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REGULATION AND COMPETITION: EMERGING ISSUES IN AN INDIAN PERSPECTIVE

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Abstract

This chapter provides a brief guide to the development strategies that have been pursued and to the evolution of regulatory laws and institutions in India. It examines the new legal basis for promoting competition in India, and uses the example of telecommunications to explore some of economic and political issues relating to regulation of competition in this sector. It shows that regulatory issues need to be addressed in the early stages of reform and that the effectiveness of regulation will be enhanced by reducing the political element in regulatory decision-making.

INTRODUCTION

The processes of globalisation and liberalisation have brought a considerable awareness towards improving the competitive process in developing economies such as India. Until recently most of the developing countries have operated without a structured competition policy, and have justified the interventions by the state over economic activities. The task of creating and maintaining an active competitive environment and developing a competition policy seems to be challenging in developing countries, particularly in the presence of many other competing alternatives, such as sectoral regulators, in ensuring a competitive environment. To what extent the new competition policies are helpful in enhancing investment and technological capabilities of firms and sectors are also an issue of concern. India is an interesting case study to look these issues in detail. India has experienced two periods of development with different policy regimes and institutional frameworks. Since independence, the transformation and development of the Indian economy has taken place within a planned, rigidly regulated and relatively closed economic framework. This changed in 1991 and since then, the country has embraced more liberalised policies.

This chapter is organised as follows. It begins by providing a brief outline of the basic governance structure of the country. It then explores the nature of the development strategy and regulatory legislation that were implemented during the import substitution regime. This

is followed by an overview of the interrelationships between issues such as reforms, regulation and competition in developing countries in general, and India in particular. This section also discusses the new legal basis for a competitive regime in India. The final part of this chapter addresses issues of regulation and competition in the telecommunication industry, one sector which has undergone significant deregulation and opening up in India.

BASIC GOVERNANCE STRUCTURE

India has now gone through more than five decades with parliamentary executives both at the Centre and in the States. One of the main concerns of the Indian constitution is to achieve social and economic democracy along with political democracy; to constitute a sovereign, socialist, secular, democratic republic of India (Austin, 1999). The multiplicity of political parties has been an important feature of the Indian political system. The dominance of a single political party gave way to coalitions and genuine political plurality, primarily in the late 1990s, which has brought the perspectives of regional parties into the decision-making process at the national level more prominently. Along with the shift in power to regional parties, one could see a drift towards disadvantaged classes (Bardhan, 2002). The adaptability of the constitution to the changing realities has been reflected in the large number of amendments (more than 80) during the last 50 years that have effectively made it an instrument of social change.

The institution of Parliament consists of Lok Sabha (Lower House) and Rajya Sabha (Upper House) in the Centre and through the legislative assemblies at the states. The members of the Lok Sabha are directly elected represents national constituencies; the State assemblies nominate the members of the Rajya Sabha. The Union represents 28 states and seven Union Territories. The ministerial character of the executive is an important feature of the Indian system that clearly stated the collective responsibility of the council of ministers to the legislature.

The constitution has laid down various measures to protect the judicial system from the influence of the executive, and also envisages an element of judicial review. The Supreme Court, the highest level of judicial institution in the country, has original jurisdiction in all disputes between the regions, and regions and Union Government. The High courts in various states are responsible for the superintendence of all lower courts within their jurisdiction.

The constitution envisaged a cooperative federalism in Centre-State relations, which ensures a harmonious interaction between the Centre and the States and among the States for the common good. In addition to many commissioned studies such as Sarkaria Commission in 1988, there are several mechanisms such as the Inter-State Council, the National Development Council and the Chief Minister's conferences that look into the disputed areas between the Centre and States. However, issues such as the redistribution of financial power and the sharing of water resources continues to be issues of concern between the Centre and States, and among States.

DEVELOPMENT STRATEGIES AND REGULATORY LEGISLATIONS 1947-1991

Successive Indian governments held the view that government intervention in support of large-scale investments in the public sector was necessary to achieve economic, political and social development objectives. Five–year plans have been used to organise human resources, capital and technology to achieve the targets for self-reliance and rapid industrial development. These policies were largely based upon the concept of import substituting industrialisation such as extensive import licensing and high tariffs, in the context of a mixed economy with a relatively large public sector (Arun and Nixson, 1997).

The government policies played an important role in regulating the inflow of foreign investment through restrictive legislation that affected the relative advantages of foreign investors. In the early years of independence, the activities of the public sector were restricted to a limited number of fields such as power and communications, which was extended later to non-infrastructure activities and non-core areas. Public sector enterprises were mostly the outcome of political considerations and bureaucratic rent-seeking which constrained the choices on size, technology and location of these institutions in a competitive regime. The poor performance of these enterprises, which was manifested in low or negative returns to public investment, raised concerns about the rationale of supporting these enterprises as an engine of growth (Arun and Nixson, 2000).

Although, there was a marginally growing concern in the pre-form period of the 1980s about promoting competition in the domestic market, technological upgrading and modernisation, the policy regime remained characterised by extensive intervention and the widespread use of discretionary controls. The regulation and competition issues in an open market setting took

precedence over inward oriented policies during this period. Some of the prominent regulatory measures implemented during the pre-reform period are briefly discussed below.

Industries (Development and Regulation) Act, 1951

This Act was introduced to ensure that industries were not set up or not expanded without obtaining a license. This Act provided the legal framework for control and regulation of important industries subject to the levels of investments, location and growth. This Act also allowed the Government to prescribe prices, methods and the volume of production and channels of distribution. According to the Government, the overall objective of industrial licensing was to allocate resources according to priorities stated in development plans. Although there were numerous amendments to the Act over the years, no significant changes were made in the basic provisions until the early 1990s. However, over the years the process of licensing acquired a very different character and become a mechanism which long term industrial growth.

The Monopolies and Restrictive Trade Practices Act, 1969

The Monopolies and Restrictive Trade Practices Act (MRTP) was designed mainly to serve three purposes (1) to regulate the concentration of economic power in private hands to ensure that it does not cause detriment to the public (2) to control monopolies and prohibit monopolistic trade practices and (3) to curb restrictive trade practices. This Act covered only private sector undertakings and did not apply to (1) any undertaking owned or controlled by government, Government companies or a corporation established by or under any Central, Provincial or State Act (2) any trade union or other association or workmen or employees formed for their own reasonable protection, and (3) any undertaking engaged in one industry, the management of which has been taken over
by any person or body of persons in pursuance of any authorisation made by the Central Government.

Foreign Exchange Regulation Act, 1973

The Foreign Exchange Regulation Act (FERA) was thoroughly revised and amended in 1973 to replace the old Act of 1947. The main aim of the Act was to regulate foreign exchange transactions to limit the use of foreign exchange resources which apparently, constrained the freedom of foreign investors. This Act had given much wider powers to the Government and Reserve Bank of India (RBI) in dealing with matters pertaining to foreign exchange

regulations, regulating the working of foreign companies, or companies incorporated in India in which the non-interest interest is 40 per cent or more. The activities Indian entrepreneurs, in the form of joint ventures, were also subjected to stricter scrutiny.

In general terms, the basic idea embodied in the industrial approval system was to make the best possible use of scarce resources. However, the considerable discretionary powers vested in regulatory agencies resulted in huge delays in the processing of applications, and the whole system developed into an institutional arrangement that promoted rent-seeking and discrimination. There was evidence of declining social profitability of industrial investment during this period (Lal, 1980). The lack of technological dynamism, the absence of competition and the protection of markets drastically restricted the development of a competitive industrial sector in India during this period (Arun and Nixson, 2001). The new economic policies introduced since 1991 marked a fundamental break with the past and drastically reduced the degree of state regulation.

Reforms, Regulation and Competition Policy

Since 1991, the Government of India (GOI) has introduced a series of economic reforms, including policies of liberalisation, deregulation, disinvestment and privatisation. The seriousness of macroeconomic imbalances and unanimity among political parties towards reform made this possible. The broad thrust of the new policies was a move away from the centralised allocation of resources in some key sectors by the government to allocation by market forces. Private participation in economic development has emerged as an alternative to the state-oriented development strategy in the reform period (Arun and Nixson, 1997).

The disinvestment of government shareholdings in the equity of selected public sector undertakings is an important step towards wider private sector participation in economic development. The shift in attitude was interpreted as a belated realisation by government of the poor performance of public enterprises, and the new policies were intended to bring market discipline and public accountability to the performances of public enterprises by broad basing their management and ownership patterns (Arun and Nixson, 2000). After a decade of reforms, restraints to competition such as state monopolies and protective measures and controls are being replaced by relatively more competitive and de-regulated open economic system. The industrial licensing was abolished irrespective of levels of investment,

except for specified industries. The new policies relaxed or abolished the restrictions on private/foreign investment in key sectors of the economy such as infrastructure.

The need for regulation of economic activities is often justified as a policy instrument to minimise the effects of market failures. Several characteristics of effective regulation such as independence, accountability, transparency, clarity, simplicity, and consistency have been identified in the literature. To develop a more rational approach to economic regulation, the priority must be to establish a more coherent institutional framework (Ogus, 1994). This requires the proper allocation of functions to the regulatory institutions based on appropriate power and accountability, which is a highly contentious issue in the political economy context of India. To what extent the Government is willing to surrender political control over regulatory decisions is an important issue yet to be addressed.

In India, during the period of economic reforms, the private sector participation in production and supply of utility services has increased substantially and the concept of economic regulation particularly the issues related to prices/fees of service providers attracts a lot of attention. The independent regulators have already been in operation in many sectors such as telecommunications and electricity. These regulatory commissions are different from commissions appointed in the past such as Disinvestment Commission which were advisory in nature. In the literature, the sectoral regulators are expected to determine the entry conditions and eventually the level of competition in the industry itself. However, to what extent the issues of competition can be effectively incorporated in the regulatory structure is an important issue for most of the developing economies where adequate healthy competitive practices have not been developed.

The mutually reinforcing nature of regulation and competition policies requires active coordination between the agencies even in the early stages of liberalisation, which is important for developing countries such as India, as it is setting up sector specific regulatory bodies. The changing dimensions of market failure in the light of developments in technology, and property rights give rise to more opportunities and challenges for regulatory and competition strategies. In the case of the United Kingdom, the regulators have acted as a proxy for competition in establishing the proper balance between producer and consumer interests (Pryer, 1996). However the boundaries between the roles of the sectoral regulators

and the competition policy are difficult to define, and in many countries the competition authority has the direct overlap with sectoral regulators (Mehta, 2002).

The nature of national the regulatory framework that has developed for privatised utilities in India is influenced to a large extent by the capacity of the system to implement regulation and by the type of markets within which enterprise function (Cook, 1999). However, to what extent these regulatory agencies will or can be independent and accountable are the real issue in the political economy context of India (Arun and Nixson 1997). The sequencing and timing of competition policy in developing countries depends to a great extent on domestic compulsions and needs (Basant and Morris, 2000). It is necessary for the government to take an active role in developing and maintaining a competitive environment and to redefine their role as regulators in the previous policy regime.

Regarding the scope of competition policy in a developing country, one view is that it must address issues such as (1) restrain anti-competitive behaviour by domestic privatised large firms; (2) limit abuses of monopoly power by mega-corporations created by the international merger movement; and (3) promote development (Singh, 2002). The competition policy should also be able to promote competition and maintain the competitive environment through the efficient allocation of resources in the economy which should result in lower prices, adequate supplies for consumers, faster growth and more equitable distribution of income (Mehta, 2002).

Competition policy is a broad concept which covers all aspects of government actions that affect the conditions under which firms compete in a particular market and considered as complex in its intentions and effects (Lahouel and Maskus, 1999). The governments in developing countries must develop appropriate competition policies to foster "a liberal trade and investment regime, and that action can be taken under competition law statues to ensure that markets are contestable" (Hockman and Holmes, 1999, p.21). Hockman and Holmes (1999, p.11) further argued that 'where institutional capacity is limited, it is desirable for political structures to do all they can to make conditions as favourable as possible for pro-competitive behaviour, which includes sustaining free trade and avoiding the creation of monopolies through perverse regulation or by ill-conceived privatisation'. However, preserving and promoting the efficiency gains from trade and investment by limiting the potential problems for equity and welfare is the real challenge for a competition policy

(Balasubramanyam and Elliot, 2002). All these discussions indicate the need for a broad based approach in developing a competition policy in developing economies.

In India, the new Competition Bill (2001) aims to revoke the previous MRTP Act and the dissolution of MRTP Commission. Prelude to this, the Government has appointed various committees such as the Raghavan Committee to examine issues relating to competition law and policy in India which provides crucial inputs in the drafting of new legislation. The new legislation was necessary due to the incompatibility between the liberalised regime and previous policy instruments such as MRTP. For instance the issue of predatory pricing has not been discussed anywhere in the MRTP Act (Bhattacharjea, 2000). The new legislation aims to promote and sustain competition in markets by preventing anti-competitive practices and maintaining a competitive environment. The law envisages the formation of a quasi-judicial body, the Competition Commission of India (CCI) to control the negative aspects of competition and undertake competition advocacy for creating awareness and imparting training on competition.

The CCI will consist of a chairperson, and not less than two and not more than ten other members, to be appointed by the Central Government on the recommendation of a selection committee consisting of Chief Justice of India, two cabinet members, the Reserve Bank Governor and the Cabinet Secretary. However, the issue of who shall be the members of the Commission has raised some discussion in India, mainly in relation to the issues of experience and age limit of members of the proposed CCI. There is a serious concern that CCI will become yet another commission which provides jobs for retired civil servants and judges. The other issue of concern is that the new commission may inherit the investigative staff of MRTP commission who had been trained for procedural duties, and, have little expertise in administering a modern competitive law in its complexity (For a detailed discussion of this argument, see Bhattacharjea, 2001). In reality, the responsibilities of the commission require technically competent people with a reasonable period of experience and an understanding of the economic arguments required for the enforcement of modern competition laws.

Table 1 Competition Act of India, 2002

Highlights	Lowlights
• Anti-competitive agreements such as price-fixing, output restriction, market allocation and bid rigging prohibited per se. • Regulation of mergers and acquisitions above a threshold and prior notification optional • Higher penalties for offences, up to 10 per cent of the average of the turnover for the last three preceding financial years. • Unfair trade practices omitted – pending cases to be transferred to the consumer courts. • Establishment of CCI and Competition fund	• CCI is required to adhere to the policy guidelines from the Central Government from time to time – Independence of the commission is in doubt. • The bill appears soft on serious competition abuses such as hard core cartels. • Competition abuses due to Intellectual Property Rights (IPRs) not addressed well. • Relationship between CCI and other sectoral regulators are not very well defined. • 'Exemptions' from the Bill is left on the discretion of the Central Government Without any guidelines.

Source: Adapted from CUTS (2001)

An assessment of the new Competition Act is summarised in Table 1. There is an argument that the Act has provided multiple criterion and many of them are subjective. It could be the case that judgements on competition could often lead to an increase in business cost (Bhattacharjea, 2001). Regarding IPRs, the concern is that it needs to be addressed adequately in the Act to check the transgressing activities of firms in a rapidly changing global knowledge-based environment (CUTS, 2001). CUTS have further argued for the incorporation of appropriate incentives and measures in the Act to encourage firms and their employees to inform the CCI of reprehensible activities, and also recommends a reconsideration of clauses 3 and 27 of the Act to deal separately with general anti-competitive agreements and hard core cartels.

REGULATORY AND COMPETITIVE PRACTICES IN THE TELECOMMUNICATIONS SECTOR

Policy Reform and Organisation Changes in the Telecommunications sector

The Indian telecommunications sector was wholly under government ownership until the mid-1980s, and in 1986 public sector corporations such as the Mahanagar Telephone Nigam Limited (MTNL) and the Videsh Sanchar Nigam Limited (VSNL) were created to allow greater autonomy in decision-making, and to facilitate public borrowings that would not have been possible under a government framework. However, policy formulation and regulation

remained with the Department of Telecommunications (DOT). The MTNL was mainly constituted to look after the operation, maintenance, and development of telecom services in Bombay and New Delhi. The VSNL was set up to plan, operate, develop, and accelerate international telecom services in India. In 1989, the Telecom Commission was created with executive, administrative, and financial powers to formulate and regulate policy and prepare the budget for the DOT.

In line with other economic reforms, the telecommunications equipment manufacturing industry has been de-licensed and de-reserved since 1991. Automatic approval of foreign equity up to 51 per cent has been allowed for foreign investors engaged in the manufacture of all telecommunications equipment. The value added services in the telecommunications sector were opened up to private investment in July 1992 with the objective of achieving international facilities.

The National Telecom Policy (NTP) announced in 1994 specified the major objectives of the reform in the telecommunication sector in India. If required telephone services on demand, the achievement of a universal service obligation, assurance of world class service to subscribers and the universal availability of basic telephone services. This policy also paved the way for private sector participation in basic telephone services, particularly local telephones. However, there is criticism that the policy failed to provide the mechanisms to achieve the objectives such as universal access and service goals (Gupta, 2002). Although the 1994 policy was instrumental in accelerating private participation in the telecommunication sector, the poor design of auctions and the licensing conditions resulted in delays (Arun and Nixson, 1998). In 1999, a new NTP was issued which contains guidelines for contentious issues such as high license fees, interconnections, constraints on service provisions and opening up of satellite services to foreign companies. Critics have argued that the policy failed to take a stand on the privatisation of incumbent companies and retained the capacity of the Government to intervene in the competitive process (Gupta, 2002). This revised policy has incorporated an element of revenue sharing with operators rather than license fee arrangements.

The Department of Telecom Services (DTS) was created in 1999 to separate the DOT's service role from policy and licensing. DTS has been converted in 2001 to an independent company called Bharat Sanchar Nigam (BSNL). This raised huge opposition from labour

unions and the government had to compensate the employees with a free phone installation, free local calls to a certain number, and no rental charges for a telephone until a specified time. The VSNL has lost its monopoly status as the sole internet service provider (ISP) in the reform process as the GOI has allowed private participation for ISPs, and thus licensing was made almost free. The government has also treated VSNL and other providers indiscriminately, and has provided the same rights to work with international carriers to have access to undersea bandwidth. Again, in typical fashion, to compensate the losses for VSNL, the government has granted a nationwide license for internet and a free license for long-distance calls, which was cancelled later due to a belated realisation of the negative impact of this decision on the growth of the sector.

Telecom Regulatory Authority of India

In the telecommunication sector, traditional regulation was aimed at protecting the monopoly status of government-owned operators to preserve revenue and to maintain the sustainability of cross-subsidisation policies. Even in OECD countries, it was difficult for policy-makers to make the intellectual leap needed to convince opponents that competition in the telecommunications sector had benefits (OECD, 1997). Also, the time needed to obtain a policy consensus at the bureaucratic and political level, to bring about policy changes, should not be understated. The public telecommunication operators have had traditionally highly unionised work forces, and given the size of employment in most economies, these unions proved to be influential in the process of reform. However, as we discussed earlier, the institutional design of a regulatory agency based on transparency and accountability enhances the confidence of both the investors and consumers.

In 1997 the Telecom Regulatory Authority of India (TRAI) was set up, which was considered as a bold initiative. The objectives of TRAI are ‘to protect the interests of consumers, regulate telecommunications tariffs, settle disputes between service providers, ensure compliance of license conditions, bring about technical compatibility and inter-connections between different service providers, regulate arrangements amongst service providers in respect of sharing revenue, levy fees, facilitate competition, promote efficiency, provide a level playing field for fair competition among the public and private operators and to give further content to universal service obligation’ (Economic Survey, 1996-97, p.169).

According to the composition of TRAI, the Chairman shall be appointed for a period of five years and the members for a period of five years or up to the age of sixty two years, whichever is earlier. A member of TRAI can be removed only on the recommendations of the Supreme Court on the basis of a specific enquiry held by it into his or her misconduct. These provisions are supposed to protect the TRAI from unnecessary government interventions and provide more functional autonomy and independence. TRAI has the power to seek information on all aspects of a service provider's activities and to investigate any matter which in its opinion constitutes public interest. The Authority shall have an inbuilt dispute settlement mechanism including procedures to be followed in this regard as well as a scheme of punishment/fines in the event of non-compliance with its orders. However, TRAI was not given responsibility to issue and revoke licenses, but only to recommend them. TRAI divests the DOT of several regulatory functions it has experienced all along on behalf of the Government of India, and brings its service providing and tariff-seeking functions under the regulatory jurisdiction of an independent agency. However, DOT retained policy-making, licensing, and operative powers within the same organisational boundaries.

In practice, the Minister for Communications nominated members to the TRAI and most of these members were former civil servants, who throughout their life were practitioners of the 'permit-license-quota system' and did not include at least one person who could take care of consumer interest which is one of the most important objectives of TRAI (Chowdary, 2000). There are instances that even a serving member of the Telecom Commission of the DOT was appointed to the TRAI. The majority of the members had no communications background nor were they businessmen, economists, industrialists, consumer activists or public policy makers. This episode shows that one of the competitors became a member of the TRAI which is primarily concerned with the resolution of disputes between the competitors which was mainly due to lack of transparency in the selection and appointment of the members of the regulatory body (Chowdary, 2000). The cases discussed later in the chapter suggest that the lack of support for TRAI influenced many foreign investors to pull back from the telecom market, which has received highest amount of foreign investment during the reform period.

In 1999, the Committee on Telecom and Information Technology Convergence looked into the emerging issues in the sector and has provided inputs to amend the TRAI Act in 2000. The new Act has changed the nature, composition and powers of the regulatory commission and the regulatory role of TRAI has been split from dispute settlement. However, the new

TRAI has given powers to recommend the introduction of new service providers, technological improvements, quality standards, and the fixing the terms and conditions of licenses (Gupta, 2000). The new Act has reduced the number of members into four (out of them, two are part-time members) and removed the condition that the Chairperson should have a background in the judiciary. The new Act has also constituted the Telecom Dispute Settlement and the Appellate Tribunal (TDSAT) to adjudicate disputes between a licensor and licensee, service providers and between a service provider and a group of consumers. However, there are criticisms that the new Act has not explicitly addressed issues relating to telecom standards, intellectual property rights and competition policy (Basant, 2001). It has been further argued that the lack of clarity in the allocation of powers among TRAI, TDSAT and the competition authority could lead to delays in litigation (Basant, 2001).

In one of the legal battles between DOT and TRAI, the Cellular operators had alleged that DOT had unilaterally increased the tariffs for calls made from ordinary telephone to cellular mobile phones (Aircel Diglink India Limited and others Vs. Union of India and others). DOT appealed the TRAI order which favoured Cellular Operators, in the Delhi High Court and requested to curtail the scope and powers of TRAI. The High Court's judgement was against the TRAI decision, which opened up the possibility of challenging the TRAI decision in all the High Courts in the Country. However, the provision to appeal TRAI decision in the High Courts was removed from the new Act and which made it possible only in the Supreme Court.

The technological changes are transforming the structural features of the telecom industry in an unprecedented way and question the nature and scope of regulation itself. The issue of technological convergence raises the issue of rapidly changing definitional issues in the telecom industry and the contestable nature in the increasing number segments of the telecom markets (Basant, 2001). In such a situation, the inconsistent regulatory policies across various delivery mechanisms could distort the growth of the industry. In India, the proposed Communications Convergence Bill 2000 suggests the formation of an independent commission consisting of specialists from various fields to establish a modern and competitive communications infrastructure, which could tackle the issues of convergence among various sectors, and provide communication services at an affordable cost.

Competition in Basic Services

As per 1994, basic service provision had been planned as a duopoly between DOT and a selected service provider. In 1995, with an intention that the private sector would provide 1.77 million telephone lines and 0.21 million villages with public telephones, the GOI started to initiate limited competition in basic services. Several service providers, one for each of the twenty circles into which the entire country had been divided would compete with the DOT for basic services (for a detailed discussion on this process see Arun and Nixson 1998, Gupta, 2002). Despite an increase in the number of villages connected by phone over the years, rural connectivity remains a matter of concern. Even in those villages which have been connected, provision remains poor for facilities such as public telephones, long-distance facilities and other value-added services. Tele-density has increased from 0.8 in 1994 to 3 per cent in 2001, but this is below the government target of 7 per cent in 2005 (Gupta, 2002).

To address these issues the TRAI has suggested an unlimited competition for basic services along with domestic and international long-distance services. TRAI has also recommended the use of alternative technologies such as Wireless Local Loop (WLL) (allows limited mobility with handsets) for a rapid expansion of basic services. Cellular operators object to this and suggested it is nothing more than a substitute for cellular services. They argue that the decision would disrupt the level playing field as cellular operators pay higher fees for entry and biase revenue share arrangements compared to basic service providers (Gupta, 2002). However, the TRAI has decided against the objections by cellular operators and treated the WLL technology as a supplementary facility for basic services. TRAI also note that the service provided by the cellular operators is superior to what will be provided by the basic service providers by using WLL and as a result will not adversely affect business (Gupta, 2002). DOT has recently implemented the proposals of the TRAI despite the resistance from cellular operators. The introduction of effective competition in the domestic long distance sector was made possible only through the intervention of Prime Minister's Office in the policy making process against the interest of DOT (Bagchi,2000). Currently, other than BSNL and VSNL, two private companies (Bharti Group and Reliance Industries) are also operating in the domestic long-distance services. However, a recent survey by TRAI during the period October 2001-June 2002 shows that operators in the basic services provision are short of meeting the standards for network reliability and availability. This poses further challenges to TRAI and the basic service providers to make the industry more competitive and beneficial to the consumers.

CONCLUSIONS

The legislative changes in regulation and competition prove beyond doubt that India has come a long way from a closed economy. The Indian situation reveals that as the economy opens to competition, regulating a market place requires a different set of resources and capabilities to address the emerging issues. The corporatisation of government departments brought more freedom and flexibility to take market-oriented decisions, and, enhanced the level of accountability. In the telecommunications sector, regulatory activities in the early stages of competition would be heavily involved in preventing the incumbent from using its market position. Although TRAI has established some elements of transparency and leadership in their participatory style of functioning, it is imperative to develop more initiatives based on technological development to enhance competition and to avoid regulatory capture by the previous incumbent. The regulatory authority's decision to allow WLL in the basic services is expected to reduce the cost, and, enhance rural connectivity and tele-density. The new licensing regime of a one time entry fee and rest by revenue sharing is also a change in a positive direction compared to the previous high license regime. However, there still some contentious issues such as convergence and interconnection that needs to be addressed with appropriate regulatory guidelines and/or industry negotiation on agreements.

India needs to examine more closely the international experiences of regulation and competition in developing its own specific strategies. As in many developed countries, there should be a national consensus to keep the issues of regulation and competition out of the political agenda, which is still not happening in India. As India moves through the reform process, the political parties need to recognise the views of subject experts. To what extent the Government is willing to surrender political control over the decisions on regulation and competition depends on whether the political parties are prepared to treat these issues on the basis of the long term national interest irrespective of their position in the power.

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