

TRE Survey: Thailand

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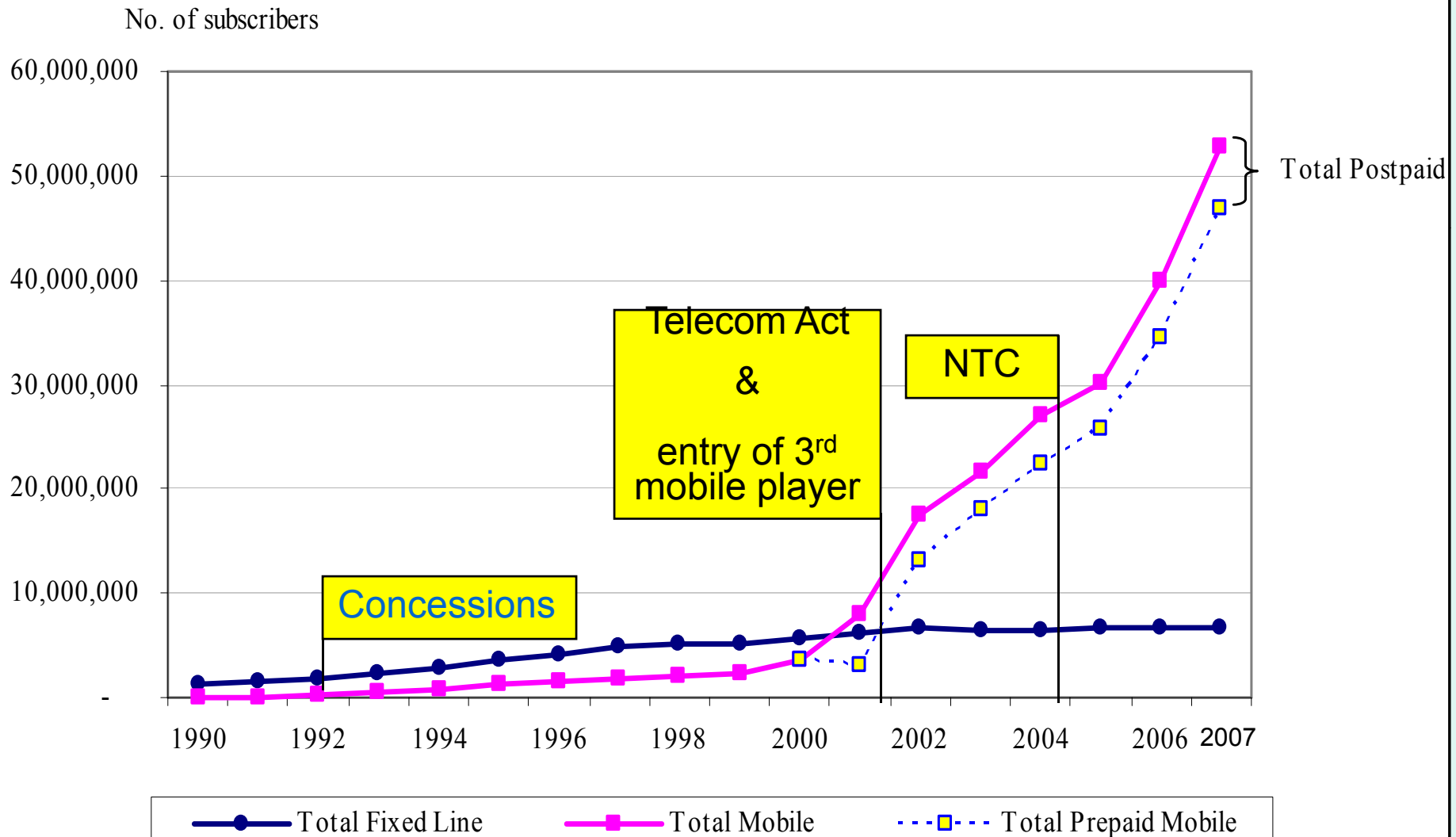
Thailand Development Research Institute

Presentation Outline

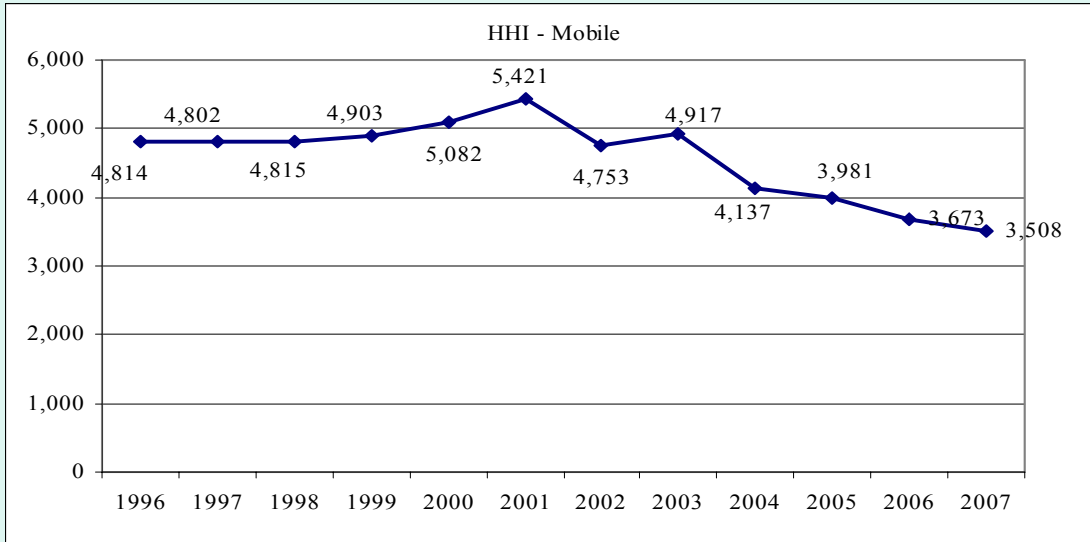
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2. Survey Methodology
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1. The Development of the Thai Telecom Market

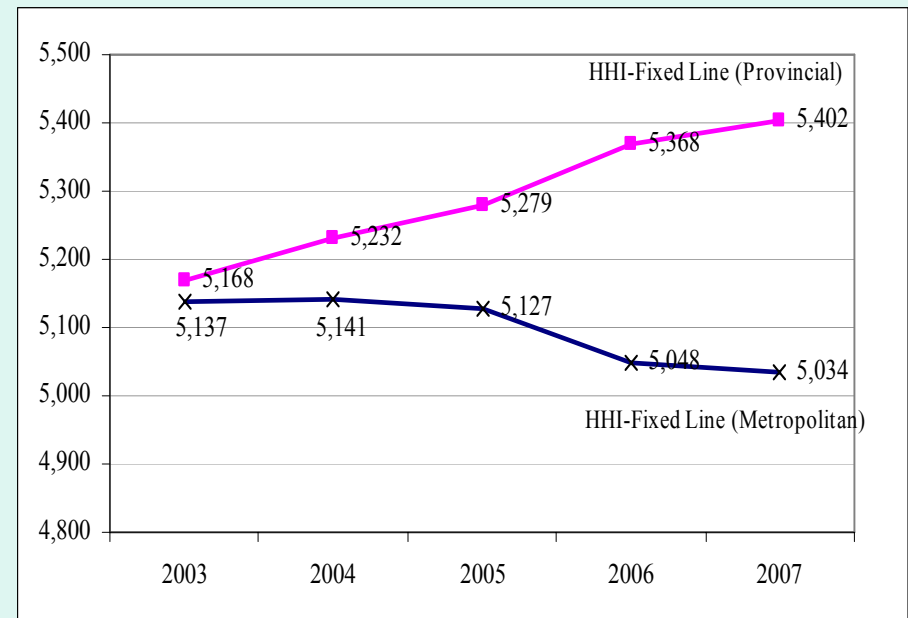
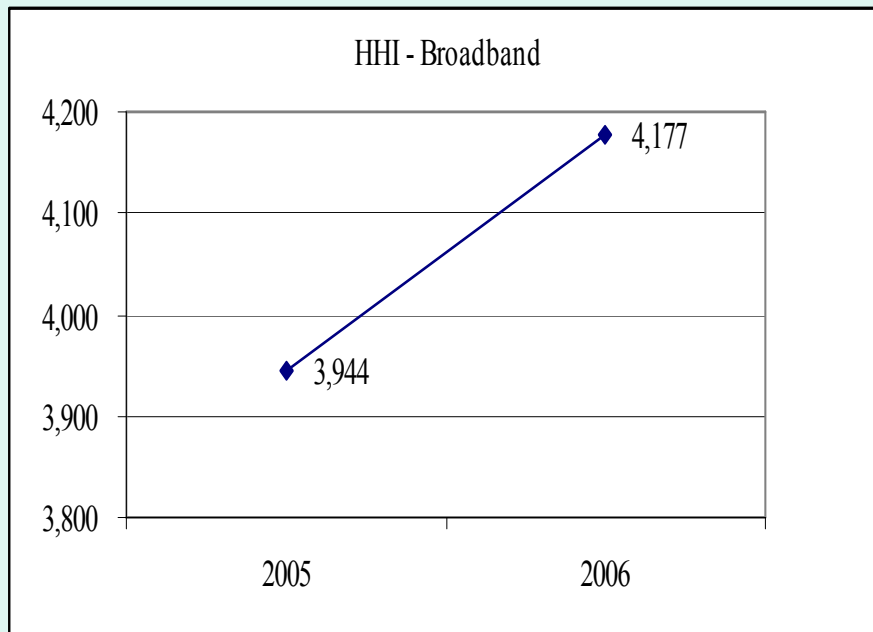
The dynamic mobile market ...



Market competition



- Competition is vibrant in mobile, growing in broadband and static in fixed line.



2. Survey Methodology

Channels to distribute questionnaires

- Sending fax
 - 38 responses from 144
- Distribution at telecom public hearing
 - 30 responses from 215
- Distribution through Association of Analysts
 - 4 responses

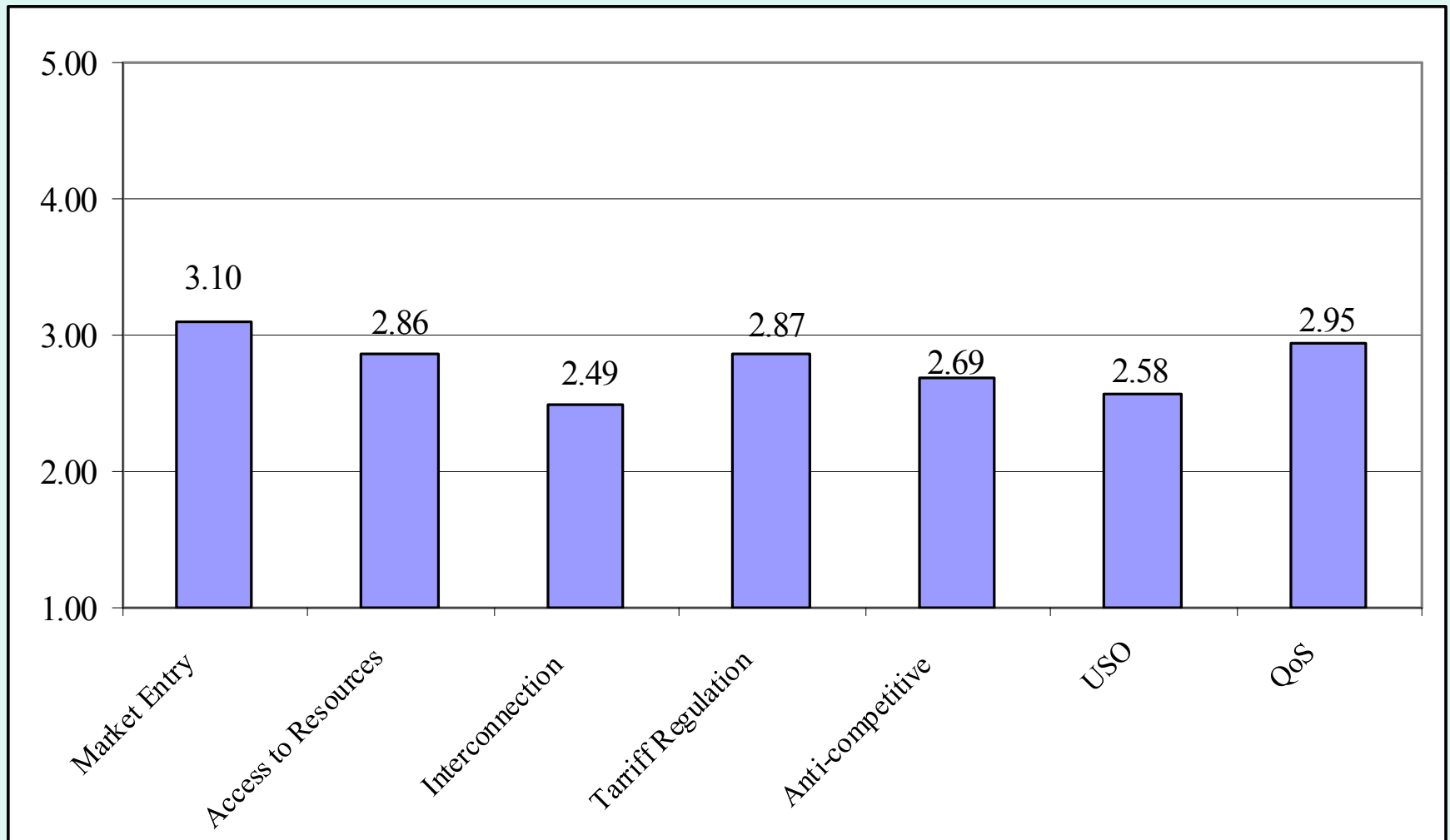
Composition of Respondents

	No. of Respondents	Weight by LIRNEasia
Category 1: stakeholders directly affected by sector regulation – i.e., operators	40	0.60
Category 2: stakeholders who analyze the sector with broader interests -- i.e., analysts	15	1.60
Category 3: stakeholders with an interest in improving the sector to help the public –i.e., academics, journalists, civil society, etc.	17	1.41
Total	72	

3. Survey Results

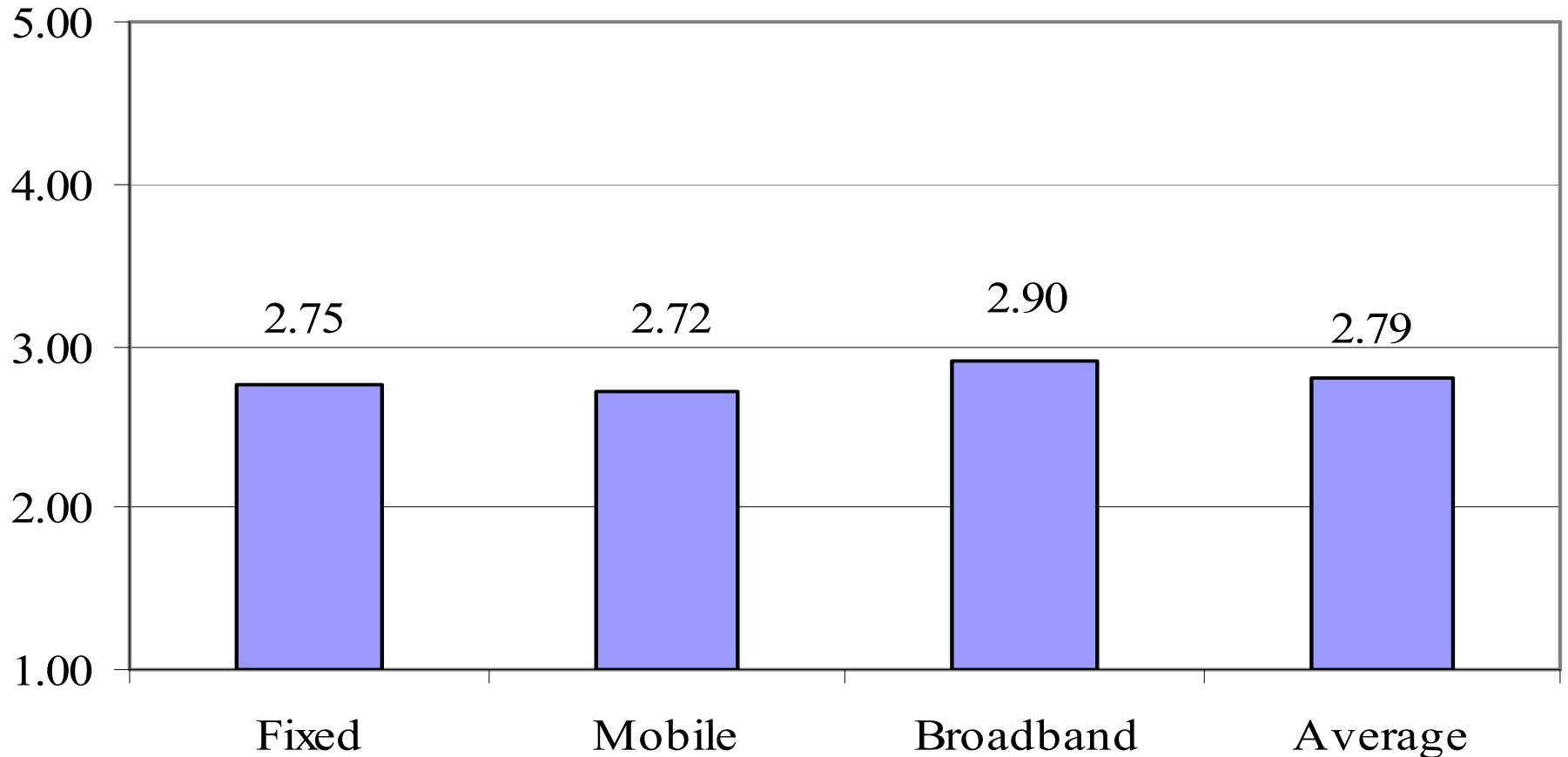
3.1 Overall Scores

TRE Scores by Regulatory Dimension



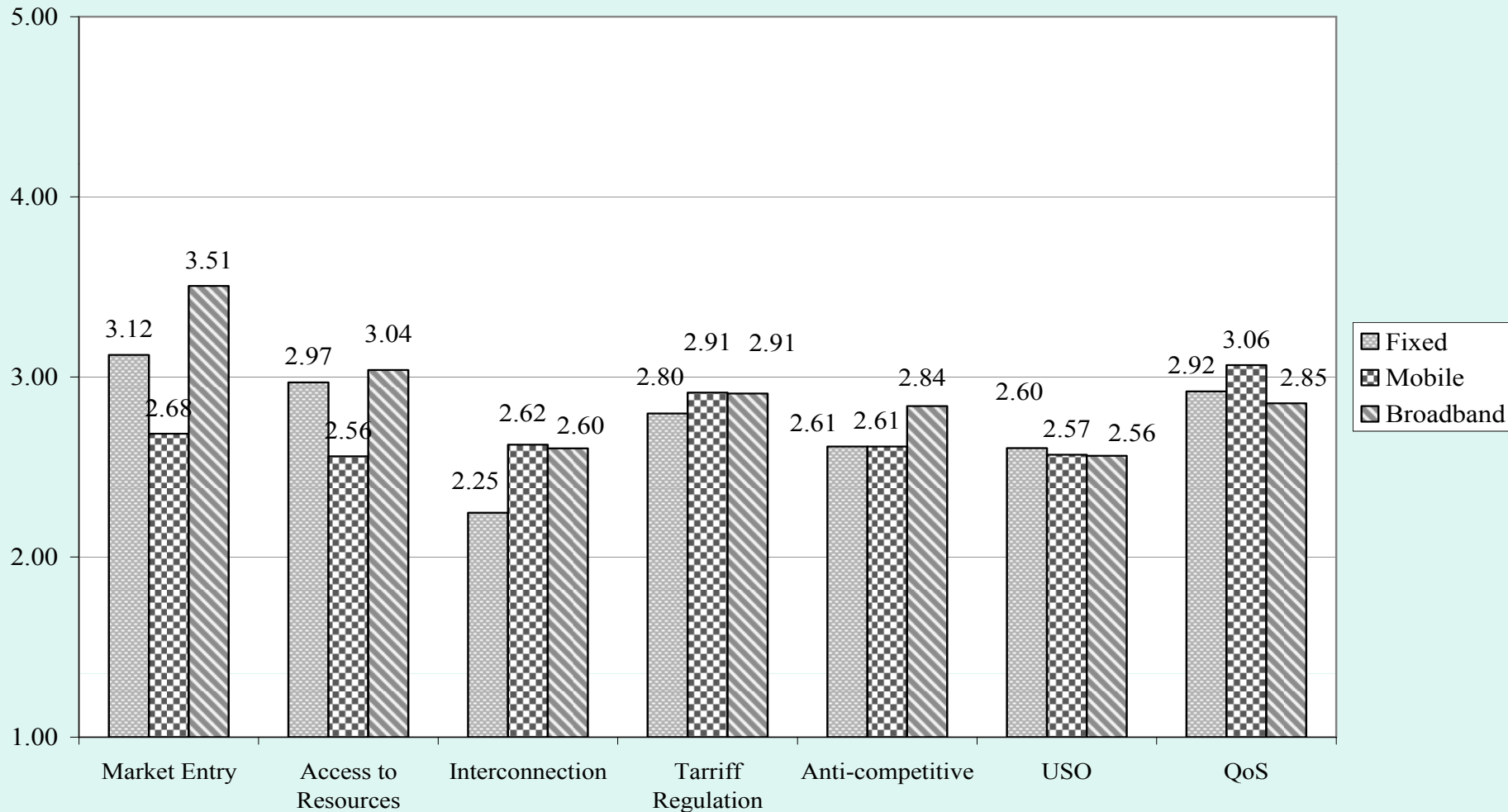
3.1 Overall Scores

TRE Scores by Sector



3.1 Overall Scores

TRE Scores by Sector and Regulatory Dimension

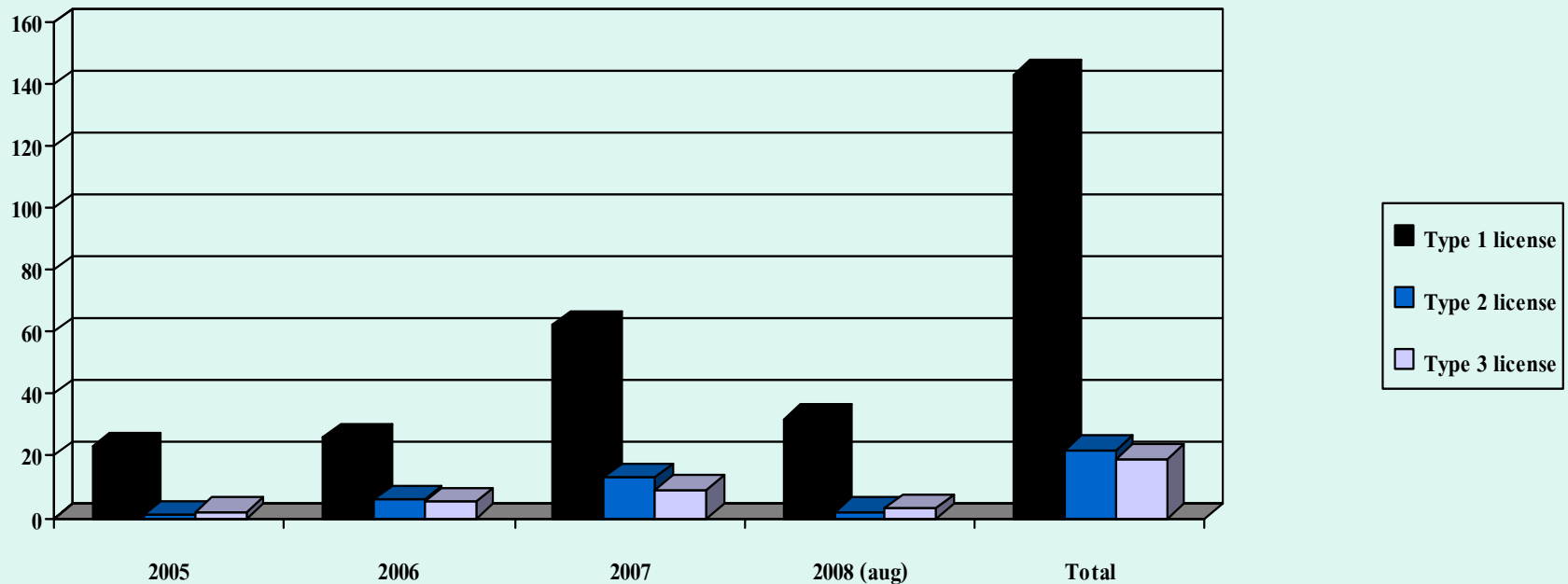


3.2 Market Entry

- Score 3.1:
Fixed 3.12, Mobile 2.68, Broadband 3.51
- Concerns expressed:
 - **Fixed**: licensing regime is opaque and inefficient and there are no clear rules regarding the right of way
 - **Mobile**: (1) number portability implementation and 3G licensing are long overdue; (2) discriminatory licensing
 - **Broadband**: Delayed Wi-Max licensing, small operators face regulatory hurdles.

3.2 Market Entry

- Facts
 - NTC adopts a liberal licensing regime



3.2 Market Entry

- Licensing regime is unclear concerning the definition of type 2 and 3 licenses.
- 3G and Wi-max license delaying due to legal problems
- Trial 2G upgrade was permitted only to AIS
- Number portability implementation has been delayed by 2 years. Draft rule was subject to public hearing in June 2008.
- Draft rule still contains several shortcomings.

Low Market Entry score reflects both unfavorable legal environment and regulatory inefficiency and non-transparency.

3.3 Access to Scarce Resources

- Score 2.86 (4th highest):
Fixed 2.97, Mobile 2.56, Broadband 3.04
 - Concerns expressed:
 - **Mobile:** delayed number portability, delayed 3G license, discriminatory licensing
 - Facts:
 - Wi-max and 3G licensing is delayed because uncertainties surrounding the legal authority of the NTC to assign and manage frequencies (Wi-Max) and to allocate frequencies (3G) in the absence of the Broadcasting Regulatory Body
 - Trial Wi-Max licenses have been granted to 14 operators
 - Draft 3G .allocation rule is open for public hearing on 27 Aug 2008
 - 3G auction is scheduled early 2009
- Access to scarce resource problem is due mainly to legal problems external to the control of the NTC.**

3.3 Access to Scarce Resources

- Concerns expressed:
 - **Fixed line:** lack of Right of Way regulations hinder fixed line roll out, disadvantaging operators without fixed line concessions.
- Facts:
 - Several type 3 licenses have been handed out but no fixed line roll out.

3.4 Interconnection

- Score 2.49: (lowest)
Fixed 2.25, Mobile 2.62, Broadband 2.60
- Concerns expressed:
 - **Fixed**: fixed line services are subject to terms and conditions set out in the concession contracts rather than NTC's IC rules.
 - **Mobile**: (1) state-owned enterprises not subject to NTC's IC rules; (2) NTC fails to intervene to protect small players in the setting of IC charges by large players.
 - **Broadband**: (1) interconnection rules for internet services are unclear (2) NTC takes no action in settling dispute between state and private operators concerning the use of network under BTO scheme.

3.4 Interconnection

- Facts
 - IC problems arise from terms and condition specified in concession contracts signed during pre-market liberalization era.
 - Private mobile concessionaires have refused to pay access charges to TOT as NTC ruled that IC can substitute for access charge.
 - TOT files civil charges against non-payers (DTAC and True Move) and asked the Administrative Court to nullify NTC's regulation.
 - The NTC has not properly consulted with the concerned policy – making authorities regarding IC rules.
 - The NTC has not shown any effort to ensure compliance to its IC rules that requires cost-based IC charges.

Interconnection problems can be attributed to both problems external to the NTC (access rules established in the telecom concessions) and its own inept (lack of monitoring of IC charges)

3.5 Tariffs

- Score 2.87: (third highest)
 - Fixed 2.80, Mobile 2.91, Broadband 2.91
 - Concerns expressed:
 - **Fixed**: no clear regulation
 - **Mobile**: maximum prices set are based on actual fees charged by operators and so do not reflect actual market condition.
 - Facts
 - The NTC has taken a hands-off approach to tariffs regulation.
 - Price ceilings established in 2008 are set according to fee schedules submitted by various operators.
 - Maximum rates set are mostly non-binding except for fixed line services.
- NTC has shown limited capability in setting tariffs. However, its pro-competition approach has subdued the need for tariffs regulation.**

3.6 Anti-competitive practices

- Score 2.69:
Fixed 2.61, Mobile 2.61, Broadband 2.84
- Concerns expressed:
 - **Fixed**: no clear competition rules and no definition of a dominant provider
 - **Mobile**: same as above + no rules addressing vertical restraints such as discriminatory treatment or refusal to deal + no decisions made on alleged predatory pricing.

3.6 Anti-competitive practices

- Facts
 - Competition in telecom market is subject to the Trade Competition Act 1999 (TCA) and the Telecom Business Act (TBA).
 - TBA mandates that all license holders and concessionaire are subject to the TCA.
 - In 2006, NTC passed Competition Rules that contain provisions addressing “vertical constraints” and defining “dominance”
 - But regulation is vague and thus subject implementation to NTC’s discretion.

Low competition scores in all sectors are likely to reflect the opaqueness and unpredictability of NTC’s competition regulations rather than the absence of which.

3.7 USO

- Score 2.58 (second lowest):
Fixed 2.60, Mobile 2.57, Broadband 2.56
- Concerns expressed:
 - **Fixed line:** (1) The NTC has not passed clear rules concerning the operation and management of USO
(2) state operators are the only providers of services
(3) USO contribution is too high
 - **Broadband:** Other service providers should be allowed to participate in USO projects

3.7 USO

Facts: NTC passed USO rule in 2006. The rule stipulates the following:

- Specify USO projects
- Designate type 3 and type 2 license holders with own network as providers of USO
- Set USO contribution at 4% of revenue for providers that are not involved in USO projects.

Low USO scores can be attributed to unclear USO rules and opaque management of USO funds.

3.8 Quality of Service

- Score 2.95 (second lowest):
Fixed 2.92, Mobile 3.06, Broadband 2.85
- Concerns expressed:
 - no QoS for all services
- FACTS
 - NTC has failed to implements any QoS.
In fact, it has no information on QoS

4. Conclusion

The negative perception of NTC can be explained by

- (1) unfavourable regulatory environment resulting from pre-liberalization anti-competitive concessions.
- (2) Political interferences
- (3) Lack of transparency in NTC's rules
- (4) NTC's inability to deal with complicated regulatory issues

Lessons learned

- Independence is no panacea
- Clear and transparent rules and regulations are more important
- Competition can go a long way in alleviating regulatory burden