

Realities of Regulation in a Changing World

Relations between the regulator and regulated companies

Bill Wigglesworth

Yasmine Hammamet, Tunisia

13 November 2005

Regulatory and sectoral goals

- Regulator's central aim is to create the circumstances for a successful telecommunications sector:
 - efficient
 - profitable
 - good services
 - value for money
 - extended access to affordable services
- Regulated companies have similar goals
- This creates a strong shared interest, despite inevitable tensions

An effective working relationship

- regulation can be either friend or foe to the main operating company or companies
- company and regulator have a common interest in the success of the sector
- the best basis for this is successful main operators: competitive/profitable/innovative
- but the regulator also needs to enable effective competition to develop
- successful resolution of this tension depends on an effective working relationship

Elements of effective relationship

- will to succeed by regulator and company
- positive approach to each other's concerns
- active management (on both sides)
- practical arrangements, e.g. interconnection
- provision of full information
- arrangements to ensure compliance
- straightforward approach to enforcement

Managing the relationship

- the relationship needs to be actively managed, like any other in business
- this is the prime task of the company's regulatory affairs department (RAD)
- the RAD needs to match the skills of the regulatory body and develop effective relations with it at working level
- the RAD must also command the respect of top management and develop good communications throughout the company

Interconnection

- fair and effective interconnection arrangements are essential to the development of a telecoms market
- a unit within RAD should be responsible for ensuring :
 - a standard response to interconnection requests: by means of an internal code of practice
 - prompt solutions to operational difficulties by means of an engineering manual
 - the availability of information to new entrants, graded to reflect their closeness to market entry

Information

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

Summary incumbent compliance programme

- effective internal compliance works
- features of compliance programme:
 - ensures awareness where necessary
 - tailored delivery
 - embed into culture
 - auditable process with regular review
- enforcement:
 - failures will still occur
 - effective and speedy resolution key

Incumbent response to compliance failure

- should be frank recognition that, despite best efforts, failure will sometimes occur
- further level of compliance programme
- need to:
 - defend against allegation; or
 - show corrective action taken
- effective and speedy resolution key
- project management

UK example

- “BT denies “poach” claim. Oftel to investigate Internet sales”. *Independent*, 21/9/98
- BT telesales operator spotted calls to CIX modem in “friends and family” numbers; and offered to send CD-Rom for BT’s new pay-as-you-go Internet service (Click)
- “We know we are not allowed to do it”. BT
- “If this is not their policy, it is good news”. UUNet public relations manager

Approach to enforcement

- stress the positive nature of the process
- test of professional relationship between regulator and incumbent
- avoid “climate of blame”
- concentrate on corrective measures to prevent repetition of licence breach
- allow company management to take credit when response is effective

Benefits of regulation

- staff training to meet regulatory requirements can have positive impact in:
 - improving responsiveness to customers
 - enhancing management discipline
- incentives to improve performance can have strong commercial benefit:
 - e.g. price control; quality of service
- rules to ensure fair competition can greatly enhance competitiveness:
 - e.g. accounting separation

Case study: UK (OfTel and BT)

- UK example generally bears out these points
- although initially slow to adapt, BT's response to regulation became a major source of its commercial success
- key points:
 - price control; quality of service; accounting separation; interconnection; 1996 price review
- BT 1999 report put OfTel top in Europe

Conclusions

- regulation is an essential element in telecom reform; pace of change accelerating
- each main operator should seek to turn this situation to their advantage by:
 - establishing a strong and effective relationship with the regulator
 - ensuring that all regulatory decisions take full and fair account of the company's position
- in this way the companies can take the lead in the telecom reform revolution and ensure their proper place in the developing market