



# ITU/NBTC Seminar on Telecommunications Regulatory Best Practices: Towards the Digital Economy Thailand

Tuesday 24 March 2015, NBTC Auditorium, Bangkok, Thailand



## Session 1 Converged licensing framework

*What, who and how to regulate?*

# Outline

- Background
- Policy Objectives
- Licensing
  - What to license
  - Who should license
  - How to license
- Best Practice examples
- Conclusions

# Sector structure

- **Country or State**
- **Government**
- **Independent Regulator**

# Country or State

- **policies and rules:**

- clear and precise taking in consideration innovation, technology, globalization, information and knowledge.
  - defined by parliaments and governments in such a way that all people will have access to ICTs.
  - precise Institutional Structure

# Government

- should design strategies to apply and develop such policies to make the sector competitive and facilitate changes in the chain of value of enterprise regarding to innovation.

# Independent Regulators

- should develop rules *according to country policies and government strategies.*

# Ideas

## **Develop government policies as Regulator:**

- Within a convergent and multi sub-sector system
- Within new or innovation concepts on:
  - Services
  - Licences
  - Spectrum
  - Networks, etc.
  - Universal Service
- Harmonization for the sub-sectors

# Services Regulation:

- Multi services: triple or multiple play with in a convergent structure: internet, data and video.
- Access for everyone to all services
- Voice is only a part of services



# Country and Government policies:

To *maximized investment efficiency* a Country could decide to open to competition and privatize the ICT sector operation.

➤ **Regulator** should look for a means to develop such policy.

# Regulators

Supporting pro-competition policy:

- Use of **Licensing strategies** to facilitate the entrance of new investors and operators to enhance competitive environment.

# Policy Objective

*Access and use of ICTs offers a tremendous opportunity to increase economic and social development...*


































































Therefore, the Policy Objective could be:

**“to provide citizens and businesses with the access and the skills to use ICTs at affordable prices, as fast as possible, to be able to compete in the knowledge economy, and to spread the benefits to all society, including rural areas, poor people and disadvantaged”.**

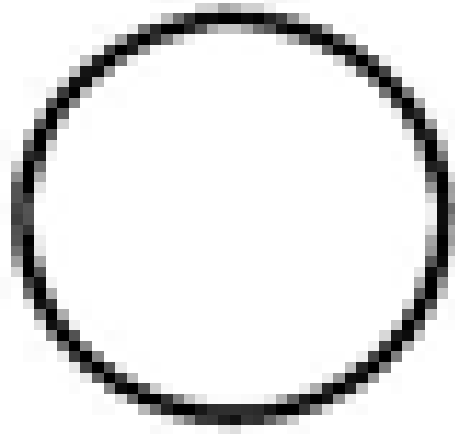
**WHAT**

# Highlights of the regulatory model

- Interconnection
- Access service
- Universal service
- Tariffs, Balance of tariffs , Cross subsidy
- Value added and Internet access
- Competition rules
- General structure of Regulation

Regulatory Functions	Before Convergence			Convergence
	Telecom	TI	Video	
Market Development.				
Promotion and Defence of Competition.				
Numbering, Names and Addresses.				
Emergency services.				
Service quality.				
Licences regime.				
Spectrum Control.				
Spectrum management and Assign.				
Interconnection Regimen.				
Passive Infrastructure Access.				
Broad Band promotion.				
Tariff and cost management.				
Content regulation.				
Access/Universal Service.				
User protection.				
<p>  = None     = Low     = Medium     = High     = Complete </p> <p>Source: "Funciones de un regulador convergente en telecomunicaciones acceso a internet y medios audiovisuales." Regulatel, Cepal, Clara. R. Bustillo Nov 2009</p>				

# WHAT?



Regulate **NOTHING!**

Leave regulation to the market

*Aim to resolve conflicts between operators*



# *Alternatively* regulate **EVERYTHING**

**Voice**

**Data**

**Video**

**Licensing**

**Price control**

**Market**

**Competition**

**Spectrum**

**Quality of service**

**Access and Universal Service**

**Etc.**

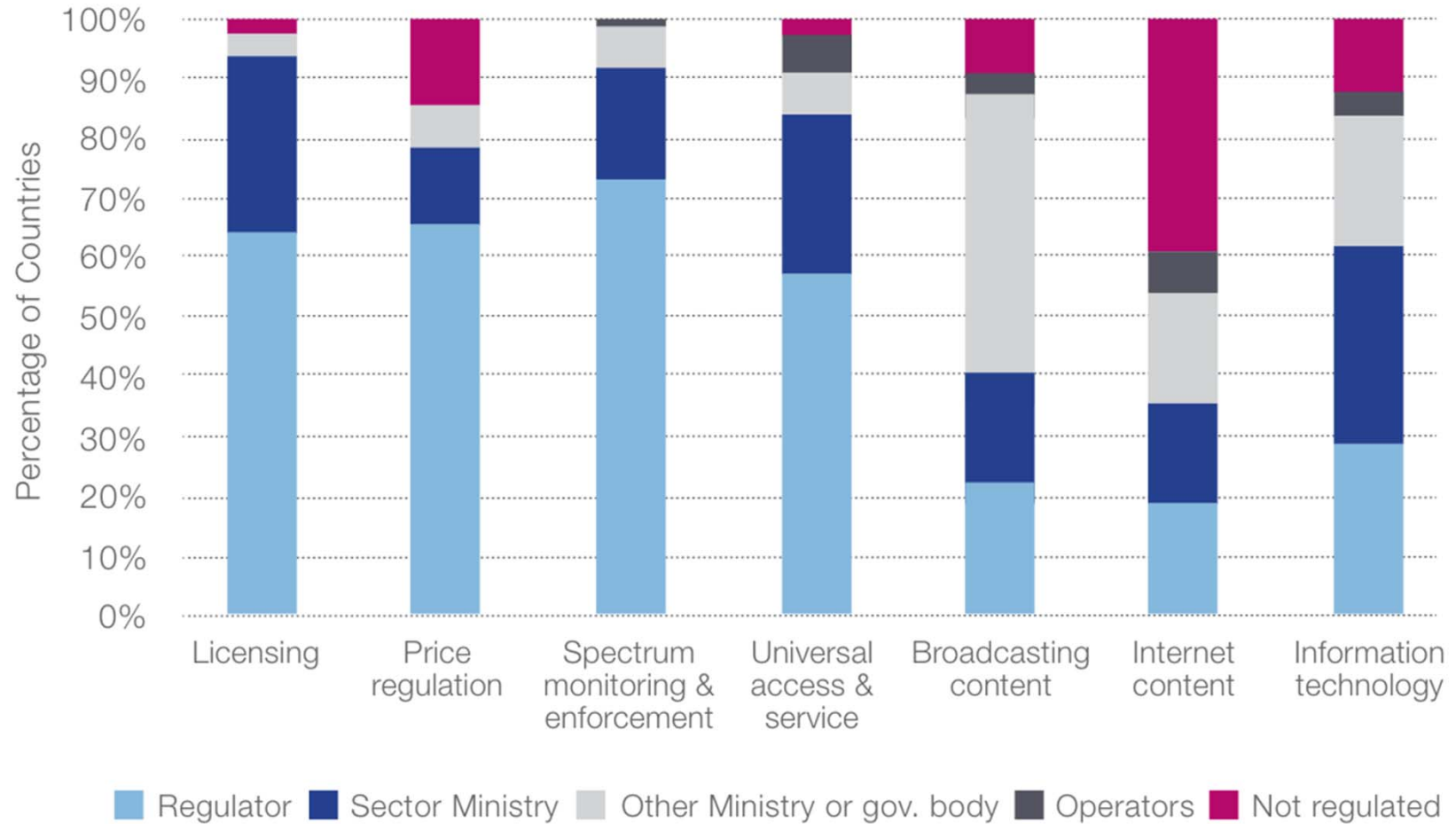
## Basic questions of policy and regulation affecting mainly the following:

- **Licensing regime**  
Licensing environments are different from the actual traditional scheme, due primarily to the current absence of formal licensing.
- **Interconnection regime**
- **Management costs and fees**
- **Management of the spectrum**
- **Numbering**
- **Consumer protection**
- **Public policies**
- **Regulation of broadcasting**

**WHO?**

# Who Regulates what in ICT

Source: The state of broadband ITU: Broadband for all, A report by the broadband commission



# WHO?

- Government?
- Operator ?
- Minister ?
- Regulator with in government structure under
  - Head of Government or Presidency ?
  - ICT ministry ?
  - Economy Ministry ?
- Regulator Independent from operator and government ?

# Regulation

## **An ICT regulator within a new model**

- Agencies or entities responsibly for this function
- With clear and defined characteristics
- Universally accepted as necessary
- That allow a good developed of the sector
- Without limitations and constrains
- Attracting investors and financing
- Improving the use of human capital

**Exchange of information and experiences between different countries regulators is crucial for getting a good and quality regulation.**

## Why it should be Independent from operator and government?

Because it should be:

- Technical and professional
- Not depending of bureaucracy
- Not depending from politician
- Without pressures
- Transparent
- And.....

# Independence from operator and government

- Facilitates the regulation and conditions related to make regulation transparent.
- Facilitates the technical option
- Could be more efficient
- Less affected by bureaucracy and politicians
- Efficient structure
- Without external pressures



### *Finally a regulator should be able to:*

- Ensure that operators of telecommunications and ICTs services, can offer the widest range of services to improve the cost structure and provide better user fees.
- Remove barriers that limit the provision of services and prevents consumers to benefit from modern services.
- Adjust and modernize concessions.
- Modernizing regulatory concepts of interconnection charges, fees and rates, services, networks, etc.
- Adjust management of spectrum
- Allow more opportunities in spectrum management.
- Promotes benefits for the customers or user

**HOW?**

# HOW

The role of the regulator must at all times meet the guidelines of state policies.

- Trying to organize the market, so it does not become a constraint to the development and application of the modern technologies of communications and information.

# Rules

## *Aims:*

- Attract investment
- Expand Networks
- Encourage competition
- Reduce the protections
- Efficient tariff and rates
- Promote competition
- Reduce intervention
- Simplify licences regimen

# Convergence

*Convergence arises through digitization, the ability to convert any type of information or content in a data set that can be processed, stored and distributed digitally.*

# Licensing

Convergence allows operators to use their facilities to provide services not covered by their licences. Hence the convergence, broadband and next generation networks (NGNs) will have a profound impact on the current policy and regulatory framework.

# Licensing

So, benefits and challenges ahead in an environment of technological convergence are as follows:

- Promotes competition: allows operators and users to get all the benefits of technology directly without regulatory restrictions;
- Encourages the development of technologies and increasingly efficient services;
- Reduced costs;
- Allows packages or custom services to meet the needs of users;
- Increases regulatory responsibility.
- Challenges the existing regulatory framework based on the reference document of the WTO in many respects;

# Licensing

Policy makers are questioning the utility of licensing and demanding that licenses be adapted to achieve the policy objectives of the sector. Many countries have been changing their regulatory frameworks to address this situation by simplifying their licensing regimes. This has been implemented primarily to:

- The introduction of technologically neutral licensing to a broader category of services or;
- Establishment of a technologically neutral unified license that allows operators to provide multiple services under one license using any technology or;
- Non-licensing, whereby the operator simply sends a notification or registration to the Agency or regulator appointed by the Government,



# **Best practice licensing frameworks globally**

# Regulation in Europe

Country	Rules or Laws	Characteristics
1.- South Korea	Decree of Broadcasting Law (Broadcast) N° 20947, Jul. 29, 2008	Solve the problem definition of IPTV as telecommunications or broadcasting
2.- Spain	General Telecommunications Law 32/2003, of November 3	Regulation of electronic communications within telecommunications; notification of public services; universal service including functional access to Internet; spectrum rights cession; automatic titles adaptation
3.- United States	Telecommunications law of 1996	Introduce topic of intra modal competence; digital television; permits cable operators to offer phone services; content regulation
4.- Finland	Communication Market Law N° 393/2003	Convergence of broadcasting and Telecommunications; public services could be offer thru a simple notification; multiservice licences
5.- France	Electronic communication and audio-visual communication services Law N° 2004-669	Licence thru a simple notification; licence for public services without a term; no restriction to a property cable networks; regulation of Internet only when carried voice; separate regulators for telecommunications and audio-visual

# Regulation in Europe

Country	Rules or Laws	Characteristics
6.- Ireland	Communication regulation law of 2002	Regulation of all type of networks; Licence thru a simple notification; general authorization for services; technological neutrality; separate regulators for telecommunications and audio-visual
7.- Italy	Electronic Communication Code N° 259 de 2003	Licence thru a simple notification; general authorization for services; technological neutrality; VOIP regulation; spectrum transfer thru a simple notification
8.- Japan	Services of telecommunication on broadcasting law of 2002	Solve the problem of IPTV in Japan between two Ministries
9.- Nederland	Telecommunications Reform of the law 2004	It is not require licences to operate a network of communications, only requires a register; it is possible to transfer spectrum licences previous ministerial approval; unbundling local loop even at level of NGNs
10.- Portugal	Communications law N° 5/2004	A single title certificate: General Authorization; single authorization process; General permission has indefinitely; licenses for the spectrum can be easily transferred; spectrum can be traded between individuals
11.- Sweden	Electronic Communications law N° 2003:389	Simple procedure for authorizations; transfer of licenses subject to approval; cost model based on IP network

## Regulation in Europe final comments:

*Observation shows that most European countries adopted the package of community telecommunications within their respective legislation. Finland establish a regime which expressly refers to the convergence of telecommunications services. The UK is typical of a converged regulator, whose legislation is open and flexible*

# *Competition* as the scenario

New concepts are applied:

- Efficient costs and tariffs
- It is not possible to charge customers rates above costs
- Telecom users are now considered clients
- High Quality is a big issue
- Telecommunications becomes a way of doing business

# Regulation Definitions

Process to make or generate specific or general rules in terms of the law, subject to the behaviour of individuals or companies offering services within norms, principles and *responsibilities defined by law and regulation*.

OR

Process to make or generate specific or general rules for intervention in the economy, subject to the behaviour of companies or individuals offering services in terms of norms, principles and *responsibilities set by the economic process*, when government intervention is necessary.

# Support

Regulators require:

- Infrastructure
- Generic services
- Professionals knowledgeable in Regulation
- Resources and financing
- Human Capital

# Conclusions

- Regulators must adapt to actual situation, changing its structure and, where necessary, taking the necessary steps to intervene in the different markets in the ICT industry
- Regulators should become the biggest promoter of reforms, and engage with policy makers on reforms that promote innovation.
- Regulations should be amended passing the regulatory regime for services, to a general regulation to provide ICT services, with a focus to facilitate competition
- Should prioritize the concept of minimal regulation
- Regulation ex post should be the default position
- Regulators should be responsible for licencing.



Thank you

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