Essential Regulation for the Arab States Region

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Telecom reform process

- regulation is an integral part of the telecom reform process:
  - liberalization; privatization; regulation
- aimed at:
  - a fully effective telecoms market
  - strong development of the telecoms market
- benefits of competition:
  - improved efficiency and lower prices
  - faster innovation and market growth
  - greater responsiveness to customers

Role of regulation

- protection of:
  - users against monopoly exploitation
  - investors against short term political intervention
- creation of incentives to improve performance:
  - price cap control
  - quality of service: targets; publicity; contracts
- encouragement of competition:
  - best incentives and form of regulation

The importance of regulatory independence

- Ministries have wide policy responsibilities and find full transparency difficult
- independent regulator can be more open and becomes better respected and more effective
- helps if main duties set out in law
- exercises powers in own right
- but independence cannot be absolute
- need to operate within bounds of general acceptability, with Government support

Structure and resources

- for smaller countries, particularly, a multi - sector regulatory body may make best use of limited resources and scarce skills
- a commission structure may help to maintain independence
- but the body must have adequate financial and staff resources to do the job
- finance can suitably come from licence renewal fees, in proportion to turnover
- sufficient skilled staff to validate decisions

Regulatory issues

- Price regulation and quality of service
- Tariff rebalancing and universal access
- Promotion of competition:
  - interconnection; conditions for market entry; giving competitors a chance; numbering; anti-competitive behaviour
- Response to regulation:
  - information; compliance; enforcement

Price regulation

- pricing is a key management function
- price cap regulation accommodates this:
  - RPI (or equivalent) - X% formula set for a period of years
  - regulated company required to reduce average prices by this % below inflation each year
- incentives:
  - regulated company keeps extra profit if target exceeded
  - no sudden adjustment at end of control period
  - linkage of investment objectives by output

Quality of service

- the counterpart to price regulation
- targets:
  - set or agreed, based on reasonable assessments
- openness:
  - publication of quality of service statistics
  - information e.g. itemized billing
  - comparisons (inter-company/international)
- economic incentives:
  - best linked to contracts with individual users
  - service guarantees and limited liability

Tariff rebalancing

- economic benefits greatest when those using services pay full costs
- competition will drive prices towards costs
- low users vulnerable to adverse effects
- falling telecom costs provide opportunity to rebalance with minimum impact
- low user scheme will help acceptability
- fixed access costs may need (transparent) cross subsidy while competition develops

Universal access

- principles: geographic; affordable; equitable
- definition: availability of basic telecom (voice telephony and supporting) services
- costs: net additional cost of providing access, above standard prices
- finance: separate interconnection payments; universal service (USO) fund; “pay or play”; competitive tender
- competition: extends services and enhances customers’ value

Interconnection

- fair and effective interconnection arrangements are essential to the development of a telecoms market
- international consensus:
  - negotiated terms, subject to dispute ruling
  - charges based on underlying costs of efficient operator; forward looking costs (LRIC)
  - determined by robust costing methodology
  - other charges recovered separately
- alternative of international benchmarking

Interconnection and inter-operability

- the main operator should create a unit responsible for ensuring:
  - a standard response to interconnection requests: by means of an internal code of practice
  - prompt solutions to operational difficulties by means of an engineering manual
  - the availability of information to new entrants, graded to reflect their closeness to market entry
- full inter-operability requires high level technical compatibility and interfaces

Conditions for market entry

- development of competition depends on market entry
- new investors in the market need:
  - a fair deal: balanced rights and obligations
  - transparent procedures
  - clear rules, consistently interpreted and applied
  - continuity and stability in regime: no surprises
  - prospects of a good return on their investment
  - protection against market dominance

Giving competitors a chance

- non-discrimination:
  - no geographical de-averaging
  - other businesses same terms as incumbent
- accounting separation:
  - sectors: cpe; services; manufacturing
  - interconnection: network; access; retail
- separate licensing of new businesses
- fair trading provision:
  - against abuse of a dominant position

Barriers to entry: numbering

- monopoly routing inadequate for network competition
- address and network functions need to be separated
- importance of dialing parity and users' reluctance to change numbers
- number portability essential for local network competition
- issues of engineering practicability and cost

Anti-competitive behaviour

- undue discrimination
- unfair cross-subsidy
- linked sales; full line forcing; bundling
- unjustified discounts
- preemptive announcements
- unfair use of information
- from position of *significant market power*, where *intention or effect is to restrict competition*

Response to regulation

- development of an effective response to regulation is fundamental
- incumbent and regulator have shared interest in success of the regime
- incumbent should establish regulatory affairs department (RAD) to manage relationship, internally and externally
- incumbent’s aim should be to lead the telecom revolution

Information

- the regulator needs good information on which to base decisions
- the incumbent is the most important source of information in the sector
- by responding promptly and positively to requests for information, it can:
  - help to ensure that decisions are well grounded
  - influence the regulator’s thinking helpfully
  - argue its case effectively
  - enhance respect for its views

Compliance

- compliance is not optional, it is essential: a separate unit in RAD should be responsible
- RAD manages compliance programme and represents company on compliance issues
- line management leads implementation, in all aspects of operations
- internal audit independently verifies
- external monitoring also has a role
- speedy and effective resolution of any license breach is vital

Enforcement

- failures in compliance will occur
- prompt acknowledgement and corrective action will enhance respect
- graduated sanctions should reflect the seriousness of the breach, e.g.:
  - reprimand; order (enforceable in the courts); fine; license amendment; threat of cancellation
- all sides should maintain positive approach towards future action
- right of appeal to an independent body is an essential element in regulation

Conclusions

- strong and effective regulation is necessary to enable competition to develop
- in practice, this requires the making of a series of difficult decisions to create the right environment
- institutional arrangements, and legal safeguards, should help to:
  - focus responsibility & encourage transparency
  - develop a sustained authoritative approach
- incentives, not intervention, are paramount