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CHALLENGES OF REGULATORS

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1 Preamble

The global drive towards the liberalization of the telecommunication sector has seen the creation of Regulators. This has naturally brought with it a new dimension of challenges where you have many competing interests.

The nature of challenges is universal for new Regulatory bodies. I will do no more than highlight those consider critical for the effective performance of the regulatory role.

The Regulator occupies a very challenging seat in the machinery of communications provision. The Regulator is the main vehicle for implementing Government policies like liberalization, rural telecommunications penetration and the vexed question of universal access. It is the responsibility of the Regulator to ensure that the public gets the best services from communication service providers. Notably: the quality of services, the access and the cost thereof.

Investors on the other hand would like to get reasonable returns on their investment within specified time frames, normally dictated to by capital markets. This drives service providers to come up with tariffs that would give them that kind of return but end up, in most cases, being unaffordable to the consumers.

2 The challenges

2.1 Capacity Building

The Regulator is then called upon to balance the above interests. This delicate exercise is not accomplished by ad hoc tinkering here and there. There are well-established legal and technical principles that have to be followed. Just how well equipped the Regulators is to accomplish these tasks is one major challenge, not only to the Regulator but also to the international community and the ITU, in particular. I wish to pause here and ask how far the ITU, and indeed the international community have gone in the development of Regulatory capacities in the developing world.

Because of lack of human resources and indeed modern equipment, the Regulator is ill equipped to discharge this very important task. In would not be overstepping the mark I accused the ITU and indeed the international community of baby-dumping, in that after assisting most of us establish Regulatory bodies you have not taken it upon yourselves to ensure that these bodies are developed to acquire the necessary capacities. This leads us to our second challenge.

2.2 Regulatory-Capture

Autonomous regulation is anew concept. The Regulatory authority has often times have had to poach personnel from the Operators, because that is the only place where persons with the relevant technical know-how are found. This is a disadvantage in itself. It leads to Regulatory-capture in that the mental attitude of the personnel has to be completely liberated and begin to think like a regulator and certain sympathies that are counter-regulatory in nature are unavoidable. We thus move in circles.

2.3 Funding and Acceptance

Funding arrangements for Regulators vary from country to country. Charging of license fees is one of the means of funding Regulatory bodies among others. Some of the difficulties between the Regulator and the incumbent, and other existing operators are the acceptance and payment of license fees.

Before the advent of the autonomous Regulator these operators operated on Government concession where the fees charges were merely token. When the Regulator licenses them, internationally benchmarked fees are charged, in line with fees charges to the new operators. The operators have difficulties in accepting and paying these new charges. The feeling is that they are being asked to pay for what they already had and used to control. Closely linked to this is another challenge.

2.4 Negative Incentives

The role of the Regulator become more difficult where international organizations ask for free access to certain facilities under the guise of accelerated penetration of certain services or assistance. When the Regulators accept to give such concessions, or find that local operators are asked to pay high fees, which are in turn passed on to the public whom the regulator is supposed to protect. This also defeats the original purpose of accelerated penetration of services since they become either unaffordable or unprofitable to the provider or both. How does the Regulator balance these interest? It will take the participation and deliberate policy by organization like the ITU to ensure that there is consistency and transparency in the application of these incentives to emerging Regulators.

2.5 Awareness and Other Assistance

Recognising that telecommunications play a pivotal role in national developments, as countries and economies move to be e-ready, it is necessary that Regulators encourage access to telecommunications facilities by the greatest number of the public. This calls for a conducive environment for the Regulators to enable them fulfill the noble task of rural access to communications services. Without financial and technical support from such organizations as the ITU and others it is a hopeless task for the regulator to try and achieve these objectives.

The implementation of Government telecommunications polices and application of accountability standards to the telecommunication operators and other players rest primarily with the Regulator. As the Regulator applies the Governments' comprehensive telecommunications policies to the industry as a whole, it must be aware of the technological and market trends and be capable of forecasting and planning. This in the end enables the Regulator to implement the Government's policies more effectively, resolve industry problems in a progressive rather than in an ad hoc manner and act as a beacon for government on issues that require plicy attention from time to time.

3 Conclusion

There are no easy answers to the above issues though there would be no doubt that the world would be the winner if Regulators had the capacity and the ability to tackle tem. The heavy duty of balancing the above competing interests, however, lies at the doorsteps of the Regulator, and it is a task that calls for **cool** headedness, knowledge and dexterity, but above all, financial and technical support from international and multilateral well wishers like the ITU.