



DOES DOMINANCE FACTOR INTO POST – LIBERALISED GUYANA MARKET?



OCCUR Conference
Tobago, November 2017

SNAPSHOT

- ❑ PUC regulates Telecoms; Water and Electricity Sectors
- ❑ Snapshot of Presentation – given the current market share will dominance matter?
- ❑ Guyana is on the verge of liberalizing its telecoms industry there are 2 players in the field namely GTT and Digicel-
 - GTT might be considered ‘dominant’ for landline services whilst both could be dominant in Mobile services - it is posited that the given present market share the determination of Dominance might be an ardent task
- ❑ Proposed Telecommunications Act (2016)
 - Assented to but not in force
- ❑ In a post liberalized Guyana – under the proposed Telecommunications Act (2016)
 - Telecoms Agency to be established which will be the Licensing Authority –
 - PUC will then perform as the Regulator *simpliciter* performing its usual regulatory and investigatory functions over the newly licensed



CURRENT TELECOMS INDUSTRY

- ❑ GT&T holds the monopoly for access to International gateway and local landline network.
- ❑ GTT had an interconnection Agreement with Celstar for local network for inbound and outbound interconnection
- ❑ In 2007, DIGICEL assumed Celstar's market and the rights and responsibilities under the former Celstar's Agreement
 - ❖ it now has the interconnection Agreement with GTT which permits the Operators to share the interconnection Network



DOMINANCE

- ❑ The Telecoms Act (2016) provides that the PUC shall determine whether a telecommunications undertaking is dominant within one year after submission of its application for such undertaking
- ❑ *Dominance seeks to establish which operator occupies a position of economic strength without constraints from competitors, potential competitors, consumers or other users*
- ❑ PUC has no bench- mark for dominance and as such, it must look to either its sister Caribbean Regulators or to the European Union model for guidance. European Courts consider indispensability of the operator as its measuring rod.



PRE-REQUISITES OF DOMINANCE- Guyana and EU models

GUYANA

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EUROPEAN UNION

- ❑ In the European markets, a telephone operator is generally deemed to have Significant Market Power if it holds **market share of at least 25%**
- ❑ **Factors/ criteria**
 1. Operator's ability to influence market conditions
 2. Its turnover relative to the size of the market
 3. Its control over the means of access to end users
 4. Its access to financial resources
 5. Its experience in providing products and services

GUYANA/ EU CRITERIA CONT'D

- EU's criteria is broader than that of Guyana's
- The French Court adopted the use of the term 'indispensable' as the standard of proof for Significant Market Power
 - it noted that the practice of determining whether the overall snapshot of the industry is indispensable that practice may produce an anti- competitive effect on the retail market



COMPETITION

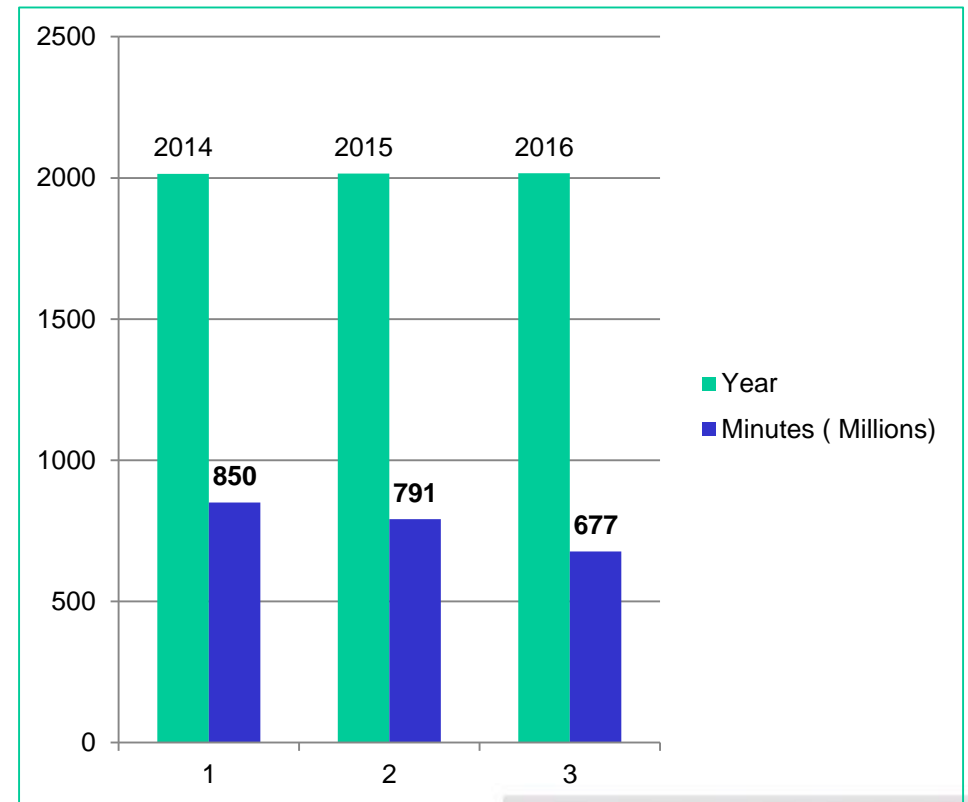
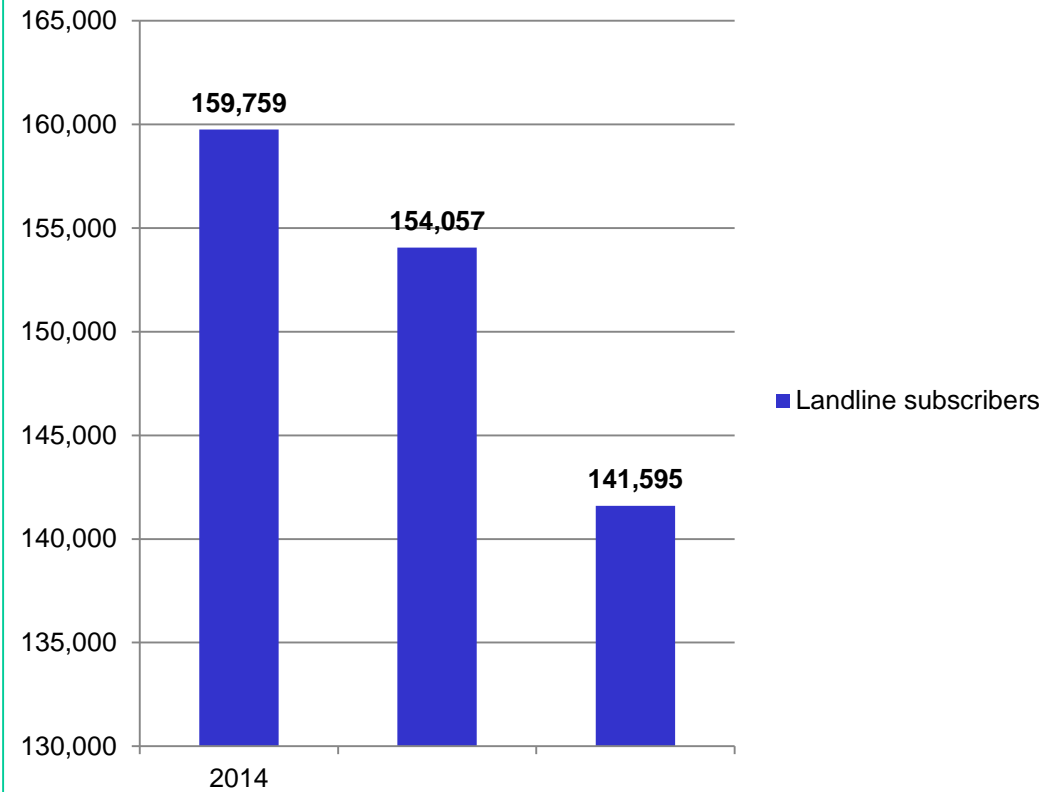
- ❑ Dominance should be a positive impact on the Telecoms Industry –
 - could be an engine to ensure and foster effective competition since it would force the operators to offer consumers reliable, meaningful selections at affordable prices.
- ❑ Comprehensive Regulations on Compensation accompany the proposed telecoms legislation and it empowers the PUC
 - a) conduct inquiries regarding competition or dominance
 - b) make findings of violations with requisite penalties
 - c) request the relevant program of CARICOM to intervene whenever necessary into the financial and other affairs of the operator if it has holdings or undertaking in a particular CARICOM member state



GT&T – CURRENT MARKET SHARE



GTT Landline subscribers

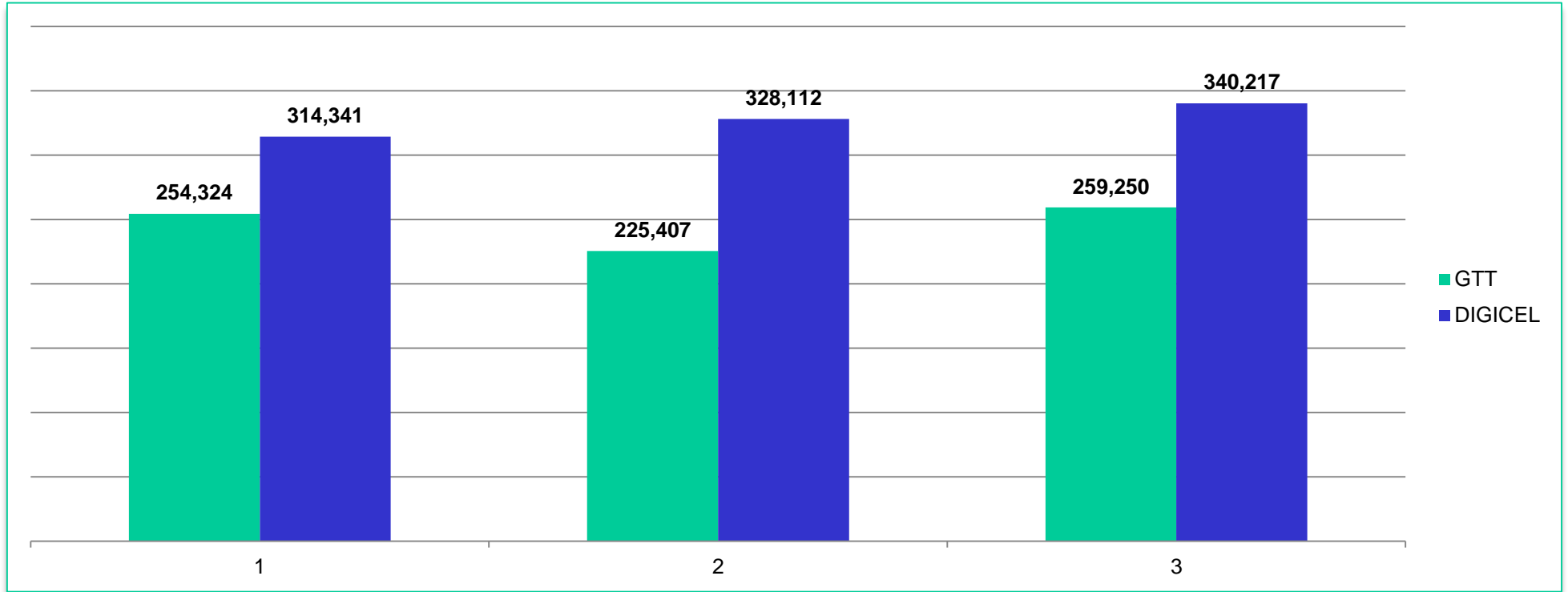




- **TOTAL MOBILE SUBSCRIBERS**
2014 – 568,685
2015-553,519
2016-599,467
- Digicel's share of mobile subscribers is over 50%



MOBILE SUBSCRIBERS





- Mobile Subscribers

GTT

2014- 254,324

2015-225,407

2016-259,250

DIGICEL

2014-314,341

2015-328,112

2016- 340,217



ANTI- COMPETITIVE BEHAVIOR

- Undesirable bundling telecoms services
- Favorable pricing not justified by cost differences
- Supplying telecoms services at prices below long run incremental costs
- Deliberately reducing the margin of profit available by increasing the prices for wholesale telecoms services or decreasing prices of retail markets
- Price fixing
- Bid rigging



FINAL THOUGHTS...

- ❑ If the market remains static PUC will have the onerous task of deciding on indispensability of one operator over another
- ❑ Remains to be seen whether the operators will find it prudent to merge which may in effect trigger clear dominance.
- ❑ Whether the market could even absolve other players given the size of Guyana's population of 750,000 and there is no clear cut data on the Adult users
- ❑ Whether it is prudent for PUC to both determine dominance and abuse of dominant position
- ❑ The burning issue - will Dominance even matter?



THANK YOU!!

Questions?
Comments?



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