantly required.
- What is clear is that there needs to be further study and continuous assessment of the status of the media landscape in Jamaica, including the impact of global developments in New Media and how this is likely to influence change the media landscape in Jamaica and affect the different stakeholders in the short to medium term. This level of research is to be led by the Regulator to identify where we are in the transformation process from traditional to new media. While the actual transformation will be market led, the Commission has the opportunity now to develop a roadmap, using established best practices that should guide the policy and regulatory framework for the sector going forward.

6.0 Conclusion

Even in the face of an emerging new media in Jamaica, old media will not disappear and therefore, regulation will be required in the immediate and foreseeable future. The Broadcasting Commission must then consider the internal policy and operational changes which will be required in this ever-changing environment. As we look immediately towards Digital Switchover, the Commission must look at a programme of internal regulatory reform and its own “switchover” from legacy practices and systems. In this regard, consideration should be given to:

- Renewal of Technical Resources and Systems
- Reform of Management Tools and Monitoring Processes
- Re-engineering of personnel requirements and business processes
- Building global linkages to centres of excellence and best practices
- Moving toward regulatory convergence and joined-up ministerial policy making processes
- Streamlining and harmonizing regional regulatory strategies to deal with the emerging and new media.

“Today we are beginning to notice that the new media are not just mechanical gimmicks for creating worlds of illusion, but new languages with new and unique powers of expression” (Marshall McLuhan). These “new languages” require a new approach. It requires the policy and regulatory framework and the Commission, to re-engineer and renew in order to lead a wider change in the ever evolving global electronic media environment, whilst maintaining present vigilance.

References

Australian Communications and Media Authority Website. www.acma.gov.au

Broadcasting Commission of Jamaica website. www.broadcom.org

Bueti, C, Obiso M. ITU, 2007. Content Delivery Platforms in a Converging World. http://www.itu.int/osg/spu/stn/digitalcontent/agenda_presentations.html

Dunn Hopeton Pd.D. (2008) Globalization, Convergence and the Digital Future. Policy Issues in Caribbean Broadcasting. Presented at Telecommunications Authority of Trinidad and Tobago Seminar www.broadcom.org

EBI/ITU Meeting of High Level Experts on Competitive Platforms for the Delivery of Digital Content, 21-22 June 2007, Geneva. Various presentations. http://www.itu.int/osg/spu/stn/digitalcontent/agenda_presentations.html

Eli M. Noam, "Why TV Regulation will become telecom regulation" OFCOM, <http://www.ofcom.org.uk/research/commsdecade>

Green Cordel. (2007) The Legal and Regulatory Framework for New Media Environment. Presented at the Caribbean Media Conference 2007 www.broadcom.org

Hill, Micheal, (1984), The Policy Process in the Modern State, Third Edition, London, Prentice Hall, pp 99-107.

ICT Regulatory Toolkit. www.itu.int

ITU, Report on the World Summit on the Information Society Stocktaking, 2008.

MRLS All Media Survey 2008, Market Research Services Limited.

McLuhan. E & Zigrone F, (1997) Essential McLuhan, New York, Routledge, pg. 272.

Office of Communications UK website. www.ofcom.org

Penman. R, Turnbull S. Media Literacy, Concepts, Research and Regulation www.acma.gov.au

Planning Institute of Jamaica (2008), Vision 2030 Draft ICT Sector Plan

www.newpolitics.net/about The 10 New Capabilities of the Emerging 21st Century Media