Current issues in regulation

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CTO Council Meeting, Mauritius, September 2001

Outline

Issues in regulation

Governance

Globalisation and uneven development

Competition

Universal access

Convergence

Arising institutional challenges

Hot regulatory issues

Governance
New communication forms such as Internet rendered economic monopoly arguments redundant and made impossible state controls of information and communication.

Greater access to information seen increased participation in decision making - invited or uninvited.

Shifted power from vertical to more horizontal systems of government more suited to network economy.

Interaction with partners so that policy formulation and regulation becomes part of combined effort, which take place in the public sphere.

**Governance is a process...**

“... through which institutional, business and citizen groups articulate their interests, exercise their rights and obligations, allocate choice and opportunities and mediate their differences...It hinges on equal partnerships, collective wisdom, co-operating and responsible action on the part of all actor in governance (the public sector, the private sector, academia and the media..”


Good governance the essence of transparent, fair and accountable regulation and central to establishing credibility.
Globalisation

Economic drivers of liberalisation and privatisation and technological driver of digitisation transforming our environment

From POTS to PANS

Uneven development

Regulatory challenge: harmonisation of domestic policy, regulation and standards with international principles and practices or challenge of ensuring more equitable access to the critical resources of the information society? - Potential of Regionalism

Policy dilemma of the digital divide

as elite minority are linked to increasing enhanced services essential to compete in the new economy, so the gap between the information rich and the information poor is widens.

As information is power so the inequities of the access to and dissemination of information are extended to citizens differential ability to be effective, whether in their political or economic systems.
marginalisation of two thirds of the world population from the benefits of these developments represents not only a social injustice but a threat to the very continuance of this global order.

**Competition: panacea or regulatory tool?**

- Bretton Woods institutions mantra of competition compelling countries, large and small, throughout the world to reform their markets and open them to foreign access in the hope of putting an end to high cost, inefficient monopoly provision. • Affordable pricing key to unlocking the developmental potential of ICTs. Efficiency only one concept if a key one, in mediating social claims, especially in developing countries.

**Competition and market failure**

- Likelihood of imperfect competition in telecommunications one of the major reasons why special sector regulators have been given oversight of the telecommunications sector. Not only to guard against
anti-competitive practices by the incumbent or other dominant operators and ensure access to essential facilities but also to establishing pro-competitive measures that are particular to telecommunications and without which new entrants may never enter the market.

**Effective Competition**

Traditional key areas of competition not yet dealt with will stifle innovation and development of the sector:

- Universal service and access financing
- Tariff control - meeting demands of consumers and demand for service
- Prohibitions on non-transparent cross-subsidy and discrimination
- Accounting separation
- Interconnection

**Implementing competition and protecting**

because competition has largely been thrust on many developing countries rather than having evolved out of
the development of their own markets, not much ownership of the concept policy makers and regulators.

Likewise issues of consumer protection have been overshadowed by need for citizen access.

Regulatory challenge: to garner support for competition regulation as an effective tool to ensure equity among market players and to deliver better and cheaper services to customers.

Privatisation – benefits for whom?

tangible monetary benefits for the exchequer

• direct foreign investment serves to integrate developing economies better into the global economy rationale – injection of capital and skills and technology transfer in order to roll out service, modernise outmoded networks, prepare for competition.

But has this happened?

Regulating private monopolies
formal targets met at cost to the broader development of the ICT sector and particularly at the expense of innovation occurs largely in the value added segment and particularly through the Internet. Regulatory challenge: private monopoly of fixed line requires even more stringent regulation from access to quality to price to create an enabling environment for the new economy.

Access – an issue of infrastructure or affordability?

Rebalancing of tariffs and ending cross subsidies

• In South Africa even if the network which has double from 3 million lines to 6 million were to be extended to every household, 60% of them would not be able to afford the line rental. • Subsidy or life line tariff essential in many developing countries. Regulatory challenge: to innovatively examine tariffing and ensure the all subsidies are transparent and not anti-competitive.

The conundrum of wireless

Africa wireless outstripped fixed phone

In South Africa in wireless mobile subscribers reached 8 million against 6 million fixed lines.
Prepaid over 70% of subscribers but less than 30% of subscriber revenue.

Regulatory challenge: is to assess universal access more holistically and co-ordinate efforts and requirements toward fulfilling community or public service obligations. E.g linking obligations to number of subscribers or allocating different areas of service.

Convergence or divergence

• Relentless economic and technological changes to the sector are being driven at a convergence of traditionally distinct forms of communication resulting from the digitalisation of technologies. • Regulatory challenge: central concept of public interest will need to be re-evaluated in terms of these revolutionary developments. Equivalent treatment of equivalent services, regardless of the delivery medium and as far as possible technological neutrality.

E-commerce

• Internet applications, accessed through a multiple of means, are likely to drive this convergence compelling
regulators into an entirely new area of activity Regulatory challenge: Regulatory intervention in a range of forms is essential to creating a secure and trusted environment in which e-commerce can flourish.

New issues requiring new regulation

Trusted and secure environment require regulation from privacy, security and content to a number of commercial issues - authentication, non-repudiation of transactions, jurisdictional rules, taxation, authentication, electronic signature, tracing and combating cybercrime.

Regulatory challenge: to know what to regulate and what not to! Rule of thumb - if already taken care of by general law leave it, and don’t use e-commerce or Internet to regulate areas that were not intended for ICT regulation.

New paradigm issues to old paradigm regulation

Infrastructure regulation based on scarce resources undermined by availability of capacity
Content regulation based on protection of values, democracy, minors, local culture challenged by new media such as www.

Cross media regulation and anti-trust legislation may undermine consumer benefits of integrated production and combined offerings.

Ensuring equitable citizen access takes on new meaning in multimedia world as does consumer protection.

See Anders Henten p 193-210

Institutional challenges

Technological convergence has prompted many countries to reconsider the separation of their broadcasting and telecommunications regulators.

Some have merged them into combined or multi-sector regulators, in more mature markets some have moved toward broad-based competition regulation

Regulatory challenge: Conventional regulatory structures will need to become more flexible, dynamic and responsive to new services and technologies.
Challenges to merged regulators

In SA broadcasting and telecom regulator have been merged.

Survey of industry in SA indicated that merger of structure to deal more effectively with licensing and regulation of services straddling sector was inevitable but that content and carriage regulation should remain distinct.

Regulatory challenge: Not so much physical integration but philosophical integration of traditionally distinct regulatory approaches while retaining expertise required for specialised regulation.

To merge or not merge?

Benefits of merger include economies of scale:
- cost savings
- reduce duplication of effort
- better use of limited professional skills

Disadvantages include:
- dilution of technical expertise
- no political or industry capture but no champion/protector
dissipate focus on slew of issues without technical and management capacity.

See: Hank Intven p1.9

Some hot policy issues or why regulation will be around for a long time to come....

Despite liberalisation of markets some central competition questions remain...

Number portability

Carrier pre-select

Unbundling local loop - the final competition hurdle.

VOIP - key technology to development and growth or threat to incumbent revenues. Regulatory challenge to regulate what can be regulated and encourage innovation and affordability.

G and Auctions....

traditional allocation of frequencies has not reflected economic value of spectrum but 3G auctions in Europe created artificial spectrum scarcity

filled state coffers resulting in short sighted immediate gains for the state, but increased costs of services that, at
best, will be handed on to elite consumers or more likely will seriously delayed, limiting growth of innovative new services and applications critical to global competitiveness for those countries.

Regulatory challenge: to provide arms length input on policies in the public interest, to counter short term political gains. See Bill Melody, Lessons from the Auctions

Governance again

Full circle to the central challenge facing regulators - good governance.

“...It relates to the rule of law, accountable administration, legitimate power, responsive relation and is defined as effective participatory transparent and equitable.”


Regulatory challenge for development countries: to ensure that regulators are sufficiently resourced to ensure good governance. Financial resources but more importantly development of human capital.
References


