

International Telecommunication Union



Competition: Overview

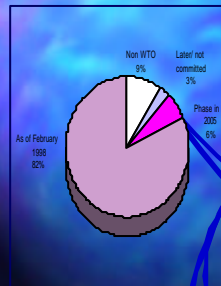
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Agenda

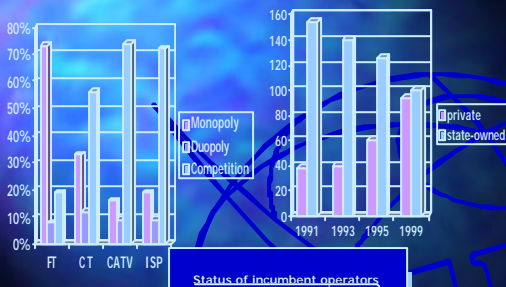
- Trends of competitive industry and market
 - Why liberalization or competition ?
 - What is competition ?
- What are the major objectives of competition ?
- What are the key principles of competition ?
 - How to ensure competition in various angles ?

Dynamic Telecoms Environment



- The national monopolies are now facing competition due to liberalization or privatization.
- Some 90 per cent of world revenue committed to ensure competition gradually before 2005 as a consequence of WTO/GATS agreement .
- Competition – or competition safeguards - became more on agenda for regulators worldwide.
[\[www.itu-coe.ofa.gov.hk\]](http://www.itu-coe.ofa.gov.hk)

Trends of open market policy to competition



Why liberalization or competition, then ?

- ✓ Goals are for providing customers with more choices of technologies & services with quality and affordable prices, but not necessary lower prices;
- ✓ **Effective competition policies** are anticipated to ensure that the benefits of liberalization or deregulation and market-based reforms flow through to both industries & consumers;
- ✓ **Cases** demonstrate faster and more growth of data (esp., Internet) and mobile services, both areas which have tended to be more open up to competition, than that of basic fixed voice services;

What is competition ?

- Competition is defined as
“the process by which economic agents acting independently in a market limit each other’s ability to control the conditions prevailing in that market”.
- Its essence is *“rivalry & freedom to enter a market”*. [M.E.Beasley & S.c. Littlechild, 1997]



What is the major objective of competition?

- To enhance economic efficiency as well as economic welfare through:
 - ✓ maximizing *consumer benefits* with potential provisions for more choices and better quality of services on not quite cheaper but reasonable prices; and
 - ✓ limiting *monopoly power* especially in traditional telecommunications markets or industries ...



What are the key competition principles?

- ✓ comprehensiveness of coverage;
- ✓ transparency;
- ✓ accountability;
- ✓ non-discrimination; and
- ✓ competitive neutrality



How to ensure competition ?

Practice Under the GATS/WTO

- Competitive safeguard;
Prevention of **anti-competitive practices** : e.g.,
 - ✓ Cross-subsidization;
 - ✓ Not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information etc.

Practice Within APEC Economies

- Prevention of **abuse of dominant position**;
- Prohibition of **restrictive agreements**;
- Prohibition of **concentration through mergers and acquisitions**; and
- Prohibition of **unfair competition** etc.



What are the objectives of Competition Law?

- Competition Law, if any,
 - aims at maintaining and enhancing the competition;
 - is an essential part of the economic constitution of a free market economy; and
 - should, as much as possible, apply to all market transactions and to all entities engaged in commercial transactions irrespective of ownership or legal form.



General Law vs. Sector-Specific Law

- No a single rule or practice whether to combine or separate between general competition laws covering the overall markets & specific competition laws focusing on the ICT sectors; e.g.,
 - **UK & Germany**: general competition law (e.g., the Fair Trading Act and the Competition Act), under which telecommunications regulators have a range of powers. Some argue that these powers are not sufficient to tackle an industry such as telecommunications.
 - **Hong Kong/China**: sector specific competition rules and conditions were adopted in the Telecommunications Ordinance (2000).



Why sector-specific competition authority?

- ✓ To protect public interest on a full-time basis, where there is a market of the size and significance, supplied by a vertically integrated, highly dominant company, with large economies of scope and scale and huge sunk costs;
- ✓ To provide protection against the abuse of a dominant position and to promote effective competition;
- ✓ To help its domestic industry to overcome barriers to entry in others' markets which are very competitive globally;
- ✓ Specific knowledge and expertise are also required particularly for such areas as licensing & interconnection among various competitors and limited resources (e.g., spectrum) for management & coordination.



What are roles for sector-specific regulators?

UK: OFTEL has sharper prior controls to prevent dominant operators from indulging an *anti-competitive* behavior as well as promote and police competition.

Hong Kong/China: Telecom Authority (OFTA) and Broadcasting Authority (BA) are empowered to prevent *anti competitive* behaviors in their respective areas.



What are the 'Anti-Competitive Practice'?

A licensee who engages in conduct which has the purpose or effect of preventing or substantially restricting competition in a telecommunications market" [Hong Kong, *Telecom Ordinance, 2000*]; i.e., such behaviors as

- ✓ agreements to fix the price in a telecommunications market;
- ✓ an action preventing or restricting the supply of goods or services to competitors;
- ✓ agreements between licensees to share any telecommunications market between them on agreed geographic or customer lines; and so on.



Any other terms & practices for competition ?

- ✓ 'Abuse of position';
- ✓ 'The Dominance';
- ✓ 'The Abuse of Dominant Position';
- ✓ 'Misleading or Deceptive Conduct';
- ✓ 'Non-discrimination' etc.



What are the barriers for effective competition?

Three major types of barriers among others by incumbent operator(s) recognized in the telecoms markets: e.g.,

- ✓ Dominance advantages
- ✓ Control Advantages
- ✓ Structural Advantages



How to analyze competition ?

- ✓ Defining the relevant market (e.g., local fixed, cellular mobile etc.), first;
- ✓ Assessing effects on competition: e.g.,
 - ✓ Market shares over time;
 - ✓ Position and number of competitors;
 - ✓ Entry barriers;
 - ✓ Pricing and profitability;
 - ✓ Excess capacity and so forth.



How to enforce when breach was found ?

Hong Kong/China: OFTA imposes either **penalties** when having found breach after the investigation procedure. Or, they can either **suspend or revoke** licence as appropriate;

USA: It is the duty of the attorneys under the direction of the Attorney General to institute proceedings to **prevent and restrain violations** in accordance with the Sherman Act;

UK: OFTEL empowered to enforce licence conditions in the telecoms industry and may fix **penalty**, as appropriate;

EU: It is the EC who may impose the relevant range of **fines** in the breach of the anti-competition rules of the Treaty of Rome.



The End Thank you

For more information
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