

Realities of Regulation in a Changing World

Why regulate in a broadband environment?

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The reasons for regulation

- regulation is one of the three key elements in the telecom reform process:
 - Liberalisation (introduction of competition)
 - Privatisation (reduction of direct government interest in the incumbent operator)
 - Regulation (setting up regulatory body)
- each element is essential and reinforces the others

Initial regulatory objectives

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

Ultimate aim

- to create the circumstances for a successful telecommunications sector:
 - efficient
 - profitable
 - good services
 - value for money
 - extended access to affordable services

Impact of broadband

- deployment of broadband technology does not change these basic aims
- may assist by:
 - stimulating growth of profitable market
 - creating circumstances for sustainable competition at local level
- may hinder by:
 - creating basis for single network

Regulatory response

- master the technicalities and the economics of the new environment
- ensure that broadband networks are developed on an open basis to allow:
 - interconnection with all operators
 - interoperability at higher service levels
 - ease of wholesaling capacity and service
- allow for potential competition

Regulatory independence

- independent regulatory bodies work best
- because they can be more transparent than ministries (broad range of policy interests)
- openness creates understanding and respect
- duties should be set out in law
- regulator to exercise powers in own right
- but independence cannot be absolute
- regulator can only operate with sustained support of the government

Advantages of independence

- transparency generates understanding and support:
 - the regulator should work to a published business plan
 - all major issues should be subject to consultation
 - all decisions should be explained
- investors will gain the confidence to commit their money to the sector
- new market entrants will be encouraged

Role of the regulator

- regulator at centre of liberalisation process
- ensuring that competitors can enter market and develop their businesses effectively
- seeking to raise the performance of the main operator in providing improved services
- more efficiently, at lower prices
- supervising development of the network
- until competition can ensure demand is met

Role of the ministry

- the government has ultimate responsibility for the health of the sector
- the Ministry, advised as necessary by the regulator, therefore has responsibility for policy towards the telecom sector
- this may be formalised in powers to make policy directions to the regulator
- if so, it is vital that such directions are published, so that everyone can see what is being required

Relations with the ministry

- regulatory independence needs to be carefully cultivated
- ideally, there should be an on-going relationship of trust and confidence: no surprises
- overall policy role of Ministers needs to be respected; as does separate regulatory role
- formal advice from regulator (or Ministerial intervention) should be transparent: subject to publication

Powers

- Issue of license - by the regulator, or by the government, on the advice of the regulator
- Enforcement of licences - interpretation, determinations, powers
- Amendment of licences - by agreement or by formal process (with possible appeal)
- Investigation of complaints - regulatory or consumer service
- Designation of standards
- Information to consumers

Finance

- effectively independent source of finance safeguards independence
- most straightforward is to recover cost from players in the sector broadly in proportion to regulated turnover
- beneficiaries of regulation (ultimately users) pay the cost
- government responsible for ensuring probity, economy, efficiency and effectiveness

Public relations

- public relations is a central element in regulatory success
- relations with the media need to be expertly managed in an open and helpful way
- the regulatory body needs to “put a face on itself” through an articulate spokesperson to which the media can respond
- a consistent policy of publication of issues and decisions pays increasing dividends in goodwill and support

Links with political and public figures

- need to ensure that there is a body of key opinion formers and Parliamentarians with well informed understanding of regulator
- not automatic: should be specifically addressed, through meetings, briefings and presentations for this purpose
- debates in Parliament and elsewhere will then have interventions from those able to explain what the regulator is doing and why

The user community

- user community is the regulator's prime constituency and potential supporter
- it needs to be carefully cultivated through structured consultation and representation
- to gain as much input as possible about consumer experience and concerns and
- to generate widespread understanding of how the regulator is addressing these issues