

2 WHY REGULATE?

2.1 Introduction

Chapter 1 described the continuing evolution and development of the telecommunications industry into the information and communication technology (ICT) sector, emphasizing the increased emphasis on access to ICT networks and services. A wave of reforms is reshaping the industrial and governmental structures of the ICT sector worldwide, resulting in the emergence of a large number of new regulatory agencies for telecommunications and related industries. It is expected that even more will be created. By the end of 2001, there were more than 110 telecommunication regulatory agencies, compared with only 13 in 1990. The majority of these agencies were functioning separately from their oversight government ministries.¹ Eighty per cent of these new agencies were in the developing world.²

Why the profusion of new regulatory agencies? What goals do governments have in establishing such agencies? In other words, why regulate? And how should governments go about it? These are fundamental questions, and the manner in which governments answer them will determine how their ICT sectors are organized and governed.

As this Chapter will explore in greater detail, the rapid evolution of ICT markets does not mean that regulation has become unnecessary. Indeed, the roles of regulators do not evaporate once governments authorize competition, although they may change somewhat. In fact, the demands on regulators often increase as they deal with an exploding ICT sector, filled with new market players and rapidly evolving technologies. ICT markets do not necessarily function optimally without regulation, nor do they always operate in a manner that maximizes public benefits. This is particularly true in the early stages of transition from the former model of monopoly provision to one of greater competition. But regulation, albeit in a different and perhaps less-intrusive form, may be necessary even in competitive markets, to prevent anti-competitive abuses, protect consumers, and attain national goals such as universal access, industrial competitiveness, or economic productivity growth.

Ultimately, then, the answer to the question of “why regulate?” may be starkly apparent: to ensure that markets operate

efficiently and, more importantly, for the benefit of consumers, businesses and economies overall. The question of *how* to regulate, however, is much more complicated to answer. Governments may choose an approach that falls along a wide spectrum from hands-off, laissez-faire reliance on market forces, on the one hand, to proactive micromanagement and direction of markets and operators, on the other. Almost universally, governments fall somewhere in the middle, pragmatically applying a more active hand where necessary, and attempting to draw back where they can. Ultimately, every government has to make decisions regarding the extent and focus of regulation based on its own socio-political goals. Regulation can be seen as a tool to achieve the ultimate objectives of providing optimal ICT services to end users, and it is each government’s responsibility to calibrate its regulatory regime to achieve those objectives, based on its constituents’ needs.

Although decisions on how to regulate are made by individual governments, they can be informed by a somewhat universal body of theoretical and conceptual knowledge that has developed over the years in the telecommunication regulatory community. This Chapter discusses the conceptual base for telecommunication regulation, providing a foundation for further exploration of more practical considerations in implementing a regulatory regime – considerations which are explored in detail in subsequent Chapters.

2.2 Theoretical Rationales for Regulation

2.2.1 Regulation as an Integral Part of Sector Reform

In the classic Posts, Telephone & Telegraph (PTT) model of telecommunication supply that was traditionally found in most countries outside North America until very recently, a government department or agency combined in one entity the three functions of policy-making, regulation and network operation. This model had mixed results. For example, with the exception of Australia, Austria and the Nordic countries, universal service was not achieved in any country under the old model.