

General or sector-specific regulation: Additional problems in developing countries

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What distinguishes a developing country?

- Government that does not work as well as it should (possibly because of)
- Government employees who are not highly skilled and ethically challenged (possibly because)
 - Their counterparts in the private sector are paid much better (and are generally more skilled)
- Not necessarily limited to developing countries
 - Only one FCC Chairman (Patrick) increased his salary by taking the job
 - Canada's 2006 Telecom Policy Review pointed out that the CRTC suffered from this problem



How do you design regulatory institutions in such a context?

- Sector-specific regulatory agencies
 - Common practice is to carve them out of normal government structures (not the case in India)
 - Finance them out of industry specific levies (regulatory fees or spectrum/number charges)
 - Pay the staff higher than normal government compensation and pay consultants
- Can the same trick be pulled off with general regulatory agencies (competition authorities)?
 - What do we take the levy from? When does the levy become a tax?
 - If no special source of funds, can special compensation for staff (and consultants)
 - If no special compensation, will the agency be effective and its staff ethical and skilled?



How do we address forum shopping?

- A good example of the benefits of forum shopping
 - In the USA, the FCC proved unable to regulate AT&T, the world's largest company at that time
 - But AT&T was broken up into eight pieces by the Anti Trust Division of the Justice Department
- But can we, in the developing world, afford forum shopping?
- We establish independent regulatory agencies to reduce regulatory risk and attract investment
 - By allowing forum shopping, do we not increase regulatory risk?



A consolidated solution

- Create a competition authority if you wish
 - Reduce its scope considerably by excluding all goods and services that are traded above a certain defined threshold
 - You will be left with mostly utility services, unless the economy is closed, and a few things like premixed concrete
 - Give the competition authority appellate/review powers over the decisions of the various sector-specific regulatory agencies
 - Fund the competition authority out of the levies charged by the sector-specific agencies from their regulated entities



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