

Q. 8/1 Establishment of an independent Regulatory Body

1 Statement of Problem

Reform in the telecommunication sector is occurring at an unprecedented rate. Technological developments have created new opportunities for communication and the globalization of the telecommunications market. Consistent with these developments, many countries have begun to examine the structure of their telecommunication sector. In the past five years, many countries have limited the role of monopoly service providers and have begun to introduce liberalization, privatization, and competition in the industry. Many other countries are preparing to engage in such reform in the near future. In a liberalized industry structure, the role of the regulatory body assumes a crucial position to ensure that new entrants can compete fairly with major suppliers. As part of this process, a central issue is the separation of different functions, namely the operational and regulatory function as well as the ownership and policymaking function. Adopting these distinctions allows the government to demonstrate that its telecommunication sector is regulated in a fair and open decision-making manner.

Regulatory reform and the resulting institutions will reflect the broader environment of the country, and its historical legal, social, political, and economic foundations. The unique national circumstances will influence the method of, and results of, reform in each country. These factors include: the overall level of economic development; the state of development of the national network; the historical framework of the institutions; constitutional provisions; the legal system; the national tradition of public administration; and the roles and diversity of interest groups.

2 Question or Issue Proposed for Study

The Study Group should identify guidelines for countries to take into consideration when developing an independent regulatory body. To efficiently and effectively study the issue of regulatory reform, the Study Group should build on the work already done for Question 2/1 for the 1994-1998 study period and other available materials. To accomplish this, the Study Group shall:

- 1) Identify methods and criteria that may be used to develop a governmental telecommunication policy and to assess the extent of legislative and regulatory reform necessary to implement a national telecommunication policy.
- 2) Continue identifying regulatory models for a telecommunication regulatory body, describing the legal, economic, and social factors that may lead to the adoption of one regulatory approach over another.
- 3) Describe the range of administrative activities that a regulatory body may engage in, such as rulemaking and enforcement, licensing and concessioning, and management of scarce resources.
- 4) Describe key regulatory issues that a regulatory body may address, such as the provision of service, interconnection, universal access/service, tariffing, quality of service, standardization/type approval, numbering, and competitive safeguards (this may include frequency allocation and assignment as well as broadcasting, however some countries create different bodies for the later issues).
- 5) Identify criteria that may be used to determine the size of the regulatory body, including staff and appointed members of the decision-making body, taking into account the size of the industry, the scope of the regulator's mandate, the degree of initiative the regulator will undertake, and the level of resources necessary for implementation.
- 6) Identify sources of funding for resources, including independent funding mechanisms, as well as a multi-step implementation approach that considers resource limitations and the need to develop regulatory credibility at the outset.

3 Description of Expected Output

The output produced during the study of this Question should be a set of best practice guidelines for countries in transition to more liberalized telecommunications market to establish its independent regulator.

4 Required Timing of Expected Output

Because the information gathered for this Question will be very useful for countries reassessing their regulatory approach or introducing an independent regulator, it should be disseminated as early as possible, preferably by the second Study Group meeting. During the study period, the results should be disseminated widely and early so that countries that are or soon will be establishing independent regulators can reference these materials when creating a regulator.

5 Proposers/Sponsors of the Question

This Question is a result of the study of Question 2/1 during the study period 1994-1998. There was a consensus that the issue of regulatory reform is of tremendous importance to all countries, particularly developing countries, and that a study should continue on that particular aspect of Question 2/1 - the establishment of an independent regulatory body.

6 Sources of Input Required for Carrying Out the Study

An important source of input will be the experiences of those countries that have made the greatest gains in establishing an independent regulatory body. Contributions from Member States and Sector Members will be essential to the successful study of this Question. Interviews, existing reports, ITU materials including previous work of Study Group Questions, Colloquia, and surveys should also be used to gather data and information for distillation into a comprehensive examination of this question. Materials from regional telecommunication organizations should also be utilized to avoid duplication of work.

7 Target Audience for the Output

- a) **Indicate expected types of target audience, by noting all relevant points on the matrix which follows**

	Developed Countries	Developing Countries	LDC's
Telecom Policy Makers	Interested	Highly interested	Highly interested
Telecom Regulators	Interested and experienced with different models	Highly interested and some countries have implemented innovative approaches	Highly interested
Service Providers (Operators)	Small operators interested Large operators cautious and usually beneficiary of status quo	Private sector, particularly new technologies, highly interested but government monopolies less so	Government monopolies cautious and usually beneficiary of status quo
Manufacturers	Moderate interest	Moderate interest	Moderate interest

- b) **Target Audience - Who specifically will use the output**

Based on the foregoing evaluation matrix, a broad range of telecom policy makers, regulators, and service providers from LDC's and developing countries will all be highly interested in the results of this question. Policy makers and regulators from developed countries may be interested in the compendium of approaches. Manufacturers will also have some interest in regulatory reform, for example, with regard to the extent that standardization/type approval is considered.

- c) **Proposed methods for implementing the results**

The results should be distributed in the traditional manner at the ITU-D Study Group meetings. However, given the importance of this issue, the BDT could also conduct regional seminars and meetings, perhaps in conjunction with regional telecommunication organizations, to disseminate the results of the question. The results should be published by the ITU for wider distribution.

8 Proposed method for handling this Question

a & b) How and Why

Because regulatory reform is of such great importance to all countries, the study of this question should be within a Study Group over a multi-year study period with interim results as indicated above. Obtaining the widest possible participation will enhance the study of this question and because the Study Group brings together a diverse group of Member States and Sector Members in a unique setting, it is the best forum to address this issue. The interaction and participation by experts from around the world in this issue will encourage active debate and new ideas from the meetings.

9 Coordination Requirements of the Study

Because regulatory reform is closely related to other Questions being studied by the ITU, a great amount of coordination will be required within the ITU-D Study Groups, programmes as well as the Study Groups from other ITU sectors. Close coordination will also be required between the BDT and those responsible for this question.