

Licensing: As A Market Entry

Mongolia

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Agenda

- What is objective of licensing ?
- What are the major issues of licensing ?
 - ✓ Categories or types of licenses & licensing
 - ✓ Licensing criteria
 - ✓ Licensing mechanisms
 - ✓ Licensing guidelines & conditions
 - ✓ License application forms
 - ✓ Licensing procedures
 - ✓ License fees
 - ✓ Period of licensing validity
 - ✓ Number of licensees
- Conclusion



What are the objectives of licensing ?

- Allow carriers and/or service providers to provide customers with various choices and quality of services on reasonable prices in liberalized or privatized markets;
- Protect customers from harmful interference and anti-competitive practices from the markets;

But, avoid any unnecessary burdens for operators and regulators through minimum regulations
- i.e., streamlined licensing and its procedures



Role of policy-makers & regulators

Policy-Maker

- Decide whether to regulate or liberalize the markets: i.e., set a policy
- Decide whether to fix the number of licensees or let markets decide etc.

Regulator

- Implement licensing with various measures of selecting the licensees and day-to-day regulatory monitoring: i.e., execute the policy.



What are the major issues of licensing ?

- ✓ Categories or types of licenses & licensing
- ✓ Licensing criteria
- ✓ Licensing mechanisms
- ✓ Licensing guidelines & conditions
- ✓ License applications
- ✓ Licensing procedures
- ✓ License fees
- ✓ Period of licensing validity
- ✓ Number of licensees etc....

Licensing categories or types (1)

EXAMPLES

HongKong

- ✓ Exclusive license
- ✓ Carrier license
 - fixed
 - mobile
 - space station
- ✓ Class license
- ✓ Others

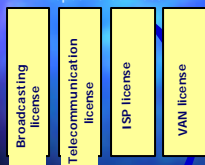
India

- ✓ Basic service license
- ✓ Cellular mobile license
- ✓ Radio paging license
- ✓ Internet
- ✓ Value-added service license
- ✓ GMPCS etc.

Licensing categories or types (2)

Malaysia: Licensing Migration

The old licenses that were issued based on specific technologies, and specific services



map onto

New technology-neutral and service-neutral licenses



Licensing categories or types (3)

Malaysia

- ✓ **Individual Licenses**
 - Content applications service provider
 - Applications service provider
 - Network service provider
 - Network facilities provider

- ✓ **Class Licenses (Current)**
 - Applications service provider

* One SP can have multiple licenses

R.O.Korea

- ✓ **Facility-based (34):** e.g.,
 - Local (2)
 - Long-Distance (3)
 - International (3)
 - Leased line (14)
 - Cellular, PCS, GMPCS
 - TRS, Paging, Wireless Data,
 - B-WLL, IMT-2000

- ✓ **Non-facility-based (3191)**
 - Special (314)
 - Value-added (2,877)

(numbers): as of 2002

Licensing categories or types (3)

Mongolia

- "A" Classification Licenses (3)
- "B" Classification Licenses (14)

Licensing criteria

Hong Kong

- ✓ Scale of investment & capacity
- ✓ Financial capability
- ✓ Performance bond
- ✓ Technical soundness & quality of service
- ✓ Proven managerial & technical expertise
- ✓ Implementation schedule
- ✓ Quality of proposal etc.

India

- ✓ Licensee should be Indian co.
- ✓ Foreign equity should not exceed 49%.
- ✓ Execution of performance bank guarantee
- ✓ Stipulated network & experience
- ✓ Comply with technical specification, commercial & financial conditions etc.

Licensing mechanism

1. Case-by-case ad-hoc decision-making on a **first-come first-served principle**;
2. Comparative & qualitative evaluation of bid (i.e., a **beauty contest**) among short-listed bidder;
3. Comparative hearings;
4. **Lottery**;
5. **Auction**;
6. **Combination** of the above (e.g., an auction among bidders who succeed in the initial beauty contest);
7. **Simple register** etc.....

Depending on types of licenses in the country

Licensing guidelines & condition (1)

The guidelines & conditions differ in each license.

Example: Hong Kong for FTNS

External Fixed Telecom Network Service:

- ✓ Introduction of the scope
- ✓ Regulatory framework
- ✓ Terms of licensing arrangement
- ✓ Relevant information for applicants re their proposals or applications etc.

Licensing guidelines & condition (2)

Example: Malaysia for individual license

- ✓ Corporate
 - Incorporation
 - Share holding, JV
 - Sole license for activity
 - Compliance with CMA
- ✓ Indemnity
- ✓ Change in license condition
- ✓ Operations
 - Numbering plan, electronic addressing, spectrum plan
 - Consumer code
 - Rates
 - Safety measures
 - Charge mechanism
 - License fees



Licensing guidelines & condition (3)

Example: Malaysia for class license

- ✓ Permitted activities
- ✓ Sole license
- ✓ Compliance with the law
- ✓ Compliance with the numbering plan, the electronic addressing plan, and Consumer Codes
- ✓ Safety measures
- ✓ Charging mechanism
- ✓ Indemnity
- ✓ Fees
- ✓ Change of particulars of the registration notice



Special licensing condition (4)

Example: Malaysia

1. Obligation to provide Universal Service And/Or To Contribute To USF

The licensee shall comply with any determination made on USF.

CONTRIBUTION TO USF FUND

All licensees except Content Application Service Provider (CASP). Licensees whose annual total revenue derived from designated services exceeds – e.g. RM500,000. Contribution is determined at 6% of the total weighted net revenue from designated services.

2. For all individual licensees [Reg. 18]

- Notify the Minister of any restructuring or rationalization of the individual's corporate structure

3. Additional for CASP(1) [Reg. 22(2)]

- Provide local content programmes and those that promote national culture and identity
- Carry public announcements for the purposes of the government or for public national interest.



Special licensing condition (5)

Example: Korea

- ✓ Contribute to **research and development (R&D)** determined at certain percentage of the total revenue from licensees; and/or
- ✓ Contribute to the **development of national informatization funds** determined at certain percentage of the total revenue from licensees etc.



License applications: Check-list

Hong Kong

- ✓ Company structure & financial capability
- ✓ Description of service
- ✓ Technical details of the system
- ✓ Technical support
- ✓ Experience of applicant
- ✓ Compliance with the ITU standards etc.

India

- ✓ Company registration certificate
- ✓ Net worth & experience
- ✓ Annual reports for the last 5 financial years
- ✓ A comprehensive detailed documents etc.

Licensing procedures

1. Draft by the regulator or government
2. Consultations among various interested parties and experts
3. Prepare for the Guidance Note
4. Invite interested applicants for their proposal or applicant
5. Evaluate the proposals or applicants
6. Grant the relevant license either by ministry or regulator

License fees (1)

- There can be three scopes of licensing fees:
 - **cost-recovery**
 - **costs of scarce resources** consumed by operators
 - **sharing values** of businesses
- License fees are in principle recommended to cover the administrative costs, except for the optimal use of scarce resources and/or the special conditions such as USOF, R&D, development national ICT etc. subject to each country's circumstances.
- License and its fees should not be burden (e.g., 3G license) but, in both principle & practice, to the introduction and development of innovative services and competition.

License fees (2)

Application fee	RM10,000	Registration fee	RM2,500
Processing fee	RM50,000	Annual registration	RM2,500
Annual license fee	0.50% or 0.15% of Gross Annual Turnover (minimum RM50,000)		
Renewal fee	RM25,000		
Tenure	5 or 10 years		

CLASS LICENSEES

INDIVIDUAL LICENSEES

Example: Malaysia

Period of licensing validity

Hong Kong

- ✓ Carrier licenses are valid for 15 years with a renewal of further period not exceeding 15 years,
- ✓ Taking into account the life span of technologies, services or systems etc.

India

- ✓ Most licenses are valid for 20 years extendible by 10 years at one time,
- ✓ Taking into account the investment required and a reasonable return for the investment.



Number of licensees

Hong Kong

- ✓ The number of licensees are in principle determined by markets
- ✓ unless there are physical constraints like spectrum

India

- ✓ Licences are granted to all applicants when satisfying the entry qualification
- ✓ except wireless communications due to spectrum constraints.



Conclusion

- ✧ Licensing can be a critical means of not only market entries in liberalized markets but also developing ICT infrastructure & its applications,
- ✓ When it is implemented in a non-discriminatory, proportionate, fair and transparent manner, and
- ✓ When it is mobilized not as a burden for entrants but as a carrot for their innovation and competition.



The End
Thank you

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