

Intelligent regulation

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An oxymoron?

Hubris?



Oxymoron =

- “a figure of speech that combines two normally contradictory terms”

- Can we have intelligent and regulation in the same sentence?
 - As a former regulator who counts many regulators as friends and colleagues, I cannot but say YES
 - Intelligent regulation is not an oxymoron



Hubris =

- “overweening pride, self-confidence or arrogance, often resulting in fatal retribution”

- If South Asian mobile operators are being acclaimed for a new business model, why should South Asian regulators not be acclaimed for new innovation too?
 - If this be hubris, let me plead guilty



What is intelligent?

- . . . actions that are based on prioritization and efficient use of resources
- . . . actions that are based on processing of information (evidence-based policy making/regulation)
- . . . actions that are effective; that yield good results



South Asia is experiencing massive growth

	SIMs/100 (Dec 2007)	Fixed/100 (Dec 2007)	Mobile CAGR (2002-07)
Pakistan	48.61	4.33	114.36 %
Bangladesh	21.66	0.75	99.97 %
India	20.44	3.43	78.20 %
Sri Lanka	41.37	13.6	53.67 %

South Asia is experiencing massive change

- New services being offered
 - E.g., 3G
- New steps to help operators reduce costs
 - E.g., Sharing of passive and active infrastructure
- New steps being taken to improve consumer rights
 - E.g., Mobile number portability



**. . . means massive
workloads for regulatory
agencies and their staff**



**If there's a time to be
intelligent, it's now**



Ranking regulatory tasks . . . (take 100 units of regulatory resources and divide it up)

Market entry/licensing	
Spectrum management, including refarming	
Access and interconnection	
Tariff regulation	
Quality of service regulation	
Regulation of anti-competitive practices	



Ranking regulatory tasks . . .

Universal service	
Mobile number portability	
Rights of way	
Consumer protection	
Internet governance	
Type approval of equipment	

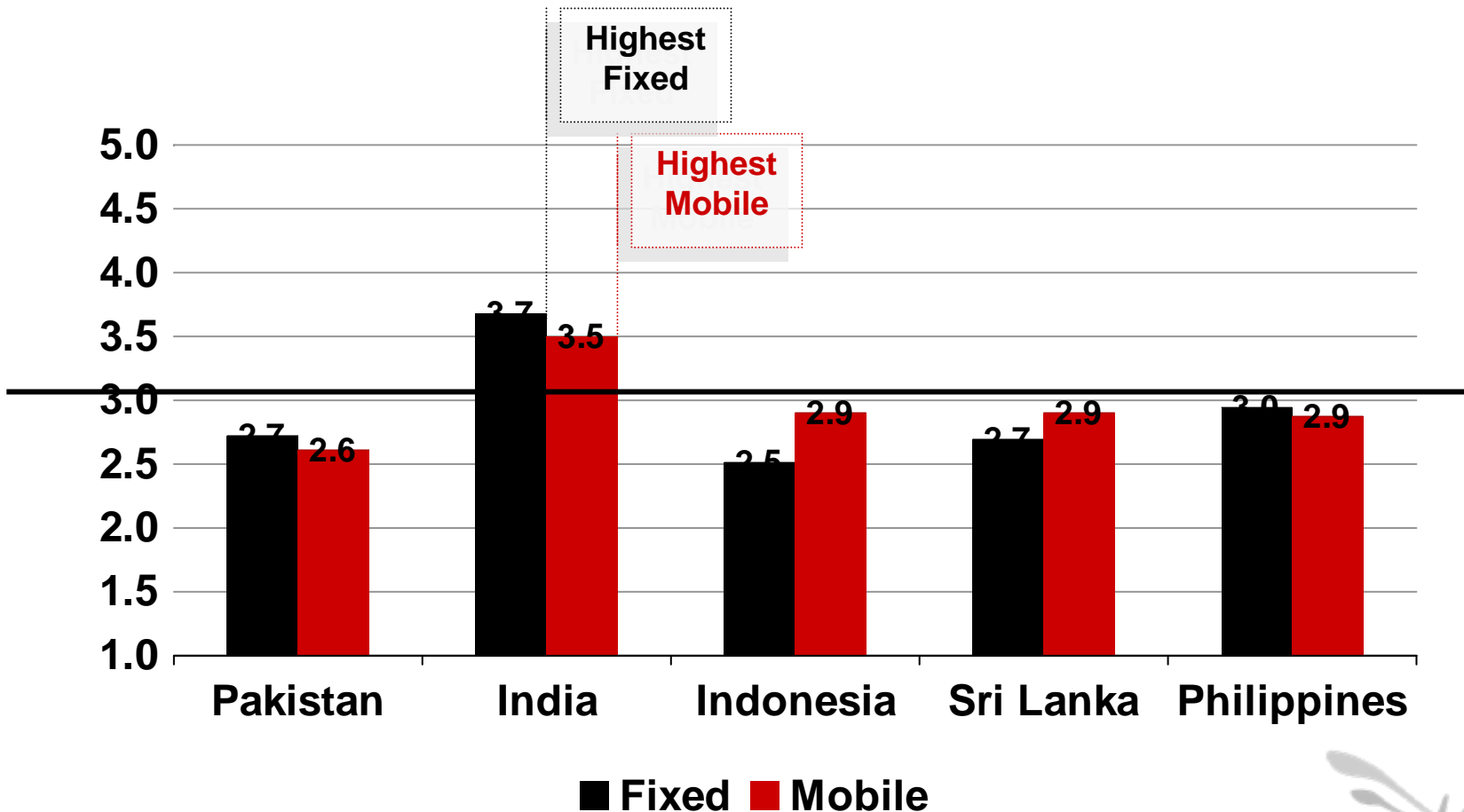


Even if we can't all agree on priorities . . .

- Wouldn't it be nice to get one or two of these off the table?
 - Then see how much additional resources you would have for the rest
- TRAI has taken one off the table: tariff regulation, with good results
 - Why do others not follow?



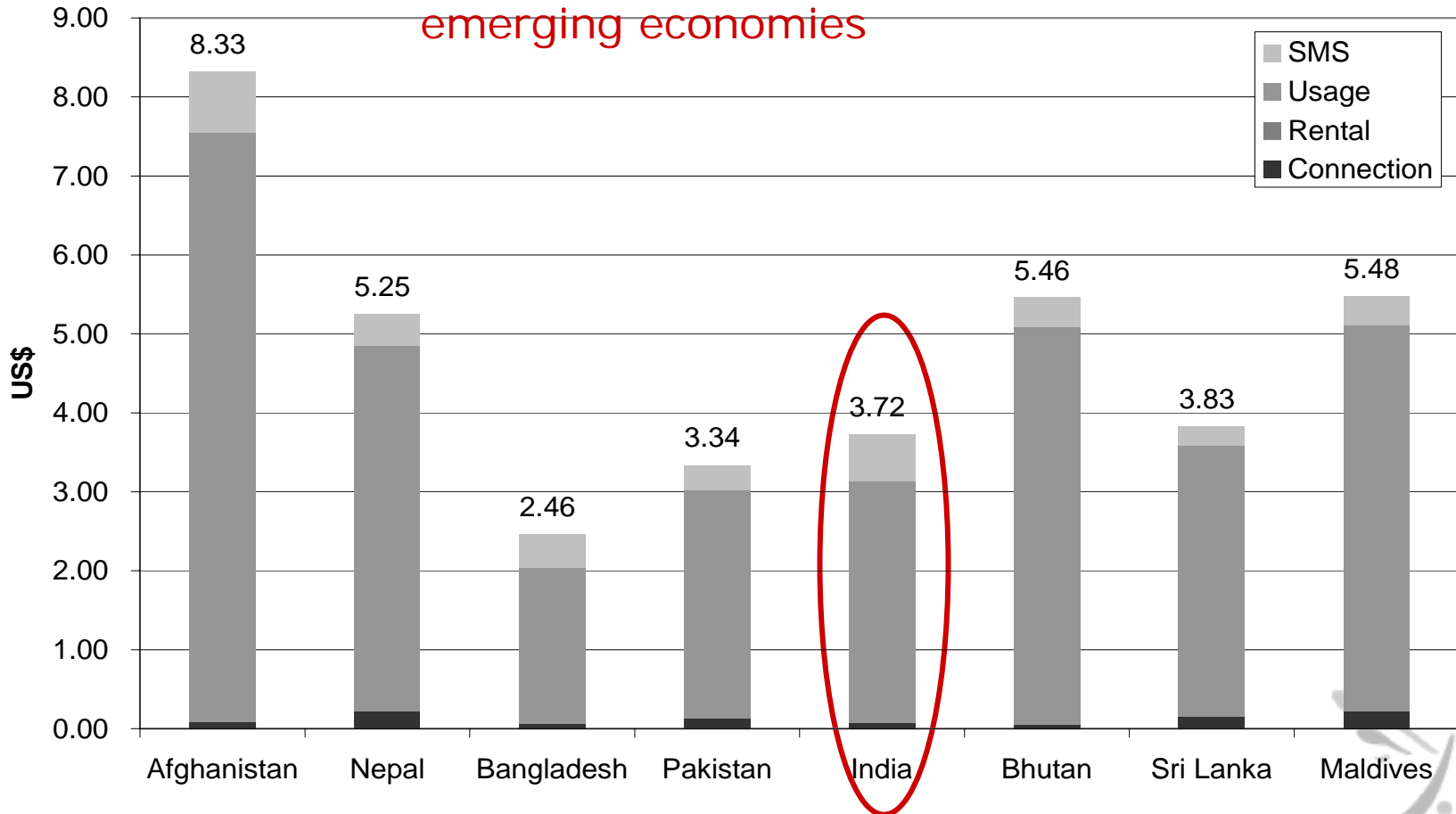
TRAI's approach is appreciated by informed stakeholders . . .



. . . and has yielded some of the lowest mobile prices in the world

Average monthly prepaid mobile cost for a Low User

Nokia TCO study says India is second lowest out of 77 emerging economies



Why not follow India?

- Concern about Indian-style forbearance on tariffs
 - There may be a risk of predatory pricing
 - India has the highest levels of competition in the region
 - Even at Circle level



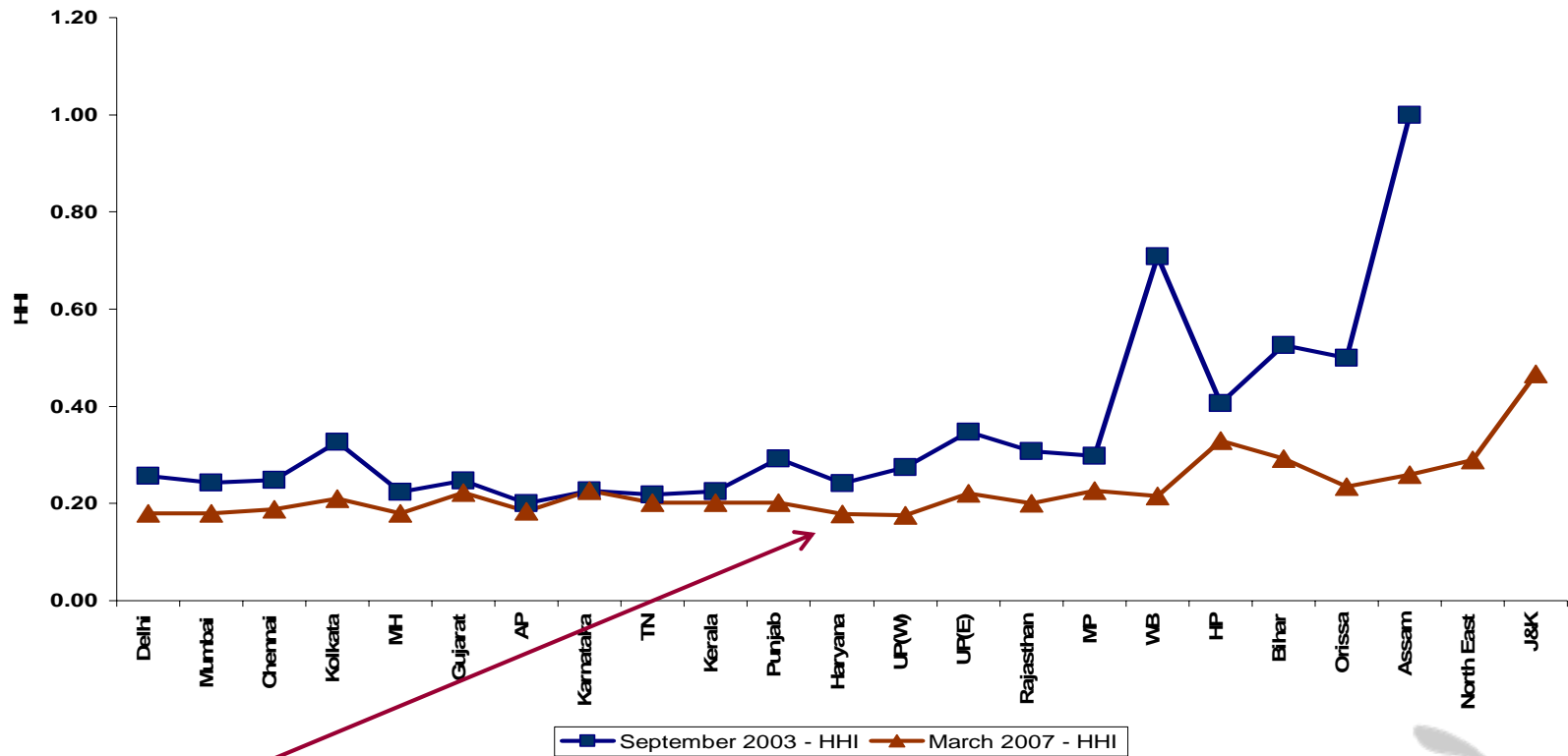
Hirschman-Herfindahl Index (lower=more competitive)

	HHI (Dec 07)
Pakistan	0.27
Bangladesh	0.31
India	0.16
Sri Lanka	0.36



Indian HHI by circle, 2003 & 2007 compared

Comparison of Circle-wise HHI 2003-2007



2007 lower



Why not follow India?

- Concern about Indian-style forbearance on tariffs
 - There may be a risk of predatory pricing given less competition
- If not full forbearance, why not asymmetric regulation?
 - Regulate the tariffs of the SMP operator, but forbear on the rest
 - Two problems



Asymmetric regulation: Problem 1

- How to regulate tariffs of the SMP operator?
 - Have to go through whole process of determining SMP operator
 - Highly resource intensive; but can be done with external consultants
 - Then RPI-x?
 - Has anyone calculated x for a mobile operator? What has RPI got to do with mobile prices anyway?
 - If not RPI-x, what? Ratebase rate-of-return regulation (this is what RPI-x is in practice anyway)?
 - Anyone calculated the Ratebase of a mobile operator recently?



Asymmetric regulation: Problem 2

- In addition to the difficulties and disputes around SMP determination, asymmetric regulation leaves SMP operators bitter and uncooperative
 - They face a real problem of playing in a dynamic market without pricing flexibility



Banded forbearance as a solution?

- Forbearance, with safeguards derived from benchmark regulation



Methodology

- Identify peer group
 - Must have data that can be compiled into benchmarks
 - Define benchmark and period (once a year; once every two years . . .)
 - Need not be the lowest
 - EU uses third from the bottom
 - Can be lowest plus x%
- Define band: floor and ceiling



Methodology

- Anything goes within the band
 - Tariffs must be filed
 - Evaluated only for
 - Clarity to consumer
 - Whether within the band
 - Default approval within x days/or sanctions if criteria not met
- When tariff dips below the floor, investigate for anti-competitive impact only
- If tariff goes above ceiling, no alternative but to start a cost inquiry
 - Need to identify interim solution, while inquiry is underway



Merits of banded forbearance

- Asymmetric regulation, which also saves regulatory resources, deregulates non-dominant operators but requires dominant operator to file tariffs
 - Cause of great unhappiness for SMP operator
 - Regulator still has difficulty properly regulating dominant operator's tariffs
 - In oligopoly/duopoly conditions, non-dominant operators may just shadow the incumbent's prices
- Banded forbearance applies to all operators and is much, much cheaper
- Is also the most conducive for Budget Telecom Network business model



Ranking regulatory tasks . . . (take 100 units of regulatory resources and divide it up)

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**Now with one off the table,
shall we start taking off
another . . . ?**

Then, we would be doing fewer things,
better

Addressing priorities

Using data and analysis . . .

Is this not intelligent regulation?



What is intelligent?

- . . . actions that are based on prioritization and efficient use of resources
- . . . actions that are based on processing of information (evidence-based policy making/regulation)
- . . . actions that are effective; that yield good results



Declining mobile prices & increasing connections — India, 1998-2007

