



# **Policy & Regulatory Training Modules**

## **Reference REGULATIONS & REGULATORS OVERVIEW**

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July 2003  
Mongolia

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## INTRODUCTION

Telecommunications<sup>1</sup> by its definition used to be considered as technology *per se* rather than issues related to economic, political, and policy implications at least until the early 1980s. However, technology itself becomes no longer 'deterministic' in liberalized and privatized telecommunication sectors particularly in the era of convergence of many kinds: i.e., the convergence of content (e.g., broadcasting) and delivery (e.g., telecommunications), the convergence of voice and data transmission, the convergence of fixed and mobile telephony, and more to come.

It is rather efficient management or implementation of the technology - called 'policy' as deregulation or re-regulation - that determines a nation's telecommunication competence. Such policy issues also go hand in hand with other socio-economic and political issues in an information age, when the ICT industry has been strategically promoted by not only the industry itself but also by many governments for various internal and external reasons. So has a strategy called "Digital 21" been initiated by the Information Technology and Broadcasting Bureau (ITBB) in Hong Kong.

To meet the evolving telecommunication environment where the traditionally monopolized or regulated telecommunication sectors became more liberalized or privatized, many countries in ranging from Europe, Asia, America to Africa began to establish a regulatory body<sup>2</sup> as did the USA and the UK. It has been further encouraged by the recent agreement on the Basic Telecommunications under the framework of the General Agreement on Trade in Services (GATS), the World Trade Organization (WTO) – particularly in its telecommunication protocol, which was entered into force in February 1998. Applying the obligations of the GATS to telecommunications, the protocol should ensure that markets are opened to all WTO member countries on a non-discriminatory basis as they are progressively liberalized.

In accordance with the Reference Paper adopted as a part of the GATS telecommunication protocol, the WTO member countries are also supposed to establish an independent regulatory agency, which is "separate from, and not accountable to, any supplier of basic telecommunication services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants."<sup>3</sup>

This paper aims at examining the roles and implications of an independent regulator, to which any governments can refer when establishing or improving their regulatory body in the ICT sectors subject to their national rules and circumstances. Taking into account the ways in which to establish and operate such an independent regulator may differ from

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<sup>1</sup> "Any transmission, emission or reception of signs, writing, images and sounds or intelligence of any nature, by wire, radio, optical or other electromagnetic systems." (ITU, 1992)

<sup>2</sup> Link to the OFTA web site to refer to the list of national regulatory bodies world-wide and their web sites: [http://www.ofta.gov.hk/index\\_eng1.html](http://www.ofta.gov.hk/index_eng1.html)

<sup>3</sup> Link to the WTO web site: <http://www.wto.int/wto/services/tel2.htm>.

country to country, a case of Office of the Telecommunications Authority (OFTA) in Hong Kong/China will be taken as an example comparing with other regulators, if available, in some issues.

### ***Q1. What Are The Main Objectives of Independent Regulators ?***

One may argue why to regulate or why to have regulators in the liberalized telecommunication sectors, of which markets themselves can decide at their invisible hands. However, experience suggests that certain forms of regulation are still necessary if the potential benefits of telecommunications are to be fully realized. The major objectives or missions for an independent or separate regulator may include one or more of the following elements:

- Protecting user interests and considering user complaints;
- Changing the industry structure;
- Moving towards a level playing field for fair competition;
- Supervising the dominant operator to prevent them from any-competitive behavior;
- Stimulating innovation for IT technologies;
- Assuring technical preconditions for effective operation such as the numbering plan, interconnection and so on;
- Managing common resources such as radio spectrum; and
- Stimulating investment in the public network particularly in some developing countries.<sup>4</sup>

In case of Office of Telecommunications (OFTTEL), an independent regulator in the UK, its goal is “to provide the best possible deal for the customer in terms of quality, choice and value for money” based on the following key objectives in pursuit of that goal:

- To promote fair, efficient and sustainable network competition;
- To promote fair, efficient and sustainable service competition;
- To secure licence enforcement and fair trading;
- To secure fair distribution of the benefits of competition for different groups of customers; and
- To protect consumer interests.

Whilst, OFTA, an independent regulator in Hong Kong, has a vision or goal, which is to promote Hong Kong as the region’s pre-eminent telecommunications hub, offering a world-class telecommunications infrastructure best suited to meet the challenges of the information age. It also pursues the primary objectives, which include:

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<sup>4</sup> *ITU Regulatory Colloquium No.1: The Changing Role of Government in an Era of Deregulation, Geneva, May 1993.*

- To provide consumers with good quality of service at reasonable prices with a variety of choices;
- To ensure telecommunications networks and services to be interconnected among liberalized and privatized companies in competitive IT markets;
- To ensure healthy competition in the market through creating a level-playing field; and
- To ensure efficient and effective management of scarce resources such as spectrum and numbering.

## ***Q2. What Is The Background Of Establishing OFTA, as An Independent Regulator ?***

OFTA was established as an independent government department on 1 July 1993. Before that time, it was the Telecom Branch of the Post Office. The local telephonic and external telecommunications services were exclusively provided by Hong Kong Telephone Company Limited and Cable & Wireless (HK) Limited respectively. The major reason for establishing OFTA was to prepare for competition in 1995, when competition was due to be introduced in local fixed network.

While many countries have been influenced to establish an independent regulatory body by the GATS telecommunications protocol, its Reference Paper in specific does not seem to have any significant effect on Hong Kong's own decision to establish OFTA, as its principles including establishing an independent regulator were already embodied in the Hong Kong's telecommunication regulatory and market framework at that time.

No apparent external pressures as experienced in many European and other countries could be observed in Hong Kong, although general international trends or changes may directly or indirectly have impacts on its overall regulatory directions and strategies. It is likely to be more stemmed from internal needs such as preparations for inviting licence applications, revising the Telecommunication Ordinance and so on to introduce competition in its local markets.

## ***Q3. How To Establish An Independent Regulator ?***

To maintain independence from day to day managerial, political and financial pressures from ministers, industries, and any interest groups, it is of significance at large to examine how the setting-up and operational costs of an independent regulator are financed, how the head or chair of an independent regulator is appointed or selected, and how the structure and functions of an independent regulator are legislated.

### **Q3.1. What degree of independence & autonomy ?**

It is rather difficult in defining the term of independence. It may mean that an independent regulator is separated from operation of telecommunications facilities and services; and, its implementation of policies decided by the relevant ministry

will not be influenced by that ministry or by any other interested parties or groups. There will be no single form of organizational structure for an independent regulator and it may vary by different countries.

However, experiences suggest that an independent regulator needs to be independent or autonomous, where appropriate, from the ministers (or equivalents) for its daily operation and financing as well as from the industry for operating telecommunications facilities and providing its services. From worldwide experiences, there are at large five different forms of independent regulators as below, although each has its own pros and cons<sup>5</sup> :

- Regulatory responsibilities remain within a ministry (e.g., Japan);
- A fully autonomous independent regulator empowered to make decisions not subject to review by ministers, but directly responsible to Congress (e.g., the USA, the UK) or reviewed by the court under the Judicial Review procedure only (e.g., Hong Kong);
- A semi-autonomous independent regulator with highly independence in practice, although its decisions are subject to review by ministers (e.g., Canada);
- Industry self-regulation (e.g., some cases in the developing countries although an independent regulator is beginning to be set up or separate from the ministry, Australia etc.);
- No telecommunications-specific regulation (e.g., New Zealand)

### Q3.2. How to finance?

Another important factor is how an independent regulator finances its establishment and operational costs.

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<sup>5</sup> Link to sub Q&A: Q What are the pros and cons of each form ?

**Regulatory responsibilities within a ministry:**

- Pros: - Relatively low cost since it shares existing ministry infrastructure;  
Ready-made resource base for information & expertise
- Cons: - Potential conflicts of interest  
Rather difficulty in distinguishing the roles of regulators and ministry

**A fully or semi autonomous independent regulator:**

- Pros: - Less conflict of interest  
Independent roles to be implemented
- Cons: - Cost of a separate regulatory body  
Securing technical expertise in a dynamic industry

**Industry self-regulation :**

- Pros: - Simple & inexpensive
- Cons:- No independent check on industry's behavior or performance  
Difficulty in securing public interests

**No telecom-specific regulation:**

- Pros: - Simple with low costs
- Cons: - Possible failure to create conditions for fair competition  
Difficulty in securing public interests  
Absence of expertise

In case of OFTA, it was established in 1993 when it was financed by the government due to its nature of a government department. By resolution of the Legislative Council under the Trading Funds Ordinance, OFTA has adopted a trading fund operation with effect from 1 June 1995. In accordance with the Trading Fund Agreement between the government and OFTA enacted in 1996, OFTA is operating under the separate budget – i.e., the funds – financed by revenues from the industry in the form of licence fees. Thus, OFTA needs to satisfy certain target return to use the funds to cover staffing and operating costs.

It is also worthwhile noting that the licence fees can mainly cover administrative costs. Should auctioning for spectrum be taken place, its revenue will be paid to the central government rather than OFTA since spectrum is considered to be the resource of the community.

### **Q3.3. How to appoint Director General or Chairman?**

Organizational structure of an independent regulator may differ subject to each country's rules and regulations. For instance, a chairman supported by commissioners can be appointed or selected by the government either on a full-time basis or part-time basis for a certain period of time. Or, a chief officer can be appointed or selected by the government as a political appointee or civil servant.

In case of the Federal Communications Commission (FCC)<sup>6</sup>, which is an independent telecommunication regulatory agency in the United States, it is directed by five Commissioners appointed by the President and confirmed by the Senate for 5 years, except when filling an unexpired term. The President designates one of the Commissioners to serve as Chairperson. Only three Commissioners may be members of the same political party. None of them can have a financial interest in any Commission-related business. As the chief executive officer of the Commission, the Chairman delegates management and administrative responsibility to the Managing Director. The Commissioners supervise all FCC activities, delegating responsibilities to staff units and Bureaus.

The Director General is the department head of OFTA (Hong Kong). He is a civil servant who is appointed under the Telecommunication Ordinance. But, there is no fixed term for the post. Whilst, the Director General of the OFTEL (UK) is appointed by the Secretary of the Department of Trade and Industry (DTI) with a maximum of 5-year term.

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<sup>6</sup> Link to the FCC web site: <http://www.fcc.gov/aboutus.html>

### **Q3.4. Any legislation for an independent regulator?**

Similar to the Communications Act of 1934 with amendments in the USA and the Telecommunications Act of 1984 in the UK, the Telecommunication Ordinance of 1963 with subsequent amendments is a supreme legal instrument governing telecommunications in Hong Kong. It is supplemented by the Telecommunication Regulations, which contain various types of licence forms<sup>7</sup> to be issued to the relevant licensees. The Telecommunication (Amendment) Bill 1999 which amends the Telecommunication Ordinance is being scrutinized by the Legislative Council and is expected to pass the Legislative Council in the middle of 2000.

This legislation allows OFTA to regulate telecommunications industry, where appropriate, with certain rules and guidelines including licensing. OFTA can also add specific conditions to general licence conditions for specific services in order to ensure competition safeguard.

Unlike the European countries which comply with the Directives adopted by the European Commission, Hong Kong like most countries in Asia and the Pacific region does not need to comply with any particular regulations other than its own national regulations since there is no such legally binding regional body like the EC in this region. However, APEC member countries including Hong Kong may take into account the relevant guidelines such as the Mutual Recognition Agreement (MRA) and Interconnection on a voluntary base.

Also, it is worth noting that there is no specific requirement for OFTA to take any consideration of telecommunications rules and regulations enacted in the Mainland China since there are two different systems in one country. However, both systems need to have close liaison particularly for such issues as interconnection between telecommunications carriers and frequency co-ordination.

### ***Q4. What Are The Major Functions Of Independent Regulators ?***

Functions of an independent regulator also vary in each country due to its scope and circumstances.

The FCC (USA), which was established by the Communications Act of 1934, is charged with regulating interstate and international communications by radio, television, wire, satellite and cable. It is largely responsible for:

- Developing and implementing regulatory programs;
- Processing applications for licences or other filings;
- Analyzing complaints;

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<sup>7</sup> Link to the different types of licence forms in OFTA.



- Conducting investigations; and
- Taking part in FCC hearings.

Under the Telecommunications Act of 1984, OFTEL<sup>8</sup> (UK) as an independent regulatory body is at large responsible for:

- Ensuring that licensees comply with their licence conditions;
- Initiating the modification of licence conditions either by agreement with the licensee or, failing that, by reference to the Monopolies and Mergers Commission (MMC) together with the Director General of Fair Trading to enforce competition legislation – under both the Fair Trading Act 1973 and the Competition Act 1980 – in relation to telecommunications;
- Advising the Secretary of State for Trade and Industry (DTI) on telecommunications matters and the granting of new licences;
- Obtaining information and arranging for publication where this would help users; and
- Considering complaints and enquiry made about telecommunications services or apparatus.

OFTA (Hong Kong), appointed under the Telecommunication Ordinance as the statutory body, is responsible for regulating the telecommunications industry. Thus, OFTA as a regulatory body is not forming any broader policies but provides inputs in the process of policy-making and implement them once made by the ITBB under which the Authority is the policy portfolio. Its major functions are:

- Promote the safety and quality of telecommunications services;
- Carry out the economic and technical regulation of the telecommunications industry;
- Facilitate the interconnection of telecommunications networks, systems, installations and services and the shared use of facilities where appropriate;
- Control and administer the numbering plan;
- Promote economic efficiency in the provision of telecommunications networks, systems, installations, customer equipment and services;
- Promote competition in the provision of telecommunications networks, systems, installations, customer equipment and services;
- Protect consumers' interests;
- Regulate and manage the use of the radio frequency spectrum;
- Prevent harmful interference;
- Grant licences as provided for under the Telecommunications Ordinance
- Administer licence as provided for under the Telecommunications Ordinance and the licence conditions;
- Carry out these functions in accordance with directions of the government's general policy;

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<sup>8</sup> Link to the OFTEL web site: <http://www.oftel.gov.uk/>

- Represent, as appropriate, at international forums concerning telecommunications matters;
- Require accounting practices and implement tariff monitoring and price control in accordance with the Telecommunications Ordinance;
- Investigate, and take appropriate action for, breaches of the Telecommunication Ordinance or licences;
- Administer conventions relating to telecommunications as applied to the Hong Kong;
- Advise the Secretary on matters relating to the telecommunications industry; and
- Report to the Secretary and the Legislative Council (i.e., Parliament) on these activities and the state of the telecommunications industry.

***Q5. What Are The Major Accountabilities Of Independent Regulators, in a case of OFTA ?***

**Q5.1. Necessity for explaining actions and decision ?**

Yes. By rules, various views from public, legislators, and even Ombudsmen should be considered before any decisions are made. The decisions can be challenged, if not satisfied by the interested parties. Thus, OFTA like any other independent regulators need to explain its decisions and actions before and/or to the relevant parties and individuals.

**Q5.2. Decisions challengeable at the Courts ?**

Yes. OFTA's decisions on telecommunications will be reviewed by the judicial review process in the Courts. However, it needs to be balanced between the level of detailed-review at the Courts and the timely decisions required. Otherwise, the competition can be delayed in the fast evolving IT industry.

**Q5.3. Decisions to be appealed to the Telecommunications Licensing Appeal Board?**

OFTA's decisions on fair competition may be appealed to the TLAB when set up in the future, although such regulatory issues as interconnection charges and other licensing issues are not required to be appealed to the Board.

**Q5.4. Annual report to the Secretary of Information Technology & Broadcasting Bureau ?**

Yes. OFTA like any other independent regulators needs to report its decisions and performance to the Secretary of ITBB.

**Q5.5. Report laid before the Legislative Council ?**

Yes. OFTA also should appear before the Legislative Council to answer any relevant questions on telecommunications issues. Its decisions will be also reviewed and answered by the relevant Committees.

**Q5.6. Audit Commission's review on efficiency and effectiveness ?**

Yes. OFTA's performance and activities will be reviewed by the Audit Commission.

**Q5.7. Necessity for broad public support ?**

OFTA is an independent regulator so that its decisions should be independent away from any particular interests of public or its support, although its basic role is to ensure public interests through providing level-playing fields for competition with more choices and better quality of services.

**Q5.8. Concern about political opinion ?**

OFTA, as an independent regulator again, should be divorced from any particular political opinion and interests, although it may not be able to be totally indifferent.

***Q6. What To or Not-To Regulate ?***

The scope of telecommunication regulation may differ in every country. For instance, no regulatory controls of the prices charged to end-users in New Zealand, whilst the number of licensees is limited depending on spectrum availability or even economies of scale in such countries in the UK, Republic of Korea and elsewhere. Its scope, nonetheless, can cover some or more of the followings:

- **Licensing** carriers or service providers subject to different types of services with different licensing conditions as well as limits of scarce resources such as radio spectrum;
- **Pricing** services through various mechanisms ranging from price-cap, rate of return, to rebalancing of tariffs in accordance with maturity of markets or industries;
- **Quality of Services** through setting its criteria and monitoring them;
- Ensuring **interconnection** among different fixed and mobile carriers' networks on a fair, open, transparent, and non-discriminatory base through setting the financial, administrative and technical terms;
- **Managing radio spectrum** for maximizing its limited resources with coordination with neighboring countries and regions to avoid any harmful interference;

- **Ensuring competition** to provide various operators with level playing grounds or non-discriminatory bases through removing entry barriers to new entrants *inter alia* in the privatized and competitive ICT markets;
- **Universal Service or Access** to ensure that, as far as possible, no geographic area or social group (including people with disabilities and in needs) is deprived of access to telecommunications service on reasonable terms;
- **Standardization** for ensuring technical interoperability among different networks and equipment taking into account economies of scale and availability of services in ICT markets which extend beyond national boundaries; and
- **Type approval** for preventing telecommunications equipment from causing any harmful interference or violation;

### ***Q7. How To Make Regulatory Consideration and Decisions ?***

The sequence or process of steps for making regulatory consideration or decisions may vary or differ subject to the relevant issues as well as each country's rules and practices. However, important principles for the decision-making processes and outcomes should ensure a set of rules on a transparent base especially in competitive ICT environment with various interest groups.

Some or more combined by the following tools to ensure fair, non-discriminatory and transparent decision-making can be utilized with respect to each country's circumstances:

- **Public Consultative Documents**, which specify a problem to be solved with various pre-consultations;
- **Public Hearings**, in which verbal testimony is taken from interest groups;
- **Structured Consultative Proceedings** based on the submission of written comments by interest groups;
- **Use of Analytic Findings** by interested groups;
- **Reply Comments** by interest groups;
- **Advice** from various forums or advisory committees; and
- **Analytical Research** by an independent regulator's own staff or contractors on specific issues

### ***Q8. How To Monitor Customer Satisfactions or Complaints, if any ?***

As the numbers of licensees and customers increase in the competitive ICT sectors, so do complaints or satisfactions from various parties. Handling such complaints is becoming one of the key roles of regulators through receiving and researching the complaints as well as even setting up the relevant committees.

OFTA has not undertaken any in-depth research on consumer's satisfactions or comparative performance of different operators yet. However, it encourages consumers to report any complaints or comments<sup>9</sup>, if any, to the Authority so that they can be investigated in an appropriate manner. While the Authority intends to upgrade its related quality of services, it also encourages consumers to write to the Director-General should their case have not been dealt with adequately or fairly.

A Telecommunication Users and Consumers Advisory Committee (UCAC) was also set up to advise OFTA on the development, provision and maintenance of telecommunications services from the consumer and user perspective. One of UCAC's interests was well reflected in a Code of Practice adopted by OFTA on the provision of Telephony Services for the Elderly and People with Disability.<sup>10</sup> The Code of Practice governs the responsibilities of (a) all FTNS operators in the provision of voice telephony services in relation to public payphone services, private payphone services, directory information, special telephones and special billing services for the elderly and people with disability and (b) all payphone service providers (PSPs) in the provision of voice telephony services in relation to private payphones services. Also, under the licensing conditions, telecommunications equipment such as payphone service phones should satisfy the needs for the elderly and people with disability.

### ***Q9. Who and How To Enforce and Monitor ?***

Having examined the close relationships among various government agencies and others involved in the competitive ICT environments, it is worthwhile noting who and how to ensure regulatory decisions to be implemented in an appropriate manner. Although the answers depend on individual country's legal and organizational structures, it may be an issue whether an independent regulator itself has the power to make legally binding orders when some parties are found violating the terms of a regulatory decision, license or other regulatory instrument or not.

An analysis shows that it will be the district Courts or Attorney General of States in the USA who will take any necessary actions in accordance with the Sherman Act; Director General of the OFTEL in accordance with the Telecommunications Act (1984) or Director General of the Fair Trading/Competition Commission in accordance with the Competition Act depending on the issues in case of the UK; and the EC Commission in accordance with the Treat of Rome in the European Union.

If it is not the regulator who has such power, it must be able to apply to some other authority (e.g., a minister or a court) for a legally binding order. Here, it may be necessary for an independent regulator to inform or educate the relevant parties about its rights and obligations arising from telecommunications regulation and about the benefits

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<sup>9</sup> Refer to the OFTA web site and also refer to Performance Pledge 1999-2000.

<sup>10</sup> Refer to OFTA's Code of Practice.

arising from compliance. Alternatively, mechanisms of ‘self-policing’ can be also implemented in such cases as customer premise equipment (CPE) self-certification.

### ***Q10. Whom Do Independent Regulators Represent ?***

The primary role of independent regulators including OFTA will be to ensure public interests in competitive telecommunications markets. However, it may be a challenge to look after conflicts of interests among different groups ranging from operators, shareholders, equipment manufacturers, to various users.

The priority of OFTA’s concern, nonetheless, will go to users in various kinds such as residential, large and small business, rural areas, elderly, and people with less privileged, disabled, and unphoned. Although the Authority allows opportunities to the industry through ensuring fair competition, it is not its mandate to protect industry’s interests for its successes or failures, which will be determined by the markets per se. Likewise, all kinds of manufacturers and suppliers are welcome by removal of technical barriers in their market entries, but their existences will lie again at the hands of markets. Interests of shareholders in the privatized telecommunications markets also may need to be projected through reasonable returns in their investments by the markets rather than by the regulators.

### ***Q11. What Will Be The Major Trade-Offs Between Constituencies Of Independent Regulators ?***

#### **Q11.1. Will it be Pricing or Price Control ?**

Pricing or price control would be one of the critical mechanisms which can trade-off the interests among various constituencies including users, operators, suppliers etc.. However, there are several issues occurred from the price issues - i.e., how to control the price through reflecting such various interests ? For example, lowering prices will be interests for the users, but not for the operators.

Bearing in mind the different interests, OFTA tries to balance between long-term and short-term benefits for the interested parties. In one case, for example, the Authority acted against the dominant operator who gave **discounted prices** without the Authority’s authorization to compete with new entrants. Even though it might appear benefits to customers in a short-term, it would disturb fair competition with particularly new entrants in both short and long terms.

In recent, OFTA introduced **rebalancing of local telecommunications services** although customers would not be happy in a short-term. But, the Government believed that both consumers and the industry would benefit in a longer term when competition is ensured by various players. For instance, residential local telecommunications services used to be charged HK\$ 67.9 (around US\$8.7) as a

flat rate for a month, whilst its cost is around HK\$ 110. Such pricing below the costs was believed to be less – if not, the least - commercially incentive to new entrants in particular. Therefore, the Government decided that the dominant operator would incrementally increase the rates from HK\$90, HK\$100 to HK\$110 starting from 1 September 1999 with 12 month intervals. This decision was not again welcome by consumers in a short-term, but is anticipated to be of benefit to them in a long term when they can have more choices with a variety of services by various providers.

### **Q11.2. Will it be Unbundled Services ?**

In line with phases of technological development and convergence, a variety of services are technically available in the same basket or line. However, many countries including the USA regulate the services through various definition such as basic services, enhanced services etc. which are provided by different operators under the reasons for protecting public interests, protecting infant industries, and so forth.

In a similar manner, OFTA at first prohibited the dominant operator (e.g., Cable & Wireless HKT Telephone Limited), who was a monopoly until 1995, from providing value-added network services through structural separation between the dominant player and VANS providers.

Also, mobile services should be operated separately to enable for the Authority to monitor transactions between mobile operators and fixed ones so that that the fixed operators can be ensured not to dominate other service types like mobile ones.

Distinction between telecommunications and broadcasting services is in place, too. Telecommunications companies are not allowed to provide cable television services including similar types of Internet-based services.

### **Q11.3. Will it be Social Welfare Issue ?**

One of an independent regulator's roles would be to ensure people in needs have also access to basic telecommunications services, as much as feasible and possible. However, it is still a question whether regulators including OFTA should request the dominant operator to provide those people with basic telecommunications services on subsidized rates in today's competitive telecommunications markets. If necessary for such kind of subsidy, it is considered at least from OFTA's point to be done by the national budgets for social welfare rather than by the industry in order to avoid any cross-subsidization by some other consumers from the relevant operators.

This issue is also worthwhile being examined in relation with that of Universal Service Obligation (USO). The USO in Hong Kong is defined

as “the provision of a good, efficient and continuous basic service by a carrier licensee subject to a universal service obligation to all persons within the areas of Hong Kong covered by that obligation” in accordance with the new Bill. However, the scope of basic service may need to be reviewed closely, when appropriate, since telecommunications services are rapidly advancing and converging.

### ***Q12. What Are The Major Challenges For Independent Regulators ?***

As the ICT sectors are ever fast changing and developing in their technologies, services, and markets, so they create various challenges to many regulators. The major challenges may include, but not limited to:

One of the major challenges is to meet **fast changing ICT environment** such as convergence of telecommunications and broadcasting, convergence of fixed and mobile communications, and development of the state-of-the-art technologies. Therefore, the Authority needs to ensure that regulation should not be an obstacle but facilitator for development of the industry.

Secondly, they also faces with the **rising expectation** from the community for its transparency and accountability. Thus, it has to justify its decisions to all the interested parties from ordinary people to the industry.

Thirdly, they need to deal with **issues of different nature such as constraints of expertise, budgets, resources** and so on, which may often require competition with even the industry.

Fourthly, **symmetry of the relevant information** is another kind of challenges particularly in privatized and liberalized telecommunications environment. For instance, the Authority needs information for accounting rates from the industry, which has more accurate and practical data, whilst the industry is getting more and more reluctant to provide the regulator with such commercially sensitive information.