



REGULATORY TRAINING
(Mongolia, 4-7 July 2003)

SUMMARY REPORT

Name of Session:	General Regulatory Overview (4 July 2003: a.m.)
Name of Rapporteur:	Wan Faizal Wan Hassan, MCMC, Malaysia
Name of Speaker:	Ms.Susan Schorr, Regulatory Officer, ITU, Geneva
Summary of Presentation:	<p><u>Introduction</u></p> <p>A brief description on ITU recent work from the Regulatory Reform Unit, BDT was given. BDT for e.g. conducted Annual Telecommunication Regulatory Survey, on which this presentation is based upon as well as its annual publication, Trends in Telecommunication Reform. The theme of this year's Trends is Promoting Universal Access to ICTs, Practical Tools for Regulators. Past editions of Trends covered 2002 - Effective Regulation, 2000/1 Interconnection Regulation and 1998, Convergence Regulation.</p> <p>Further, the 2003 edition of Trends is to be presented at the Global Symposium for Regulators Geneva in Dec 2003, being held the same week as WSIS. Participants in the GSR are expected to make a declaration on regulatory principles for achieving Universal Access that can be contributed to WSIS. WSIS is focused on how to achieve the information society which depends on bridging the digital divide. The main message of Trends is that the digital divide can be bridged if ICTs are used as a tool for development.</p> <p><u>Major Market Trends</u></p> <p>Snapshots from key segments of the market were discussed: internet – very competitive, cellular – competitive (perhaps has achieved “notion of competition”), basic services – not as competitive with different levels of competition for services (local, STD and IDD)</p> <p>Snapshots according to regions were also discussed: internet and cellular – competitive forces evident almost everywhere, privatization – reduced generally due to crisis, fixed and cellular - different levels of competition although generally cellular outpaced fixed subscribers by 2002, PCs – experiencing tremendous growth due to internet.</p> <p>The emergence of national regulatory agencies (NRAs) has grown tremendously, culminating at 123 agencies globally. Why are regulators becoming more necessary? Essentially, to ensure efficient market outcomes, consumer protection, achieve national objectives (universal access, economic efficiency, developmental tool).</p> <p>Other key trends – the emergence of Wi-Fi, characterised by minimal regulation in countries such as France, Malaysia and India, technologically efficient and cost-effective, user-driven, non-traditional markets, non-telcos, WiFi vs. 3G issue (similar service/potential but different regulatory treatment).</p> <p><u>Changes in Regulatory Approaches</u></p> <p>Sector-specific regulation: Reliance on general competition laws to regulate telecom still exist but less relevant. New Zealand has set up a telecom office within the Competition</p>

	<p>Commission set-up.</p> <p>A mixture between ex ante and ex post regulation: General competition laws and sector-specific regulation sit side-by-side. Singapore's RIO: example of ex ante regulation.</p> <p>Industry self-regulation and consumer protection through outreach: Industry self-regulation: In Australia and Malaysia where industry agrees to code of conduct (ex ante and ex post regulations) with regulatory enforcement and fallbacks. However, on consumer protection, critics claimed that Australian consumer codes are not timely. Consumer protection: Consumers may have different understanding of regulator's role in regulation. There is a need for regulators to reach out and consultation with consumers is key. This can be done through public consultation and inquiries.</p> <p>Asymmetric regulation: European countries are responding to convergence such as EC Directive on Common Regulatory Framework and Singapore's Code of Practice. This is achieved through guidelines for industry, where competition exists, allow market forces to dictate market outcome, as competition takes hold, regulator to step away. As this unfolds, regulator is to focus more on enforcement on consumer protection, consumer empowerment, Technological neutrality – equal and equitable treatment, due to nascent convergence, regulated according to specific service / technology still in existence e.g. SingTel's unbundling obligation, although now cable TV also required to unbundled.</p> <p>Sunset Clauses: Sri Lanka gave subsidies to deploy networks and services with specific timeline.</p>
<p>Highlights of Question & Answer period:</p>	<p>Q: Is mobile a substitute for fixed service? Should pressure on fixed be eased? Is pre-paid mobile service the answer to universal access? A: In Malaysia, cellular mobile is recognized as part of universal service offering but issues arose in rates differential. In summary, mobile and fixed must be a perfect substitute to each other then only fixed and mobile can be treated indifferently.</p> <p>Q: Is it necessary for the regulator to regulate end-user tariff? A: CRC is facing some issues with tariff measures, currently working on reduction on tariffs on mobile services. With calls charges getting lower in other countries, Mongolia needs competition in terms of players to reduce prices. Currently with 2 mobile players, effort to introduce 3rd player didn't work. In the fixed market, only 2 players, ISPs 8, IGOs 4 A: Mobicom argues that CRC should leave tariffs alone. Operators are the ones who invest, therefore responsible for setting up tariffs, main consideration should always be cost (i.e.cost-based) A: In India, the fixed / mobile rates in STD / IDD are almost similar. Competition is effective therefore no regulation. The local call rate competition has not been as effective and not sure if more players means more competition due to population distribution, demographics and geography. Further, TRAI is concerned with predatory pricing which unfairly removes competition. But predatory pricing cannot be initiated by the new entrant, only by incumbent. TRAI allowed for competition to develop before intervening. Various models are developed and developing currently. A: MCMC feels that political issues also exists in Malaysia as in India, making tariff rebalancing difficult to implement, changing lifestyle also contributes to the dichotomy between fixed and mobile usage. Operators in Malaysia argued for liberation in tariff regulation in Malaysia, although on the other hand, role of the regulator is to protect consumer, where competition exists, regulator can take a backseat, but for competition to exist, cost-based pricing must exist, hence intervention in at least the fixed market is necessary. A: ITU has seen the introduction of competition incrementally i.e. Australia,</p>

	<p>the UK and Korea. The opening up of markets must be suited according to local situation. Factors such as population, size of markets, etc must be considered and evaluated before introducing new policies</p> <p>Q: Given that bits are bits, should there be distinction between voice bits and data bits?</p> <p>A: TRAI feels that although bits are bits, the cost structures are different.</p> <p>Q: Is there ADSL in Mongolia?</p> <p>A: Micom provides ADSL services, introduced in 2001. It is Micom's natural strategy to go into ADSL</p> <p>A: The Government of Mongolia through Mol has an open policy to new technologies. However, as ADSL tariff is not meeting market requirement, prices are perhaps too high, thus, the low take-up rate. Consumption and needs may not be too high.</p> <p>Q: Is VoIP regulated heavily and to a certain extent limiting the usage?</p> <p>A: The ISPs should cooperate with each other instead of competing with each other. The ISPs called for the cooperation of ISPs by spending money on user training. On top of that, the ISPs also require financial support. All ISPs need to have fair and equal access to the networks and hope that CRC will assist in providing technical support to the ISPs.</p> <p>A: Mobicom made a comment on advancement of technology. It is necessary to establish interconnection arrangements between incumbents and ISPs, towards fair conditions. Transparency of process and decision making is important.</p> <p>Q: Is elimination of monopoly through technology neutral licensing framework possible?</p> <p>A: MCMC is in support of technology neutral regime. It doesn't matter which technology, but what the technology can do. Bits are bits. But factors such as economic factors merits different regulatory treatment. It is difficult for regulator to keep ahead of technology curve. Thus, the regulator should allow industry to experiment, make presentations to the regulator then decide how to respond.</p> <p>Q: Is it possible to apply asymmetric regulation in Mongolia?</p> <p>A: CRC feels that the ex post approach is more appropriate to allow for industry outcomes, regulator to intervene in the dispute stage only. Operator should negotiate tariffs among each other. Sector specific regulation is also being introduced in Mongolia.</p> <p>Q: Is there a dominant operator in Mongolia? If so, what is it based on?</p> <p>A: Mol clarified that the Mongolian Law on Competition provides the entity that produced a third of the market be declared dominant. However, the parameter should be defined more accurately due to peculiarity in ICT market. Currently, the authorities are drafting regulations on dominance which may consider 2 criteria to define dominance, amount of supply in the market and amount of net profit. Based on preliminary estimate, MTC will be a dominant operator in the fixed market with Mobicom in the mobile. If the regulations are approved, CRC will be able to regulate tariffs based on dominance. Further, the regulations should be done on dominance operator's tariff and to question whether tariffs are unrealistic, important to define dominance based on comparative concepts.</p> <p>A: TRAI uses significant market power, which is defined to be more than 30% of market share, declared significant market power within specific market segments.</p> <p>A: Malaysia's definition depending on regulatory framework and market structure. More discussion will take place in the session on competition.</p>
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<p>Recommendations (if any):</p>	<p>Introduction of competition in the provision of ICT but with vast differences in competition in different segments of market and region.</p> <p>Emerging trends suggesting more networks are becoming private rather than public, digital, fixed outpacing mobile, emerging technologies such as Wi-Fi (lesson: NRAs don't overcharge for unproven tech such as 3G)</p> <p>Given the trends, is regulation becoming more necessary?</p> <p>If so, how to regulate?</p> <ol style="list-style-type: none"> 1. Intervention Level: The options ranges from hands-off, light-handed, pro-active to micromanage. 2. Organisational Structure: Organisational Chart, Working methods, Team-based such as S'pore, Morocco 3. Regulatory Principles: don't pick technology or operators, and promulgation of regulations and the implementation thereof should be transparent, fair and there should be consultation and accountability. It is also important to ensure that efficiency and independence of the regulator is maintained. <p>There isn't a single panacea, regulatory regimes should consider;</p> <ol style="list-style-type: none"> 1. technology-neutral approaches, sunset and review mechanisms 2. transparency 3. consumers outreach and 4. legitimacy and flexibility
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