TELECOM REGULATORY BODIES : CO-OPERATION, CREDIBILITY AND THE TELECOM REGULATORS' FORUM

By

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It gives me particular pleasure to be here today. I think we all agree that managing change in any area is not an easy task, even if it is important and exciting. This is particularly so when change is rapid and frequently difficult to anticipate, as in the case of telecom. In such a situation, it is always good to interact with others faced with a similar situation.

I feel that occasions like today are special because these not only provide us with opportunities to share our experiences, but also enable us to begin a process of interaction and co-operation that can enhance our capability to efficiently handle various policy questions.

Those who study the experiences of Telecom Regulation in different countries are surprised by the extent of resistance that Regulators have often faced from various quarters. India has not been an exception in this regard, even though the Indian Government and Parliament have in general been strong supporters of the Regulator. The trend of Indian Government's policy announcements, as well as the recommendations and policies of the Telecom Regulatory Authority of India (TRAI), provide a clear enunciation of the Indian telecom policy framework which shows a liberal and forward looking attitude focussing on improving the situation for the customer and providing greater operational flexibility for the service provider. That the Indian telecom Regulator faced major challenges even in such an environment makes me pause to seek lessons for easing the tensions which all of us face when managing change.

I feel that two factors which improve the situation for Regulators can be summed up as CREDIBILITY and COOPERATION. Whatever be the conditions and whichever may be the parties involved, ultimately a regulator's credibility can be established only through his ability to perform, the basic pre-conditions for which include,

(a) A perception of independence of the Regulator, which in turn depends on the measures put in place, to ensure such independence. These measures are provided by the extant legal framework as also the conventions built and being built.

(b) Ability to enforce regulatory measures. This ability too comes from the same sources viz. the available legal framework and the conventions already set and being set.

The ultimate source of the strength of a Regulator, however, comes not from law but from his knowledge of the market situation and a thorough understanding of the policy issues relating to his work. In most countries, however, regulation and particularly telecom regulation is a new discipline, at best two decades old, and the locally available pool of knowledge is limited. The decision making process in this situation, therefore, is often both tortuous and tentative, characteristics which do not go well with effective regulation. The knowledge pool, however, can be enhanced through greater interaction and co-operation amongst various regulatory bodies, which while enabling the individual regulators to manage their respective regulatory environment better will result in an overall improvement in the level of understanding in respect of regulatory functions, its philosophy as well as economics. I will begin by talking about initiatives for co-operation, and will then address the issue of building up credibility.

A. Co-operation

Regulators in developing countries are faced with a new situation everyday, and they do not have room for trial and error. For them, empirical

information on how some other countries may have dealt with the problem is an extremely important input for decision-making. Co-operation amongst Regulatory Authorities would obviously facilitate access to such information.

Many of us might say that the idea that co-operation can help us all is not a new one. However, the extent of success achieved in implementing the idea is far from satisfactory. Perhaps there is something akin to a market failure here, and there is a strong case for specified and sustained cooperation on our part. Let us identify the areas where the Regulatory Bodies could cooperate, and the methods of cooperation. And let us begin the process at this Forum. Much of what I propose today reflects TRAI's own experience regarding the difficulties faced in quickly obtaining relevant information on practices in various countries.

We all could begin here, for example, by identifying about five most important policy areas to be addressed by each country's relative Regulatory body, and prepare a short list of the most common concerns from these lists. This could be followed by an assessment of

    (a) How these policy issues have been dealt with by countries which have already addressed the issues;
    (b) What were the problems with previous policy actions; and,
    (c) What are the new methods being considered for addressing these issues.

This initiative would require a focal point to co-ordinate and facilitate collection and exchange of information. We could begin with such an effort at this Forum itself, and perhaps the ITU or BDT could consider providing some staff for processing the responses and follow-up action.

A complement to this initiative would be to establish nodal points in each Regulatory Body which will receive queries from other such Bodies and would provide a quick response. Perhaps a separate track for such queries could be established, and the replies could be deposited in a central place for

all to access. This would also provide a basis for implementing another useful concept, namely, a "hotline" for Regulators which would provide rapid answers to policy and data-related questions of Regulators. It could be an e-mail based information sharing platform in which a regulator will send a mail identifying a specific problem and seek advise. The body housing the hotline would contact a pool of volunteer regulators requesting for their responses within a time frame, which when received could be shared with the regulator seeking the advise. This kind of activity will, while providing the regulators seeking advice with a possible way to handle the problem faced by them, could over a period result in a pool of solutions or what one may call a solution bank on problems generally faced. After some time when such a pool or bank of solutions/experiences gets created it may be possible to send replies out of the available pool itself, thus reducing the time of response drastically. A multilateral agency could house such a hotline, and in my opinion BDT is eminently suited for this purpose.

The nodal points in each Regulatory Body which I have talked about earlier could be either approached directly by another Regulator, or could be collectively addressed through a common, single-point link provided by the proposed hotline.

Other modes of cooperation for information/experience sharing could be by way of periodic exchange programmes and training courses organised for staff of regulatory bodies in countries which are in a process of upgrading their skills and knowledge.

Over time, we could envisage other kinds of co-operation, including a common web-site for the Regulatory Forum which contains:

(a)   A periodically updated list of publications provided by regulators on various regulatory issues of interest to them;

(b)   Summary of recent policy decisions, the main views of different stakeholders, and reasons for the regulator's decision;

(c) The specific initiatives taken by Regulators to focus on consumer welfare, including policies adopted for social purposes;

(d) Information on how the issue of convergence is being addressed;

(e) What competition policy issues have arisen and how they have been addressed.

(f) Information on the various fora of Regulatory Bodies organised at regional levels, and a list of common initiatives undertaken by Regulatory Bodies (including, for example, information on a recent Memorandum of Understanding signed between FCC and TRAI).

I am not visualising here a web-site that links up the web-sites of different Regulatory Bodies. Instead, I am emphasising a common web-site which provides very focussed information on specific topics. Some of the items I have just mentioned would be medium term objectives, but for certain initiatives the work could begin now and we could with some effort benefit from the results in the near future.

Six-monthly or annual meetings could be held to monitor the progress of the initiatives.

B. Credibility

Greater co-operation and information will definitely enhance the efficiency and credibility of the Regulator. In addition, I wish to share with you my perceptions of certain other factors that affect the credibility of a Regulator.

Initially, a Regulator's strength and independence depends on the actions of the Government in terms of the underlying legal instruments and support available to the Regulator. In time, however, the Regulator's own actions can affect its position and can potentially enhance its efficacy, relevance, credibility, and even independence. I wish to share some of my thoughts on the types of actions that could give rise to such a result. Before

that, I wish this Forum gives some thought also to the areas in which Government action may be required to enhance a Regulator's effectiveness.

As regards the Regulator's own actions, in my opinion, it is very important to prioritise and sequence them properly, to decide the initiatives that should come from the regulator and those which should come from various stakeholders, and to devise methods which allow participation of stakeholders in the regulatory regime.

In my opinion, two basic principles adherence to which generally helps a regulator to build his credibility especially in developing countries are :

(a)   A clear focus in policy decisions, on consumer care, with stress on availability of service, its affordability and quality.

(b)   Ensuring good value for money from the service providers.

Above all, a Regulator has to be clear about the principles that are to be followed, and should follow those principles in a consistent manner. This framework will help the regulator to be independent, and will also ensure people to perceive that the regulator is independent. But independence by itself is of no value if the principles of action are not selected with care and wisdom. For that, our interaction is crucial, and in my opinion credibility and co-operation become two sides of the same coin.

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