Agenda

- Trends of regulators: Different scenarios
- Main objectives of regulators with examples
- Major functions of regulators
- Fundamental issues of regulators: e.g.,
  - independence
  - accountability
  - expertise etc.
- Challenges faced by regulators
- Balanced regulations and regulator!

INTRODUCTION

A question of "how to manage regulation or its process - i.e., roles of regulators - is being raised with growing concerns especially in the ever fast-evolving, liberalized, deregulated, privatised, even re-regulated and/or converged information and communication technology (ICT) sectors."

Thus, let’s focus on:

‘What will be the major roles and accountability of independent or separate regulators in the dynamic ICT sectors?’

Emergence of regulatory authorities

Some 10 separate regulators in Asian region:
- Malaysia: Malaysian Communications & Multimedia Commission
- Singapore: Infocomm Development Authority
- Hong Kong: Office of Telecom Authority
- Bhutan: Bhutan Telecom Authority
- India: Telecom Regulatory Authority of India
- Australia: Australian Communications Authority
- Sri Lanka: Telecoms Regulatory Commission
- R.O.Korea: Korea Communications Commission
- Nepal: Nepal Telecommunications Authority; and
- Mongolia: Communication Regulatory Commission

Booming growth of regulators
Five Different Scenarios of Regulators
- Regulatory responsibilities within a ministry (e.g., Japan, China etc., many in the Asia & Pacific);
- A fully autonomous & independent regulator (e.g., the USA, the UK, Hong Kong);
- A semi-autonomous independent regulator (e.g., Canada);
- Industry self-regulation (e.g., some developing countries etc.);
- No telecommunication-specific regulation (e.g., New Zealand).

The Main Objectives of Independent Regulators
1. Protecting user interests and considering user complaints;
2. Supervising the dominant operator to prevent them from anti-competitive behavior;
3. Moving towards a level playing field for fair competition in deregulated/liberalized telecom industry/market;
4. Stimulating innovation and/or implementation for ICT technologies suitable to the countries concerned;
5. Assuring technical preconditions for effective operation such as the numbering plan, interconnection, and so on;
6. Managing common resources such as radio spectrum and numbers;
7. Stimulating investment in the public network/infrastructure particularly in the developing countries.

Objective - Example (1): OFTEL, the UK
- 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;
- To protect consumer interests.

Objective - Example (2): OFTA, Hong Kong
- To provide consumers with good quality of service at reasonable prices with a variety of choices;
- To ensure telecommunication networks and services to be interconnected among liberalized & privatized companies in competitive ICT 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.

The Major Functions Of Regulators
- Developing and implementing regulatory policies;
- Processing applications for licences or other filings;
- Analyzing complaints;
- Conducting investigations; and
- Taking part in FCC hearings.
The Major Functions Of Regulators (2)

A Case of the UK: OFTEL

- Ensure that licences comply with their licence conditions.
- Authorise or modify a licence.
- Authorise the Secretary of State for Trade and Industry (DTI).
- Obtain information and arrange for publication.
- Consider complaints and inquiries about telecommunication services or apparatus.
- Determine regulatory service fees – i.e., licence fees.
- Elaborate an integrated numbering plan.
- Work out communication standards.
- To raise USO funds – limits of donation, loan, grants etc.
- Ensure fair competition.
- Create conditions for fair competition.
- Approve accounting methodologies for service tariffs.
- Approve general terms of interconnection agreements.
- Grant, suspend and revoke licences.
- Make radio frequency allocations and conduct monitoring.
- Ensure implementation of universal service obligations.
- Determine technical conditions & requirements for equipment & installations.
- Investigate, and take appropriate action for, breaches of terms and conditions of the Telecommunication Ordinance and licences.
- Implement technical & economic regulatory frameworks (e.g., interconnection, numbering, spectrum management and coordination etc.).
- Protect consumers' interests through ensuring competition and safety/quality of telecom services.
- Grant and administer licences.
- Investigate and take appropriate action for, breaches of terms and conditions of the Telecommunication Ordinance and licences.

The Major Functions Of Regulators (3)

A Case of Hong Kong/China: OFTA

- Grant and administer licences.
- Investigate, and take appropriate action for, breaches of terms and conditions of the Telecommunication Ordinance and licences.
- Determine technical conditions & requirements for equipment & installations.
- Implement technical & economic regulatory frameworks (e.g., interconnection, numbering, spectrum management and coordination etc.).
- Protect consumers' interests through ensuring competition and safety/quality of telecom services.
- Grant and administer licences.
- Investigate, and take appropriate action for, breaches of terms and conditions of the Telecommunication Ordinance and licences.

The Major Functions Of Regulators (4)

A Case of Denmark: CRC

- Ensure that licences comply with their licence conditions.
- Authorise the Secretary of State for Trade and Industry (DTI).
- Obtain information and arrange for publication.
- Consider complaints and inquiries about telecommunication services or apparatus.
- Determine regulatory service fees – i.e., licence fees.
- Elaborate an integrated numbering plan.
- Work out communication standards.
- To raise USO funds – limits of donation, loan, grants etc.
- Ensure fair competition.
- Create conditions for fair competition.
- Approve accounting methodologies for service tariffs.
- Approve general terms of interconnection agreements.
- Grant, suspend and revoke licences.
- Make radio frequency allocations and conduct monitoring.
- Determine regulatory service fees – i.e., licence fees.
- Implement technical & economic regulatory frameworks (e.g., interconnection, numbering, spectrum management and coordination etc.).
- Protect consumers' interests through ensuring competition and safety/quality of telecom services.
- Grant and administer licences.
- Investigate, and take appropriate action for, breaches of terms and conditions of the Telecommunication Ordinance and licences.

Fundamental Issues for Regulators

- How to maintain its independence & autonomy?
- How to finance its setting-up and operational costs?
- How to appoint or select its head or chair?
- How to legislate its structure and functions?
- How to ensure effective regulation for public interests and industry: what to or not-to regulate?

What independence & autonomy from?

Independence should be to some degree of independence or autonomy in such areas as:

- The ability of the regulatory service to implement policies decided by the relevant ministry.
- Due to the operation of telecommunication facilities and services.
- Decisions independent from interest parties or groups.

Prerequisites for Independence

1. Accountability
2. Trained staff: expertise
3. Clear legal mandate
4. Transparency in regulatory procedures
5. Public hearings
6. Established mechanisms to avoid capture from the industry's stakeholders.
Any Legislation Required for Independent Regulators?


Why for accountability & expertise?

- Complex technical, economic, financial and legal issues of regulatory frameworks (e.g., interconnection).
- Great implications on the success (or failure) in promoting competition and ensuring consumers’ uninhibited enjoyment of communications and choice of services especially in the converged ICT sectors.
- Operators’ interest at stake in competitive markets.
- Required for various aspects and background: e.g., telecom engineers, competition experts, lawyers, economists, accountants etc.

How to finance?

- Finance its establishment and operational costs by the government as a start-up.
- Adopt a separate budget for operation (e.g., the Telecommunications Licensing Appeal Board, Hong Kong/China).
- Utilize the license fees covering administrative other administration costs of regulator.
- Adopt a separate budget for operations.

How to Appoint DG or Chairman?

- Whether to be a chairman supported by economists, accountants etc.
- Whether to be a political appointee or civil servant?
- Whether to be on a full-time basis or part-time basis?
- Whether to be on a fixed or flexible term?
- How to finance?

Accountabilities of Regulators

- Necessity for executing actions and decision: i.e., competency and expertise in the specific sector (e.g., ICT).
- Decisions challengeable at the Courts.
- Decisions to be appealed to the Telecommunications Licensing Appeal Board.
- Annual report to the Secretary of Information Technology & Broadcasting Bureau.
- Report laid before the Legislative Council.
- Audit Commission’s review on efficiency and effectiveness.
- Necessity for broad public support.
- Concern about political opinion etc.
What To or Not To Regulate? (2)

Based on interconnection among different fixed & mobile carriers' networks as well as region-specific and non-discriminatory basis (based on the bilateral, administrative and technical terms);

Managing radio spectrum for maximizing its limited resources and coordinating with neighboring countries and regions to avoid harmful interference;

Ensuring competition to provide various operators with lever playing grounds or non-discriminatory bases through removing entry barriers to new entrants; i.e.,:

- To ensure that, as far as possible, no geographic area or social group (including people with disabilities and in need) is deprived of access to telecoms service on reasonable terms, and so on….

Ensuring universal service entry barriers to new entrants playing grounds or nonplaygrounds ---

Ensuring through setting the financial, administrative and technical terms;

Networks on a fair, open, transparent, and non-

Ensuring crimes protecting from cyber---

For policings or for alone is left to market forces is left to market forces---

Access, if deployment access, if deployment---

remote areas, low remote areas, low---

(e.g., those in rural &

for vulnerable groups for vulnerable groups---

Q. Why hands-on ?

Q. Why hands-off ?

Why need balanced regulations & regulators?

■ For effective, efficient & competitive markets & industries that provide consumers with:

- Innovative technologies;
- Quality services;
- With choices; at competitive prices; in a timely manner

■ For policing or protecting from cyber-crimes

Any more?

'Public availability for transparency !!!'

How to determine the structures and roles of the How to determine ways to regulate or not---

How to balance traditionally regulated telecom and How to balance traditionally regulated telecom and---

How to determine the structures and roles of the How to determine the structures and roles of the---

How to develop & execute consistent and relevant regulations (i.e., regulatory frameworks) which do not inhibit the growth of sector, but rather encourage technological innovation and market economy?