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**COMPASSROSE INTERNATIONAL, INC.  
REPORT TO THE INTERNATIONAL TELECOMMUNICATION UNION (ITU)  
GLOBAL SYMPOSIUM FOR REGULATORS, 7-8 DECEMBER 2002:**

**FEEDBACK TO REGULATORS FROM THE PRIVATE SECTOR**



*CompassRose International, Inc.*

**Authors:  
Walda Roseman  
Jennifer Bosworth  
Robert Blumenthal  
Virginia Sheffield**

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## I. INTRODUCTION

### A. Overview

In 2001, the Telecommunication Development Bureau (BDT) of the International Telecommunication Union (ITU) conducted case studies on effective regulation in five countries (Botswana, Brazil, Morocco, Peru and Singapore). These case studies took a country-by-country approach and their goal was to identify best practices from the perspective of regulators and policy makers. The results of these case studies have been presented to and discussed by the attendees of the ITU Global Symposium for Regulators (GSR).

One area that the regulators attending the GSR believe has not been very well documented is the views of telecommunication providers regarding the effectiveness of various regulatory practices and the relationship between business decision-making and regulatory policies. This study was undertaken at the request of the participants in the 2001 GSR to provide independent feedback to regulators and create a foundation for information-sharing in this area. The report provides a general overview of how operators and service providers react to the laws, rules, regulations and practices adopted in various markets around the globe. This study addresses the business implications of decisions taken by national regulatory authorities and presents operators' recommendations for regulators in order to create business climates that foster earnings, profits and new commercial opportunities. The views expressed in this study are those of the authors and may not necessarily reflect the opinions of the ITU and its members.

To advance the dialogue between regulators and operators on the impact of regulations on businesses, it is important to understand not only what information companies take from a particular regulatory regime, but how they process that information in order to make business decisions. As such, this report begins by providing companies' first-glance perspectives on regulations in particular markets—what information they first collect on the regulatory environment and specific regulations in particular markets. The report then considers the specific regulatory factors that companies view as most critical to their businesses. It then turns to ways that companies factor regulatory issues into their business decision-making, including a review of the various mechanisms for linking regulatory and business development functions within companies. Finally, the report considers the ways that companies communicate with regulators and companies' levels of satisfaction with their interactions with regulators.

Key elements of the report include:

#### *Assessing the regulatory environment and specific regulatory actions*

This section includes:

- How companies view regulations in particular markets -- on an issue or regulation-specific basis or at a higher level of the larger regulatory environment, and
- Key regulatory issues affecting companies.

***Evaluating regulatory transparency***

This section includes:

- How regulatory transparency impacts company decisions,
- Operator views of factors most important to a “transparent” regulatory environment, and
- Views on whether regulators provide the same level of access and information to all providers.

***Factoring regulatory issues into the business proposition: where and how they fit into business decision-making***

This section includes:

- The regulatory environment as a factor in companies’ assessments to enter markets or expand or diversify services,
- Techniques and processes companies use to assess the business implications of regulations and policies, and
- How companies evaluate varied regulatory approaches across countries/regions and how they affect offerings.

***Assessing communications with regulators***

This section includes:

- Regulators’ knowledge and understanding of issues important to individual companies, and
- Companies’ methods and levels of communication with regulators.

**B. Methodology and Overview of Respondents**

This report compiles the views of 18 telecommunication operators and telecommunication associations collected through a series of confidential personal interviews conducted during June and July 2002. An abbreviated case-study methodology was employed, providing in-depth reports of respondents’ views on these issues.

The interviewers identified and selected the participants. An effort was made to include interviews with companies that have experience in multiple regulatory environments, offer a wide range of services, use several technologies, and cover most geographic regions. Because of the method of selection and the relatively small sample size, the results cannot be assured to represent the entire telecommunication industry. However, the information gathered does provide, at a minimum, insights into the types of issues that concern the group of companies that agreed to be interviewed and the ways that the regulatory environment interacts with and affects a company’s business decision-making. The report can also serve as the foundation for further, more comprehensive research.

The interviews were conducted primarily in person and by telephone. Two of the 18 were conducted via e-mail.

The individuals responding for the companies can be grouped broadly into the following types of expertise or functions: regulatory, strategic/business/market planning and industry affairs. Regardless of where respondents were located within their companies' organizational structures, they had knowledge of the business objectives and the relevance regulation and policy have in achieving those objectives. Overall, the respondents viewed the study as an important undertaking, were encouraged that the 2001 GSR had requested the views of operators on regulatory issues, and were open and most cooperative with the interviewers.

Of the 18 study respondents, 15 represent telecommunication companies and three represent associations of operators and major users. The companies provide a wide range of telecommunication services, as detailed in the table below:

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**Table 1 - telecommunication services provided by companies**

<b>Service Type</b>	<b>Number of Companies Providing Service</b>
Local Fixed Line	9
National Fixed Line	9
International Fixed Line	9
Internet Services	9
Wireless	9
Data Services	8
Satellite	5

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Thirteen of the companies are publicly traded, while two are privately held. Historically, national governments have been owners of several of the companies surveyed. However, most of them have been completely privatized in recent years. Governments maintain a majority financial interest in only a few of the companies studied.

These companies vary greatly in size, as demonstrated by the large differences in their revenue streams. The 2001 annual revenues ranged from below \$50 million to above \$50 billion per company. Some of the companies have been in existence for only a few years, while others have a long history of providing service. A few have experience as both an incumbent, monopoly operator and as a new entrant, and others have operated only under the structure of a competitive telecommunications marketplace. A few companies focus on a market segment such as the wholesale business or the more lightly regulated advanced services business. Others offer a broad range of telecommunication services to wholesale and retail customers over a wide range of technologies.

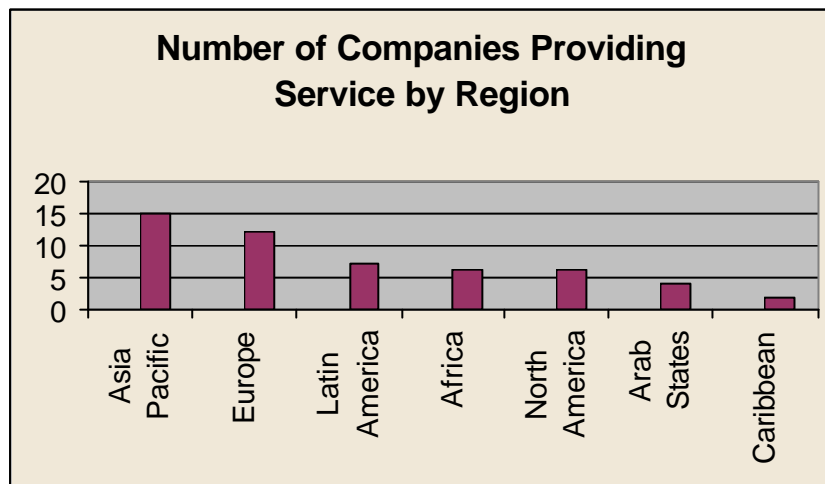
A unique subset of the respondents are the companies that have been part of a government owned and operated PTT (Posts, Telephone and Telegraph Administration) that has been through the various transitions of corporatization and privatization, the introduction and growth of competition, and even entry into new global markets and

markets for advanced services. This wealth of experience allowed these particular respondents to provide a wide scope of reference points regarding the changing telecommunication regulatory environment. Their perspectives include not only the ways that regulators have changed but also the changes in ways that companies approach regulation, business decisions, and markets.

Most of the companies are based in or have located their corporate headquarters in developed countries, and most have legal entities established within the countries of operation. All of the companies provide service outside of their home-headquarters country. Two thirds of the companies' corporate headquarters are located outside of the United States (U.S.). The chart below classifies the countries that these companies serve by geographic region:

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**Figure 1- Number of companies providing services by region**



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Although the group of respondents is relatively small, its collective regulatory experience encompasses most of the globe. Further, this experience includes well-developed markets, emerging markets and markets in least developed countries.

Not reflected in this chart are the countries that companies have decided to exit or which they evaluated but chose not to enter. Some respondents provided examples of situations in which they made market entry or exit decisions based on a country's regulatory policies. None of the respondents identified a certain geographic region as a particularly troublesome or easy regulatory environment in which to operate.

### C. Summary and Findings

Survey respondents were very open in their discussions with interviewers and offered both broad insights and very specific case examples to detail their views. Respondents' depth of knowledge of their companies' internal systems for managing regulatory information and responses and experience in varied regulatory regimes around the globe provided a wide array of views on matters of regulator-operator interactions. This report compiles the responses, highlighting areas of commonality among respondents as well as areas in which views diverged.

#### Key findings:

- **Regulatory issues are a key factor in market entry and expansion decisions.** Several companies viewed regulatory matters as the top factor in their market entry and expansion decision-making, while most others viewed it as a close second to the market potential in a given market. Several providers detailed the means by which regulatory factors are analyzed and incorporated into risk equations and business case analyses. *All emphasized that both the regulatory/policy environment and particular regulations and decisions are critical factors in their decision-making regarding markets.*
- **Interactions between regulators and operators are most challenging during times of transition.** Companies discussed the particular challenges of dealing with regulatory issues in markets in transition. Times of liberalization and privatization were cited most often by companies as difficult learning phases for both regulators and operators, and periods during which mistakes were most likely to be made. *One particular challenge that several companies noted was the tendency of regulators to protect the incumbent or dominant market player to the detriment of competitors and consumers, during these transitional times.*
- **Companies look at the big picture of the regulatory environment, not just specific regulations. Transparency and responsiveness matter.** Companies varied in their methods for assessing markets, with some companies looking first to the overall environment and others to more specific regulations. Despite varied responses on the ways in which the markets are analyzed, *all companies view transparency of regulatory processes and responsiveness of regulators as extremely important factors in their willingness to enter and stay in markets.*
- **Companies employ a variety of ways to ensure that regulatory information is factored into business planning and decision-making.** Most use cross-functional teams to ensure an appropriate flow of information. While methods of cross-functional communications varied, the majority of companies feel satisfied with their abilities to communicate and appropriately use regulatory information throughout their companies. *Most believe they are equipped to react quickly to changes in regulatory environments that would have detrimental impacts on their companies.*



- **Companies believe that regulators lack a strong understanding of business decision-making.** They discussed several areas in which they think that the dialogue between regulators and operators could improve. Foremost among these areas is regulators' understanding of the ways in which businesses make decisions. Many respondents suggested that regulators who have spent some time in industry have a better understanding of and appreciation for the companies they regulate. *An improved understanding of the factors businesses consider in planning and market entry, most operators noted, would benefit the regulators and the regulatory environment as a whole.*

**Box 1: At a Glance: Key Findings**

- √ In decision making, regulatory issues are not viewed in isolation. Regulatory issues are viewed as part of a larger package of issues, including market, stability, and political factors.
- √ Companies review regulatory environments at a variety of levels. When considering a particular market, many companies first consider high-level issues such as openness and transparency and then move to more specific and financially quantifiable regulatory factors, such as licensing conditions.
- √ While specific areas of regulation such as licensing conditions and advanced services regulation matter to specific types of service providers, transparency matters to all types of companies in the telecommunications market. Transparency sets the tone for all players in the market.
- √ Rules and regulations alone do not equate to transparency for many companies. Companies' perceptions of how transparency plays out in the market are important. Many companies' views of transparency in a market are shaped by regulators' treatment of incumbents versus new market entrants.
- √ Companies' views on transparency are shaped by their position in a market. Incumbents and local players are less likely to question transparency in a particular market than are new market entrants and foreign carriers.
- √ Licensing challenges, especially "extortionately high" licensing fees, were cited as the simplest factor which will quickly eliminate a particular market from consideration.
- √ Foreign ownership restrictions and local partner requirements were also cited as particular reasons why markets are not selected. Companies viewed these regulatory conditions as more complex to assess than licensing terms.
- √ While most companies find it easier to enter multiple markets if the regimes are harmonized or similar, nearly all companies noted that they realistically have to look at each market separately, even when entering markets globally.
- √ Most companies felt that regulators could improve their understanding of new technologies, business practices, business law – including U.S. bankruptcy law, and means of promoting a competitive marketplace. Many companies felt that regulators would benefit from more experience in industry prior to serving in regulatory agencies.
- √ Companies cited rapid turnover in many regulatory agencies as a particular challenge for ongoing communications and information flow.
- √ Responsiveness and flexibility on the part of regulators can outweigh other perceived shortcomings in the regulatory environment.
- √ Companies watch closely for regulatory changes that could be detrimental to them once they are in a market. Nearly all companies surveyed said they react very quickly to new regulations or changes in regulations that may cause problems for their companies.
- √ The dialogue between companies and regulators should continue to grow and develop. Companies believe that both they and regulators should continue to learn how to communicate and be responsive to one another.

## II. ASSESSING THE REGULATORY ENVIRONMENT AND SPECIFIC REGULATORY DECISIONS

There are a variety of approaches companies use to look at the regulatory environments of markets in which they intend to enter or expand service offerings. Companies consider both overarching issues of the regulatory and political environment of markets and the more specific elements of that regulatory structure, such as licensing conditions or interconnection rules, which will impact their ability to provide services. In this section, companies discussed both of these levels of review and detailed whether the general environmental level or review of specific regulations has the larger impact on their decision making.

### A. Making Assessments of the Regulatory Environment: Focus on Specific Issues or the Overall Regulatory Environment?

Companies were asked what their first steps and considerations were, from a regulatory standpoint, when addressing market entry or expansion in a particular market. They discussed whether these initial assessments of the regulatory environment are made at a more general level -- considering transparent processes, independence of the regulator, competitiveness of the marketplace -- or whether they are made at a more specific level -- concerning the impact on the company of specific regulations. Most companies detailed a mix of approaches. A few focused on a single specific regulation, but most looked both at the more general environmental issues and the specifics of particular regulations affecting their services.

A majority said they performed assessments on multiple levels. Most suggested that their review is multi-staged and that looking at the general regulatory environment gives them a first means of sorting out preferred markets. It could be said that they look at the overall regulatory environment as a threshold test for whether or not to give further consideration to the market. Most companies noted that only if the threshold is met, do they then go on to a second stage of assessment, looking at more specific regulations that impact their ability to provide services. In their discussions, companies cited general issues of “openness,” “stability,” and “transparency” as key factors in the first tier of review, and noted that the financial impacts of more specific regulations and conditions dominate the second tier of review.

Later sections will detail the ways in which companies process information on regulatory issues in order to make market entry and expansion decisions. It is worth noting here, though, that companies’ initial views on the general regulatory environment and on specific regulations are impacted by the ways they process and interpret information on regulatory environments. According to one company, “Our means for assessing the regulatory environment as a whole are not very formal, but our means for assessing specific regulations are very formal and specific to their financial implications.”

Five companies indicated that they did not place as much emphasis on an assessment of the general regulatory environment but instead made evaluations on a more specific level.

Four of those five companies are satellite services providers. As explained by one satellite service provider, satellites are a unique market segment and relatively new in terms of global regulation. Therefore, they focus on a single specific issue—licensing requirements—when evaluating the regulatory environment.

Companies generally assess regulatory environments on multiple levels because of the great variation in regimes around the world. However, certain providers must focus on specific regulatory issues that alone can make or break their business plans.

## **B. Specific Regulatory Issues that Affect Business**

After discussing their initial frameworks for reviewing regulatory issues in markets they seek to enter or in which they seek to expand services, each company identified the top five regulatory issues affecting their business. These issues fell into both the categories of general environment and issue-specific regulations, as discussed above.

### **1. Overview of Issues**

The table below provides a summary of how frequently particular issues were mentioned as being considered within the top 3 to 5 regulatory issues.

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**Table 2 - Top regulatory issues**

<b>Top Regulatory Issue</b>	<b>Number of Times Noted by Respondents</b>
Transparency	18
Licensing conditions	10
Independence of regulator	8
Foreign ownership rules	4
Interconnection policies	4
Fees	4
Stability	3
Judicial review	3
Advanced services access	3
Deregulation	2
Regulatory hurdles	2
Taxes	1
Clear regulatory authority	1
Competitive marketplace	1
Regulatory knowledge	1
Timeliness	1

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Transparency was cited by all companies as a top regulatory issue. The predominance of the transparency issue is due, in part, to the variation among the types of companies in the

survey. While more specific regulatory issues, such as licensing or interconnection policies, were noted as the top factor for a number of companies, such issues do not apply equally for all types of providers. Transparency, though, remains a factor for market entrants of all types. Section III of this report will explore in greater depth what companies mean by “transparent” regulatory environments, and how regulatory transparency factors into business decision making.

## 2. Licensing

The ITU *Trends in Telecommunication Reform 2002: Effective Regulation* report discusses the impact of the licensing process on the larger regulatory environment and the market as a whole, noting, “The licensing process can be one of the most important regulatory processes related to reform of the telecommunication sector. Licensing policy and its implementation determine the structure of markets, the number and types of operators, the degree of competition among them, the revenues earned by governments in opening markets, and, ultimately, the efficiency of the supply of the services to the market.”<sup>1</sup>

Operators agreed that licensing is one of the most critical elements of the regulatory landscape. From an operator’s perspective, though, licensing regimes are assessed by slightly simpler means --- primarily cost and equitability. While licensing was cited by a variety of types of providers as a critical market access factor, all of the satellite service providers in the study noted licensing factors as particularly critical for them.

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**Table 3 - Operators’ Views of Key Licensing Factors**

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|--|
| <ul style="list-style-type: none"><li>➤ Number of available licenses</li><li>➤ Fair and equitable licensing processes</li><li>➤ Reasonable licensing fees</li><li>➤ Stability of regime – assurance that license will retain its value</li><li>➤ Obligations preceding (such as bilateral treaties) or attached to (such as local partners) licenses</li></ul> |
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Of the companies citing licensing as a key factor, four spoke specifically to reasonable licensing fees as the most important element of the licensing regime. These companies noted that licensing fees should have some correlation to the costs of processing license applications and monitoring of licensees in the market, and should not be viewed by regulators as “cash cows”. Several companies mentioned cases in which a country’s licensing fees were completely out-of-line with others in the region, and which were not related to the regulator’s costs of overseeing the licensing process. In those cases,

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<sup>1</sup> *Trends in Telecommunication Reform 2002: Effective Regulation*, p. 55.

companies were quick to say that markets that they had considered important would be left out of their business plans if licensing fees were viewed as “extortionist”.

Other companies noted that they weigh licensing costs and challenges against the potential profitability of a given market. One company said, “The costs of getting licenses in Mexico, Russia and China are relatively high, but those markets will deliver returns on investments made in getting those licenses.”

### **3. Local Presence Requirements and Foreign Ownership Restrictions**

Local presence requirements and foreign ownership restrictions were cited by a number of companies as critical to their business decision making. Companies identified these issues as among the more complex elements that factor into their market entry decisions. They viewed the impacts and costs of these requirements as far-reaching and more challenging to analyze than straight-forward licensing costs. One service provider noted that the impacts of these requirements are felt even at the early stages of market entry, saying, “Foreign ownership rules have bogged down incorporation—our first step in getting into markets.”

The following two case examples highlight the financial impacts of local presence requirements and the challenges of finding appropriate local partners. Further, they detail the inequitable benefits often gained by local partners in such arrangements.

#### **Box 2: Case Examples: Satellite operators**

##### *Local Presence Requirements*

“In a number of countries, we as a satellite operator are required to have a local presence in the country, which in some cases means to be incorporated in the country, and in some cases even to employ staff—this constitutes an entry barrier. Given that for space segment sales we do not need to own or operate any telecommunications equipment in the country (our customers do), we do not see the need for this requirement. It creates very high costs for the establishment of the local presence, and investment in the country and any legal fees and the on-going operational costs which result from the need to have a permanent office open in that country, such as salary, if personnel is required.”

##### *Local Partner Arrangements*

“A number of countries have foreign ownership restrictions coupled with the requirement to establish a local company or reseller. This presents a hurdle to us as a global satellite operator, as we need to very carefully select a partner who will also understand the global concerns of our company. Given that the investment in the product to be sold (the space segment) has already been made by the satellite operators, the majority shareholder does not add financial value to the company in proportion to its control share for a variety of customers. In the large majority of countries, our company sells space segment directly to sophisticated customers (e.g. a television broadcaster, a telephone company) so from a commercial point of view, no middleman or reseller is required. The primary purpose of having a majority shareholder is only to fulfill regulatory requirements.”

#### 4. Taxes and Currency Issues

Taxes and currency issues were also cited by a number of providers as being important to their profitability and thus their market entry decision making. Companies view these issues as they do foreign ownership restrictions and local presence requirements, as multi-layered and complex. Companies noted that the impacts of particular tax requirements or currency factors are not often measurable until after they are in the market. Companies cited particular challenges in exporting profits. When a company is evaluating an investment opportunity, restrictions or heavy taxes on profits removed from the jurisdiction are viewed as deterrents to entering or expanding in that market, as they raise risk and limit opportunity. Companies usually rank different investment opportunities in order to decide how to allocate their capital. All things being equal, restrictions on the use or export of profits will cause that opportunity to be ranked lower than an opportunity with no such restrictions.

#### **Box 3: Case Example: Taxation and Currency Issues**

“We face certain risks as a result of the global nature of our business. Certain countries may impose withholding taxes on us or on our customers. These taxes make our services relatively more expensive for customers than the services of local operators. In addition, the taxes may not be imposed equally on our competitors, depending on the nationality of our competitors and the relevant tax treaties that are in place. We also may face difficulties in enforcing our contracts in certain countries. Our major costs, such as satellite construction and launch are in U.S. dollars. While our contracts are generally denominated in U.S. dollars, and therefore are not sensitive to our customer’s local current exchange fluctuations. In some countries, economic conditions and current transfer restrictions may make it difficult for some of our customers to meet their payment obligations or to make foreign payments in U.S. dollars.”

In a similar way, excessive import taxes levied on equipment will result in a lower ranking. In the following case example, one company explains the issues it faces both in terms of taxes and currency matters and how these affect the ability to compete and impose additional risks.

### **III. EVALUATING REGULATORY TRANSPARENCY**

Transparency issues are critical to market entry and market expansion decision making for all service providers. This section provides feedback from companies on issues related to the transparency of regulatory processes, including the particular aspects of transparency most important to companies.

The ITU Effective Regulation Case Study: Singapore, 2001, looked in depth at issues of transparency. It defined transparency as “a means of ensuring fairness in the regulatory process. The principle of transparency translates into the practice of making regulatory decisions in an open, objective manner that allows regulators to explain the reasoning behind their decisions and to be held accountable for their action”. The report categorized

key areas of transparency as regulatory due process, right of appeal, openness and access and ethics rules.

Companies looked at transparency in a slightly broader manner in this study, using “transparency” as an umbrella term. Many looked at transparency issues as a general gauge of their likelihood of success in a given market. Openness, access, and public availability of information were identified as key themes sought from a “transparent” regulatory regime. Systems and processes that do not unfairly favor incumbents are other elements many companies cited as part of the overall “transparency package”.

#### **A. Impact of Regulatory Transparency on Companies’ Decision-Making**

As noted in the section above, all companies included transparency in their list of the top five key regulatory issues. Several companies indicated that they had made decisions on whether to enter, expand or exit a market based on transparency because it is considered critical for the success of the business.

One large European provider, for example, explained that transparency helps reduce risks when entering markets or expanding within markets. “We want to know how things work and that we will be able to know how to approach policy making and the application of regulations in a particular market.”

#### **Box 4: Case Example: Transparency v. Complexity**

“The U.S. process is viewed as very confusing to companies based in other countries. Many companies outside the U.S. find the process very hard to follow and very hard to influence. It seems that companies within the U.S., though, view it as open and transparent. Is it really transparent if it only seems to be so from within?”

Another company noted that its success in navigating the regulatory process is directly linked to transparency. However, transparency must be weighed against complexity. Transparent organizations can also be overly complex and burdensome. Most developed telecommunications markets in the world have regimes that would certainly be considered transparent, but owing to their complexity, many of those regimes are extremely difficult to navigate.

#### **B. Most Important Regulatory Transparency Factors**

Companies were asked to consider the factors they most associated with the notion of transparency and the factors most critical to them in operating in a particular regime. Key factors included: no bias toward the incumbent, clear and publicly available rules and independence of the regulator from the government and the operator. These are important factors to ensure that competitors will be treated fairly and that there is no hidden agenda. Companies also value the ability to make comments to regulators and get reasonable responses to those comments.



Competitive market entrants expressed the importance of not favoring incumbent carriers over non-incumbent competitors. For them, issues of transparency and bias are closely linked and rules alone are not a sufficient indication of transparency. Perception and behavior are also important factors “It is never a good idea for the regulator or minister to travel with the incumbent in the incumbent’s car. These kinds of actions can create the perception of an unfair advantage”, one company explained.

Transparency alone, however, is not sufficient to guard against bias. Impartial rules remain important. Some regulators, for example, have drafted interconnection rules and prices that are favorable only to the privatized incumbent. The regulator may be very open about this objective. While the regulator is transparent, it remains clearly biased.

**Box 5: Case Example: Protecting Incumbents**

“In one country, the new entrant wireless operator, who was opposed by the incumbent operator, was fined because it grew too fast (which was defined as faster than the company had stated in its business plan). At the same time that the new entrant was being fined, consumers could not get phones from the incumbent, and were in fact wait-listed for service for long periods of time. This is an example where everyone loses: the mobile operator was, in effect, punished for doing a good job; the regulator’s attempts to protect the incumbent from the loss of customers was misplaced because the incumbent had significant unmet demand (it lacked capacity – as evidenced by the waiting lists); and consumers lost out as their demand for wireless services continued to be unmet.”

Clear and understandable rules and regulations also need to be made widely available to the public. Rules should be nondiscriminatory and widely publicized, and applicable rules should be readily available to the public and industry, preferably on the Internet or through the regulatory agency or ministry. Contact information with multiple persons should be clearly posted to facilitate processing. Trained personnel should be available during business hours to respond to public inquiries.

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**Table 4 - Transparency Factors**

- No bias favoring incumbent
- Clear rules
- Publicly available rules
- Presence of independent regulator

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Some companies would like to see regulators make available to them:

- The identity of all license applicants rather than just successful licensees
- Feedback from comments they provide to regulators during the consultation process as well as the Results or the status of consultations.

### C. Providing the Same Level of Access and Information to All Providers

When asked whether regulators provide the same level of access and information to all service providers, the consensus was a fairly strong “no”. As noted above in the consideration of more general issues of transparency, the primary area of concern is whether the incumbent operators are given preferential treatment. A major criticism is that rules or decisions are issued in some countries with no opportunity for comment or after consultation with only the incumbent.

Some operators believe that regulators are under pressure to protect government-owned operators whether they be fixed-line or mobile.

#### **Box 6: Case Example: Challenges for New Operator**

“In one Latin American country, upon deregulation, the incumbent retained the monopoly until midnight on the day of deregulation. Our company was not even allowed to test its service, on a non-commercial basis, up until the deadline. We had to ‘go live’ immediately upon deregulation. Unfortunately, some tweaks were needed, and the service was not up to par on the first day. So for some consumers interested in trying us out right away, the service was sub-par, and they never came back.”

Access and information to non-incumbents varies widely from one country to another. Often, even in countries with liberalized regulation, the incumbent (or former national provider) is the only ‘consultee’ on policy. Regulators/policy makers need to consult with users and with all providers -- new entrants and established entrants. Often the decisions are nearly final before the proposal is made public. Regulators will often consult with the incumbent, draft a policy, and post it with little real opportunity for comment by other competitors. Operators view an open process for collecting the views from a wide base of stakeholders prior to formulating the policy as a very important aspect of an effective, transparent regulatory decision-making model.

#### **Box 7: Case Example: Crediting Incumbents**

One company detailed bias in systems transitioning from a monopoly provider to carrier selection on each call of competitive providers. “We have found that in several markets that have carrier selection on each call, that as consumers learn the new system, there is some misdialing. Some markets give equal credit to all providers for any misdialing. Many, though, skew the credits to the incumbent. In those cases, all misdialed calls are accounted as calls made through the incumbent provider. Additionally, the incumbent is often given the number that callers dialed under the old system, while competitors are given new and different numbers.”

To a certain extent it is basic human behavior for both regulators and companies to continue to work with people they know. Companies entering foreign markets face a number of issues, including language and culture, and it takes time to learn new processes. The more the regulatory process is well documented the easier it is for a company that is new to a market.

**Box 8: Case Example: Incumbents' Access to Regulators**

Another company also indicated that better access due to longer term relationships with the regulator does not necessarily translate into greater or more successful influence. "At times the situation is the reverse of what would be expected -- often the incumbent has better access because of the historical relationships, but now we are finding that the regulators do not always recognize when the market power has shifted. For example, in one developing country, we are the incumbent but we are no longer the largest company and have less than 25% market share, yet we have been given no flexibility and are still constrained as if we had a 100% monopoly. Our historical relationship with the regulator and 'access' to the regulator has not translated into greater 'influence' or even into fair regulation for us in that market."

In contrast, several companies noted a trend of greater openness and access to regulators. The further along in the liberalization process and the lower the government's financial stake in the incumbent, the more balanced the access, companies noted. At least one company was optimistic that there have been improvements to date in many markets in providing equitable information and access to all providers in the market, and expected further improvements. That company argued that the challenges for incumbents in regard to the level of access to information are similar to or greater than those faced by new competitors.

**Box 9: Case Example: Assessing Incumbents' Service Provision**

"In one European nation, the regulatory authority has been reluctant to see that many of the new 'wholesale' services offered by the incumbent are causing bottlenecks, and thus the country is now falling behind in developing and offering broadband and ISP data services. The rules need to be flexible enough to adapt to changing market and technical realities. And regulators must be willing to critically assess whether incumbents are able to meet the needs of the market."

All companies face similar challenges in gaining and retaining contacts in regulatory agencies around the globe. The rapid turnover in regulatory agencies affects the incumbent as much as competitors. The level of information and access provided by regulators is thus not often based on long-standing and personal relationships. The challenges of maintaining contacts with regulators is particularly pronounced for companies that seek to offer services in multiple markets.

#### **IV. THE IMPACT OF REGULATION ON BUSINESS**

Regulatory issues are among the most important factors in business planning, new business development, and market entry and expansion decisions. Some companies view the existence or absence of certain regulatory rules or policies as so important that they are deal-makers or deal-breakers. They have a set of regulatory conditions that must be met for them to consider an investment in a particular country. It was described by one

company as a “table stakes” (from gambling, a factor that is a prerequisite for a player to get into the game) condition for its investment in a market. Fifty percent of the companies interviewed for this study ranked regulatory issues as second only to market potential while others consider overall political stability or specific markets issues, such as the strength and compatibility of potential partners or the maturity of a market, to be key.

Regulatory issues cannot be viewed in a vacuum. Regulatory issues are considered with other factors, and are difficult to separate from the broader view of the environment, including market, regulatory and political factors. When all factors are weighed and analyzed, market entry and expansion decisions rest on whether there is a reasonable expectation of earning sufficient returns on investments and recovering the investments over their economic lifetime. Companies must answer to their investors.

There is an abundance of regulatory issues that have measurable impacts on a company including spectrum licensing rules, obligations on service providers and how profits are taxed. Many companies detailed specific aspects of the regulatory environment that make it particularly pertinent for their own business decision making.

One company emphasized that regulatory factors are more critical for the incumbent or dominant company in the market, and in those instances, regulatory issues are weighed above nearly all others. That company further noted that, substantial regulatory burdens effectively serve as natural barriers or obstacles in market expansion for dominant players in the market.

For some companies a liberalized and deregulated market is the key determinant for market entry and expansion. One company further noted that regulatory factors would outweigh almost all other factors unless an extreme need arose to meet a particular demand by entering a market that was not liberalized.

Companies explained that regulatory issues generally did not stand alone as a factor in market entry and expansion decisions but were viewed in the context of several other issues. Most of the companies also noted that the relative weight accorded to regulatory issues versus other issues varies according to the specifics of a given market.

Some companies incorporate regulatory factors with other standard business analysis and finance tools. They noted that regulatory issues are factored in with cash flow, return on investment, revenue per customer and other similar factors and that the actual weighing of regulatory issues against these other factors varies according to the unique characteristics of each market.

Others described potential profitability as their key issue for market entry and expansion decisions and said regulatory issues are one of many issues considered in performing their assessments of potential profitability.

## A. Quantifying Regulatory Factors

There are various ways in which companies attempt to quantify regulatory issues in market entry decisions. The degree of sophistication of the analyses varies across the companies and according to the types of issues. Some companies assign a monetary value to all significant regulatory decisions and use these in their business decision making. For example, a satellite services provider described a formal process of assessing financial impacts of particular regulatory and policy decisions. That company assesses the number of transponders affected by certain regulatory decisions and then analyzes the financial impacts on the company of such decisions. Other companies quantify the regulatory environment as a specific risk factor in a larger equation of risks in market entry. The majority of providers include specific quantifiable elements of the regulatory landscape (i.e. spectrum fees, fees based on revenues, and taxation factors) as risk factors and considerations, but do not quantify the overall regulatory landscape in a general way.

### **Box 10: Business Case Analyses for Market Entry or Expansion**

Companies detailed factors to which they assign numerical values, based on potential risks and rewards, in assessing the business case for a particular market. Values assigned these factors determine, for many companies, whether a market is a “go” or not.

#### **Top Ranked Factors:**

- Size of Market (potential number of customers and sector revenues)
- Potential Profitability (including return on investment, revenue per customer, etc.)
- Regulatory Risks (including transparency issues, liberalization, regulatory trends, particular rules and regulations)
- Regulatory Costs (licensing fees, tax provisions; administrative burdens)
- Time to Market issues (including in-country presence requirements, time for licensing and regulatory decisions)
- Overall political and economic stability including stable currency

#### **Second Tier Factors:**

- Internally controllable factors
- Operational issues

## B. How Companies Assess the Business Implications of Regulations and Policies

Regulatory information gathering is essential to many companies’ business strategies. For this reason it is important for regulators to understand the means by which companies process and use regulatory information in their decision-making. Companies employ a variety of processes and systems to share information about regulatory and policy matters with other functional areas within their company to ensure that regulatory and policy matters are included in business planning, and to guarantee that key decision-makers are sufficiently informed of changes in the regulatory environment. Information sharing

within companies has become more challenging as they expand operations around the globe and face a variety of national regulatory approaches.

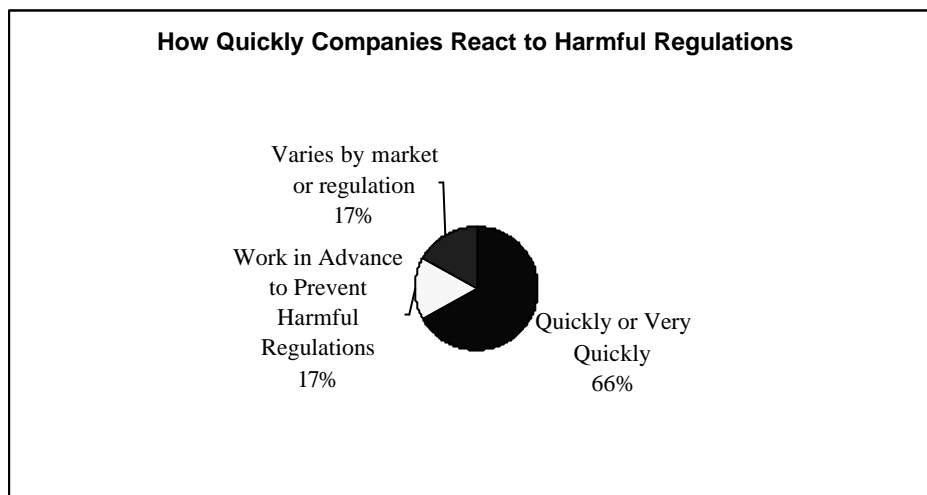
Companies have varied degrees of comfort and success with their processes of internal communications on regulatory issues and the related incorporation of regulatory issues into business planning.

Regulatory teams within companies may use country surveys, overviews, “news flashes” or other reporting processes. They make these available to other functional groups within the company to rank regulatory risks as part of their business case analysis. They attempt to ensure that the regulatory environment and key issues are fully communicated and understood in the business planning and evaluation processes. For example, some regulatory teams work closely with sales and marketing departments to ensure that market access is attained and maintained. Information about key regulatory issues is also considered in network planning and design. In other companies, regulatory factors dictate their business strategies. One satellite service provider seeking global access for its services noted that its regulatory team and business development team are inseparable. Regulatory factors lead that company’s business decision making, and regulatory and business development staff work together in markets where the regulatory team sees opportunities. That company calls licensing and regulatory factors affecting its ability to provide service the determining factors in where it takes its business.

While companies have several ways to capture, communicate, analyze and integrate regulatory issues and policies, the true effectiveness of these processes is often reflected in a company’s ability to deal with the downside of regulatory change. Nearly all companies believe they are able to react very quickly to changes in regulations or new regulations that would adversely impact their businesses. Some, however, indicated that they are unable to react immediately to regulatory changes.

Companies also seek to work with regulators in advance to prevent the adoption of harmful decisions. They try to be proactive, so that they do not have to be reactive. It is for this reason that companies endeavor to review and comment on proposed regulations that could adversely affect their ability to do business.

**Figure 2 – How quickly companies react to harmful regulations**



### C. Addressing Varied Regimes Across Multiple Markets

Many of the companies interviewed provide service in several different countries and therefore face a variety of regulatory conditions and regimes. One impetus for serving a number of different countries is that the marketplace for many communication services is becoming global. Individual consumers have become more mobile, routinely traveling across national boundaries. Businesses have offices around the globe, and people are developing a common understanding and expectation about telecommunication services, requiring companies to maintain a look and feel across borders to meet customer demand. This section considers the ways in which companies deal with varied regimes in multiple markets, including the ways they structure their services to gain authorization in multiple markets. It also considers the means by which business planning is affected by the need to structure services in ways that meet the requirements of the new “global consumer”. Finally, this section reviews the factors considered in seeking markets with a common or harmonized approach to regulation.

Companies can realize substantial commercial and operational benefits in markets which have significantly similar regulatory structures across country borders. For example, companies must devote time and resources to investigate and comply with individual national regulatory requirements. Often, they must employ local legal counsel, adding to their legal costs. Regional regulatory harmonization, such as in the European Union, facilitates streamlined operations and allows operators to provide uniform service offerings to customers across country boundaries in a more cost-effective fashion. Likewise, the 44 countries of the European Conference of Postal and Telecommunications Administrations (CEPT) are attempting to harmonize licensing

requirements across the region. Companies have noted that such attempts at harmonization will help to foster business and competition.

While many companies said that they support the idea of regional harmonized regulatory environments in principle, they noted many practical difficulties stemming from the fact that markets are in different stages of development, liberalization and competition.

Most companies noted that until regulatory harmonization is practicably achieved, a market-by-market approach is the most effective means for dealing with varied regulatory regimes. For some companies, the need to be in a specific market is more important than the desire to have a common regulatory approach. These companies place greater importance on fair rules which are consistently applied because they determine profit potential on a market-by-market basis.

The strategy of other companies is to work closely with countries that are viewed as regional leaders to ensure that market access conditions there are favorable, with the goal that other markets in the region will follow their lead.

**Box 11: Case Example: The “Work Around” Philosophy**

“Our company makes every attempt to choose markets that have similar regimes, as this strategy allows us to offer a similar product across all markets. We have found that, in general, we can work within the regulatory rules of a particular market in order to craft a workable offering. However, if the rules are too different or impose operational fees or costs that are too high (meaning that the costs are such that they have a significant impact on the projected return on investment), our company will avoid that particular market.

In situations where the regulatory costs are rated as too high to justify entrance into a market, there is often a neighboring market that is more ‘friendly’ and thus we will locate there instead. This is known within the company as the ‘work around’ philosophy. A specific example of this strategy took place in two countries in Asia. Country A has a very liberal regulatory regime, with minimal regulation, and the regulators are perceived as easy to do business with. On the other hand, Country B is liberalized on paper, but not yet in reality. The regulators there are perceived as very difficult to work with. There are multiple decision makers, and multiple fees are imposed (including payoffs). Therefore, we have located our offices in Country A, and the businesses and operators from Country B that want to connect have to come to Country A.”



**Box 12: Case Example: Regional Leadership**

“Our company looks for regional leaders that can pull their weight politically in the region and/or in other countries. For example, we realize that France’s decisions have considerable impact on francophone Africa, and so France is necessarily a key country for us. The same is true of the European Conference of Postal and Telecommunications Administrations (CEPT). What 44 European countries decide has considerable impact on the developing world. So we watch closely the regulatory and policy issues in such countries and organizations.”

Sometimes, however, countries that we have viewed as regional leaders have made decisions that forced us to work around them. For example, one particular African country, which is generally viewed as a regional leader with important political pull imposed a completely exorbitant fee to license us. The fee was a non-starter for us. We are out of that market, and cannot view that country as a regional leader in seeking to access neighboring markets.”

## **V. VIEWS ON REGULATORS’ KNOWLEDGE AND HOW COMPANIES COMMUNICATE WITH REGULATORS**

Communication between regulators and companies is clearly important for sound policy and regulatory implementation. Companies expend significant resources in working with regulators not only to advocate particular positions but also to provide a better understanding of general business issues. This section addresses operators’ views on the level of awareness and understanding by regulators of the particular issues they face, the means by which they communicate with regulators, and their views on the successes and challenges of these interactions. This section also considers how regulators’ responsiveness affects the companies’ decisions with regard to commitment to particular markets. Responsiveness can be an important factor that may outweigh other perceived shortcomings in the regulatory environment. This section also considers companies’ views of their greatest challenges in this arena.

### **A. How Well Regulators Understand Companies’ Business Concerns and the Way Companies Make Decisions**

The level of understanding by regulators of business concerns varies depending on market conditions, the type of service provided and individual regulatory officials’ own expertise. In addition, some companies suggested that regulators should improve their understanding of operational issues, business goals and targets and operators’ business philosophy. Some noted that while many regulators understand the theory behind companies’ operations, few understand those operations put into practice.

Some companies believe that the average level of understanding of business issues by regulators is poor. However, they felt that as markets advanced in terms of privatization and liberalization, regulatory agencies of those markets also advanced in terms of their

understanding of business issues. Companies noted that almost all regulators are willing to listen to providers with genuine interest.

**Box 13: Case Example: Understanding U.S. Bankruptcy Law and Impact on Overseas Operations**

“For our company, the issue that regulators around the globe least understand is United States bankruptcy law. Most countries do not have a separation between Chapter 11 [reorganization] and Chapter 7 [liquidation] proceedings. For many countries, there is only Chapter 7. As such, few understand how Chapter 11 actually works. This has meant that many of our licenses were revoked, and we continue to sort these issues out daily. We are asked in some countries to both pay back license fees for the local company for which they revoked the license when we [the US based company] went Chapter 11 (although the local companies did not go Chapter 11), and form a new company. This shows a lack of understanding of our business situation and concerns.”

A number of companies felt that regulators’ understanding varied according to their own experiences. Generally, regulators have some understanding of business practices if they come from the liberalized markets, and companies felt that regulators benefit from time spent working in private industry. One frequent criticism was that most regulators have no experience in a competitively operating firm. They tend to focus on managing the regulatory agency, not on the needs of an individual company.

Other companies felt that regulators’ level of business knowledge varies according to the types of services being provided. Most felt that regulators have a better understanding of the business decision-making and the impacts of regulations on traditional services than on non-traditional services, and suggested that regulators need to improve their awareness and understanding of new and advanced services. Most companies expressed the opinion that regulators today are interested in learning about how business works, in finding ways to regulate that do not undermine business objectives, and in learning about emerging technologies. Some companies noted, however, that this interest in learning about new technologies is sometimes juxtaposed against regulators’ reluctance to show that their knowledge in a particular areas is low. Some companies noted that regulators seem interested in learning about new technologies after some pressing, but few are interested at first blush. For many it is a generational issue, regulators seem less interested in learning about new technologies and new regulatory models later in their careers.

One company linked the issue of regulators’ understanding of business models to larger issues for consumers in the market. It explained that regulators may not fully grasp that in the end companies must make money and that regulation is not the most important consideration for businesses. The market and what consumers want and are willing to pay for is a stronger force than regulation. Regulators still do not fully comprehend that many times regulations may serve as a barrier to customers receiving better service at reasonable or even cheaper prices. This can be best achieved if regulation fosters a choice of service providers.

Other companies credit cross-border communications among regulators for improved understanding of the markets they regulate. Some regulators are not only sharing information about how they regulate but are also looking at whether particular policies have had adverse impacts. As a result, one provider suggested that many regulators are working to adapt their own processes to avoid or mitigate such outcomes. For example, in the past, spectrum auctions tended to be viewed in isolation as a national matter when the aggregate effect was devastating. Now other countries are more circumspect in jumping onto the auction bandwagon. One company cited a July 2002 summit in the Dominican Republic, held by the Hispanoamerican Association of Research Centres and Telecommunications Companies (AHCIET) and the Latin American Forum of Telecommunications Regulators (REGULATEL) as particularly useful in opening the dialogue and debate on emerging issues, such as spectrum auctions.

### **1. The Impact of Regulatory Responsiveness on Serving Markets**

There is a relationship between companies' willingness to enter or stay in a particular market and regulators' responsiveness to business concerns. As a stand-alone factor, however, regulatory responsiveness does not usually prevent a company from entering a market, in part because the company will not have a true meter of the regulator's responsiveness until it has entered the market. Moreover, companies generally cannot forego business opportunities simply because of the lack of responsiveness of the regulator. The result may be that unresponsive regulators erroneously conclude that their actions are not problematic. As a provider indicated, "There might be little choice as the opportunity risks involved in not entering a market may far outweigh any savings from not entering a market due to regulatory responses or decisions. This, in turn, may be a disadvantage as it gives an impression to the regulator that the regulator's decisions and actions won't really hurt the company, since licensees 'manage to survive' despite the regulatory decisions."

**Box 14: Case Example: Regulatory Responsiveness Best Practice**

"The responsiveness of one Western European country made it very easy for us to navigate the regulatory processes there. The regulators understood the business issues our company was facing. They offered great flexibility and allowed us to file in English. They engaged in a great deal of back-and-forth with us, both electronically and over the phone, helping us get our paperwork into shape. They were very clear and went through point-by-point with us what they needed."

Responsiveness, however, does matter, in particular on licensing issues. There is a tendency for companies to walk away from markets in which regulators are not responsive on licensing issues. Speed of licensing determines speed of engagement in the market. In terms of new services, companies will seek to provide services in countries in which they can rapidly meet the regulatory requirements.

## **B. Methods and Levels of Communications with Regulators**

This section describes the particular means by which companies communicate with regulators, the levels at which these communications occur, and the usefulness to them of multinational fora and discussions. The section also addresses the challenges companies face in dealing with regulators and the suggestions they offer to regulators to improve their communications and interactions with operators.

Companies use a variety of methods to communicate with regulators, including participating in formal proceedings, written submissions and communications, informal meetings and in-person meetings. Typically, companies noted that the type of communications they use is dictated by the process and rules of the market, or by the means they find most successful in a given market. Companies find in-person meetings to be the most effective way to communicate with regulators. However, another company noted that it is also the most costly form of communication for providers that are active in more than one country.

In addition, companies use regional or global fora such as the ITU Global Symposium for Regulators to communicate informally with national regulatory authorities. One company noted that such fora are often very useful because of their cordial atmosphere. Regional and global meetings such as those hosted by ITU or regional organizations allow companies to address common issues and provide more of the educational and background information that can be important for regulators in order for them to make the best possible decisions. These meetings also enable newer regulators to consult with more experienced regulators in order to improve their own processes.

Some providers even use such regional or international meetings as their primary means of communicating with national regulatory authorities. One operator noted that the benefits of such fora are two-fold, offering an opportunity to have discussions with particular regulators, and allowing an opportunity to influence policy development. These regional and global meetings provide a neutral and non-adversarial territory for open discussions that facilitate learning and the resolution of issues in constructive ways.

### **1. Challenges Companies Face in Interacting with Regulators**

The greatest challenge providers face in dealing with regulators include: the market transition process, staff turnover among regulatory authorities, and timeliness of responses from regulators. Others noted that bias in favor of government-owned incumbents is nearly impossible to overcome.

The market transition process is challenging because it is sometimes very difficult for new regulators to understand how market forces will work. During the early market liberalization stage, regulators are usually so focused on structural changes within the PTT and the government that they are not able to focus on business and competition issues.

Staff turnover issues, like sudden staffing changes based on political shifts, poses a particular challenge for providers serving several geographic markets. “There are too many countries and regulators to keep up with, especially because of the high turnover rate in many regulatory entities that are tied to political changes”, one company explained.

In addition, the lack of timely action can halt all progress for a company seeking to move forward and provide services in a given market. For example, one provider noted that the regulator in one country never responded to its efforts to find out if a decision had been reached on a pending issue. Where companies perceive that regulators’ decisions or policy create an unworkable climate, companies have indicated that they will avoid entering that market.

## 2. Advice for Regulators on the Impact of their Regulations on the Market

Companies were also asked for the most useful advice they could offer regulators in terms of the influence of their regulations on the market and on the companies they regulate. Several themes emerged, many of which were discussed in greater detail in preceding sections.

### **Box 15: Case Example: Inefficient Regulation**

“In one country in Asia, it is prohibited to interconnect international private lines into the PSTN, so if you locate a call center in this country and you also have customers in the country, you must maintain two separate call centers -- one for within the country and one to serve customers outside of the country. This is simply inefficient and requires duplicating networks, equipment and other facilities as well as labor forces. Many of the equipment components, call routing, servers, and other computing infrastructure could easily serve the work load of both call centers, but the regulation prohibits their interconnection. It is a good example of regulatory policy imposing inefficiencies on business -- a real disincentive for locating in the country.”

### *The link between limiting regulation and promoting competition*

- A key message is that regulators should not be afraid to rely upon market forces, even realizing that they are not perfect. Regulation should be limited to situations where there is bottleneck control or monopoly power sufficient to create harm.
- Regulation can do more harm than good. Regulators should rely on competition laws as much as possible and only use sector specific regulation when there is a demonstrated, on-going abuse of market power. One provider stated this notion quite simply: “Regulate less, compete more.”
- For a competitive firm to enter a market, regulators need to have the basic liberalization package well implemented to even be considered for expansion. There is a great need to do more to ensure that deregulation happens. Regulators need to promulgate the rules and ensure deregulation, not just nominally declare it.

*The licensing process*

- Making the licensing process complex blocks a competitive marketplace from developing. Specifically, tying the spectrum license to the services license limits competition on the ground and limits the ability of the spectrum license holder to successfully navigate the market. Furthermore, expediting the licensing process expedites delivery of services.

*The impact of protectionist tendencies*

- Regulators should look broadly at the impact of regulatory decisions on the market and on consumers, and not be so worried about the impact on the incumbent. This same respondent went on to say, “Regulators tend to think that they already know what consumers need, but are often wrong, and have many misconceptions.” They suggested that regulators need to not only improve knowledge about the companies they regulate, but also about consumer impacts and attitudes.
- Perception of barriers to entry is critical, as companies will stay out of a market if the barriers are perceived as being too high. This, in addition to the size and potential profitability of a market, is the largest factor in decisions about market entry and/or expansion.

## VI. CONCLUDING PERSPECTIVES

Companies are driven primarily by market forces. Accordingly, companies tend to have a very business-like approach to assessing the regulatory impacts on their business. Companies have identified a number of key regulatory or policy environment conditions that they approach with a binary evaluation technique. That is, unless a certain set of conditions or regulations are in place, they will not offer service in that market. Once the company has determined that the market meets these threshold conditions, it uses more sophisticated financial modeling to answer the fundamental question: Will we make a profit?

Regulatory decisions have a direct impact on companies’ willingness to serve a market because of their effect on the degree of total business risk companies face. Transparency and openness in the regulatory decision-making process are important factors in reducing this risk. Transparency of regulatory processes is a primary concern to the private sector. In conveying the elements they view as important in terms of transparency, companies had a strong message about bias in the regulatory process: as long as government holds a financial or managerial stake in any operator, the regulator will always be pulled between protecting this operator and acting for the best of the market overall.

As a group, the companies and the associations interviewed believe that regulators could improve their understanding of the ways that regulations affect the marketplace. Several emphasized that doing so requires more than assessing the impacts on one or all of the providers. The companies suggested that regulators need to look more to the impacts on customers. Further, they encourage regulators to reach out to consumers and

communicate directly with them to ensure that their views are well understood and represented in the regulatory policy-setting and decision-making process.

Another improvement area for regulators to consider is general business knowledge and understanding of business operations. Companies observed that many regulators and regulatory staffs have little experience outside of government or work within small monopoly PTTs, which makes it difficult for the regulators to understand the operators' points of view. They believe that regulators' understanding and decision-making would improve with broadening of their expertise.

*While much of this report focuses on the company perceptions of regulators, it would be a mistake to conclude that improvement should come only from regulators. One company said, "To some degree we, both the company and the regulators, have to learn how to communicate and be responsive to each other as we go. The challenges are often higher than expected." We authors believe this particular insight has captured an important concept for both companies and regulators. There is a need for improvement of communication skills and continued learning on both sides. Further, neither party has the capability to foretell the future. Mutual acknowledgement of these "imperfections" may be a means for improving relationships and performance of companies and regulators to the ultimate benefit of consumers.*