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# Electronic communications regulation in the era of broadband networks: Tunisia case

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# Main challenges facing the electronic communications regulator

## 1

- The Tunisian electronic communications regulator will have to manage many challenges
- Technological Challenges
  - The proliferation of broad band networks
  - Convergence of networks and contents
  - Internet Neutrality
  - Applications in particular mobile applications: applications economy
  - 5 G networks
  - Big Data, Cloud computing
  - Internet of things ...

# Main challenges facing the electronic communications regulator

## 2

- Economic and regulatory challenges
  - Regulation of OTS
  - Nature of regulation: regulation of networks and traffic / regulation of content
  - Guaranteeing competition in a digital content market increasingly representing economic concentration and dominant positions
  - Sector regulators rising
  - Requirements for users protection
  - Requirements of quality of services
  - Requirements of resources scarcity
  - Requirements for pooling and sharing infrastructures
  - Requirements for universal services ...

# Main challenges facing the electronic communications regulator

## 3

- Roles of the telecommunications regulator
  - To ensure the normal functioning of markets in transparency and fair competition
  - To guarantee the interests of the various actors: operators, the State, users
  - To guarantee the growth of investments in the sectors
  - To ensure the implementation of the state's regulatory policy in the sector ...
- Our purpose:
  - Define orientations during this period of elaboration of different codes relating to electronic communications: digital code, audiovisual code
- Effective regulation of the challenges of broadband networks in the light of INT's experience and the best regulatory practices in the world depends on a number of features characterizing the regulator :
  - the elements characterizing the organic status of the regulator
  - the elements characterizing the functional status of the regulator

# Elements characterizing the organic status of the regulator 1

- Juridical nature
  - Independent public authority: autonomous administrative authorities / independent constitutional bodies ?
  - Independence from sector actors: principle of separation between regulatory and telecommunications management bodies
  - In relation to the State and especially to the telecommunications ministry
  - In relation to telecommunication operators
- Financial independence
  - Autonomous budget
  - Own Resources
  - Independent resource management

# Elements characterizing the organic status of the regulator 2

- Methods of appointing members of the college:
  - Independence from the telecommunications Ministry
  - Independence from Government
  - Appointment by the Head of State, Parliament or other authorities?
  - Appointment of chair person by peers in college
  - Appointment of members for an irrevocable mandate
  - Rules of incompatibility and avoidance of interest conflicts versus operators
- Effective composition of the college:
  - Members appointed for their skills
  - Diversity of technical, economic and legal skills
  - A full-time job

# Elements characterizing the functional status of the regulator 1

- Wide field of competences
  - Regulation of the entire electronic communications sector
  - Institutional arrangements to coordinate with other sectoral or general regulators / convergence of networks and contents
  - Evolution to a convergence regulator? A multi-sector regulator?
  - Limitation of the powers of the regulator to administrative powers: control and punishment: towards the abolition of contentious powers?
  - Importance of intermediation, arbitration and amicable resolution of conflicts



# Elements characterizing the functional status of the regulator 2

- Effective operation rules
  - An autonomous administrative and financial management body
  - Separation between : instruction bodies / decision bodies
  - Sworn auditors
  - Access of regulator agents to information, and significant investigative and investigative powers .
- Strengthening the powers of the regulator
  - Strengthening the powers of self-referral of infringements
  - Importance of formal recognition of regulatory authority
  - Reinforcement of provisional measures, while providing guarantees of defense rights and adversarial proceedings

# Elements characterizing the functional status of the regulator 3

- Strengthening of sanctioning powers, providing guarantees of defense rights and adversarial proceedings
- The framing of the sanctions
- Enforceability of decisions
- Importance of Career Staff
  - Distinction between : decision staff / management Staff
  - Autonomy in recruitment and career management
  - Special status established and approved by the regulator
  - Remuneration guaranteeing the competence and independence of the staff
- A detailed knowledge of the evolution of markets and technologies
- Flexible regulation adapted to the context of the markets

# Elements characterizing the functional status of the regulator 4

- An *ex ante* regulation
- Importance of coregulation
  - Soft law
  - Guidelines
  - Use of public consultations
- Importance of self-regulation
  - Good behavior charters in economic, regulatory or technical aspects

# Main features of the regulatory environment for electronic communications

- Adoption of an electronic communications code
- Consideration of the convergence of the medias in the two current bills on telecommunications and audiovisual
- Consideration of the convergence of the medias in other bills relating to the regulatory environment for digital content: freedom of the press and information, protection of personal data, electronic commerce, intellectual property ...
- The coordination of the actions of regulators: the importance of co-regulation of electronic communications
- Adoption of a technologically neutral regulation: Net Neutrality



**Thanks for your attention**

