

Global symposium for regulators

Case study on effective regulation

Geneva, 3 December 2001

Ladies and Gentlemen,

I should like to begin by thanking the International Telecommunication Union (ITU) for having kindly invited OSIPTEL, the Supervisory Body for Private Investment in Telecommunications in Peru, to participate in this important event and to share with you a number of considerations arising from the case study on the Peruvian regulator carried out by the Union in the middle part of this year.

It was for us a pleasant surprise to discover that ITU had selected OSIPTEL as one of the bodies to be covered by the study, as part of a broader investigation into the impact which regulatory agencies have on the development of telecommunications.

Since the establishment of OSIPTEL in late 1993, many changes have taken place in Peru's telecommunication sector. At that time, restructuring and modernization of the sector was not only a legitimate aspiration, but also an urgent need.

At the time when OSIPTEL began its activities, the telecommunication sector in Peru was in a state of serious crisis:

- A very low teledensity, with barely 2.7 fixed lines per 100 inhabitants and almost no mobile lines. The total number of fixed lines scarcely exceeded 670 000, and there were only some 50 000 mobile subscribers.
- Distorted tariffs which did not reflect service costs, and indiscriminate cross-subsidies.
- Problems in the quality of the telecommunication network resulting in an inadequate service to the user, all of this stemming from equipment obsolescence.
- The State did not have the necessary resources to expand or improve the network or to provide service to remote rural areas. The levels of investment were very low, and the ban on private investment in the sector had recently been lifted.

A graphic illustration of the seriousness of the situation is that the waiting time for installation of a telephone line in a Peruvian household was 118 months, the alternative being to purchase the line on the black market for an amount that was up to five times higher than the list price.

Today, eight years later and thanks to a restructuring process with clear policies and objectives established by the Government and implemented through the regulatory work of OSIPTEL, the market indicators speak of a considerably better situation.

- The number of fixed lines in service is approaching 1.7 million users, this being close to the current number of mobile users, and although there is still much room for improvement, we now have a teledensity of 14% as compared with the 2.7% of 1993.
- Telephone tariffs are aligned on service costs and cross-subsidies have been eliminated.
- In 1998, the period of temporary monopoly or limited competition in fixed and long-distance telephony services granted to the winning enterprise in the process of privatizing the State telecommunication enterprises came to an end and the market was opened up to competition, with the result that small, medium-sized and large enterprises are now free to compete in the various services with a clear and stable set of rules. It is worth noting that the temporary monopoly granted to Telefónica in 1994 was brought to an end earlier than originally foreseen, with the effect that the entry of new enterprises was brought forward by 11 months, such entry being possible as from August 1998.
- Indicators of, for example, the number of rural communities connected to the network, or the number of public telephones, have improved dramatically.

These are just some of the data which illustrate the degree to which we have progressed, but which at the same time point to the long road we still have to travel.

How has it been possible to make such progress? The study of OSIPTEL carried out by Ben Petrazzini and Jorge Crom provides answers to this question.

We are convinced that our progress has to a large extent been due to the high level of autonomy, transparency and independence that has characterized all the measures taken by OSIPTEL, enabling it to develop a modern regulatory framework which protects the rights of users and makes for effective competition. A further contributory factor has been OSIPTEL's own human resources, to which our latest annual report makes the following reference: "OSIPTEL is its staff, which is working for a more and better connected country".

I should like briefly to explain each of the four aspects I have just mentioned by using a specific example to illustrate the way in which these characteristics have enabled us to establish conditions that are conducive to effective competition and a healthy market.

Following a period of seven years during which tariffs were predetermined on a contractual basis, a new tariff regime - with which OSIPTEL must ensure compliance - has recently entered into force. This regime establishes new conditions for the setting of user tariffs for application by the dominant operator, Telefónica del Perú. Thus, with effect from September last, telecommunication service tariffs in Peru are adjusted by means of the price cap method based on application of a total productivity factor.

The process of fixing the total productivity factor put such things as OSIPTEL's autonomy to the test, since the operating agency naturally sought to have the factor set as low as possible, its proposal having in fact been almost half the level finally approved by OSIPTEL, while on the other hand the users' associations and the Ombudsman, which in Peru plays an important role in protecting the users of public services, were looking for a factor almost 50% higher than the one ultimately approved.

OSIPTEL set the factor at 6% on the basis of considerations that were strictly economic and were the result both of its own studies and of studies carried out by independent consultants with considerable experience in the field. In other words, the factor was not established according to the interests of any given party, but was based strictly on the data generated by the corresponding calculation method.

The loneliness of the regulator?

It is easy to say this now, but you have no idea what we have sometimes been through at OSIPTEL as a result of our heated debates on this issue with both parties, each of which was quite naturally seeking to have its opinion prevail. This experience put OSIPTEL's institutional autonomy to the test, not to mention the independence which had to be maintained by the five members of OSIPTEL's Management Board and by the OSIPTEL staff members directly responsible for the process of establishing the factor, in order to sustain their position with clarity and firmness.

It was this independence which enabled the OSIPTEL staff members to act in accordance with their experience and with the findings generated by the economic studies, the ultimate aim at all times being to achieve a telecommunication market characterized by healthy competition.

However, autonomy and independence does not mean failing to take the parties, particularly users, into account, which is why transparency has been one of the principal characteristics of OSIPTEL's work, particularly when it comes to establishing regulatory provisions. To this end, a practice that we have followed from the outset has been to publish in advance all new regulatory provisions so that the various interested parties may submit comments on them with a view to their improvement. This practice has now been institutionalized by the Government and has become mandatory for all regulatory bodies within Peru.

Indeed, during the process of calculating the total productivity factor, all information used which did not come under the heading of trade secrecy for the operating agency was made available to all members of the public through our Web page, and OSIPTEL staff members held numerous meetings with, among others, the company concerned, users' associations, members of the academic sphere and the specialized press, to explain the reasons behind OSIPTEL's decision.

The proposal was initially published with a view to receiving comments, and OSIPTEL convened a public hearing at which all interested parties could express their views on the work done by the regulator; and indeed, some of the comments received during this process resulted in improvements in OSIPTEL's original proposal.

Perhaps one of the most important lessons learned in the process of calculating the total productivity factor was the need for specialized staff who are constantly in touch with the latest developments. At OSIPTEL, we are very aware of the importance of having suitably trained staff and know that the only way of achieving this is through appropriate investment.

In its early days, OSIPTEL was unable to call on suitably-trained staff because no such persons were to be found within the country. Since Peru was totally new to the task of regulation, OSIPTEL's staff members

have had to be trained on the job, and it is for this reason that we accord such importance to human resources. It is precisely because of the lack of Peruvian citizens trained in this field that OSIPTEL provides a university extramural course for students nearing the end of their university studies who are interested in learning about telecommunications.

The annual extramural course has now been held six times, and the latest information we have indicates that the vast majority of graduates having taken it are absorbed almost immediately by the telecommunication enterprises operating in Peru. The student having done best in our course has the option of working with us. An important aspect of the course is that the classes are given by professionals working with OSIPTEL.

I should like to conclude with a final reflection, and am sure that many representatives of regulatory agencies will agree with me in the light of their daily experience. The task of a regulatory body is extremely complex and very often misunderstood. The need to stand aside from the parties and play the role of arbiter represents a significant challenge for any organization. A decisive factor in successfully accomplishing the task at hand is to have clear objectives and an institutional culture that is built around them.

Finally, I should like once again to thank ITU for this opportunity, and to express the hope that this presentation of the case of OSIPTEL will, in addition to having provided you with an overview of our work, serve to inspire improvements and reforms in each of your countries.

Thank you very much.