

Current and future regulation challenges for the Chinese Telecommunications sector

In recent decades, most countries have initiated telecommunications reforms; these reform manifests divergences in approaches. To avoid political risk, China has employed a reform model one could call “act after trials”. This means that instead of initializing an overall reform by issuing new laws and completely adjusting the administrative regime, a feasible new system is found through some trials with only limited, necessary modifications on the administrative regime being made. Once the new system has been formally formed, an overall reform is subsequently carried out by enacting state directives and completely reforming administrative regime. Under this principle, while market change has moved forward step by step, administrative reform has advanced laggardly and legislative processes have been carried out slowly compared with practical need. In the paper, the author tries to explain the current regulatory particularities of Chinese telephony. Although, it is obvious that the Chinese telephony reforms itself successfully, a set of dynamic issues and great challenges still existed in the industry.

1 . Recent regulatory practices in china telephony

- China commenced launching the “Village Access Project” (“VAP”) in 2004 as an interim institutional arrangement in which access tasks are distributed among the incumbent carriers to address the pressing issue of providing basic telephone services to its rural areas .
- A new PRC Anti-Monopoly Law (AML) was enacted on August 30, 2007 and took effect on August 1, 2008.
- The PRC State Council announced its Ministerial Reform Plan on 11th March 2008. The plan specified an establishment of a Ministry of Industry and Information Technology of the People’s Republic of China (MIIT) to replace the previous telecommunications regulator MII (The Ministry of Information Industry). On 24th May 2008, a Notice of Deepening Reform in Telecommunications Sector was published by MII in conjunction with NDRC and National Treasury. The notice specified a new market reform, which included a sale of China Unicom’s CDMA network to China Telecom, merging China Unicom to China Netcom, merging China Satellite basic telecommunication business to China Telecom, and merging China Railcom to China Mobile. In simple, this reform merged the previous six telecommunications SOEs into three super-SOEs. It is therefore widely referred to as the ‘six to three’ reform.

2 A critical analysis: problems to the existing regulatory regime:

Although the current regulatory reform is meant to transform telecom carriers into full market players under effective regulation, the decade-long structural and regulatory reform has resulted in neither genuine competition nor government-business separation. It will be no easy task for China to work out an optimal policy prescription within a short period of time given its drastic regulatory transition, industry consolidation, and general economic and socio-cultural conditions. The

fundamental causes for these deficiencies are arguably rooted in China's political foundation, and consequently, the socio-economic and legal system. Current Economic liberalization that has left the fundamental political regime untouched in China has resulted in a specious market economy and a skewed institutional environment. The general institutional condition at economy level is doomed to be mirrored at the industry level, as sector-specific institutional characteristics are inevitably pre-determined or substantially influenced by the general institutional environment. Meanwhile, invisible ties such as the complicated interpersonal relations between the regulator and the industry still exist even after the divestiture of the physical ties of assets. Thus, not only is regulatory independence undermined but government-business relations become even subtler. Generally speaking, the current institutional environment at both economy and sector levels in China is of an unstable, unpredictable, and dynamic nature.

3 Suggestions to Chinese telephony regulation:

- Building a new legislative culture for the regulator: Unlike most developing countries around the world, until now China has not adopted a sector-specific law. The Chinese model of telecommunications regulation therefore provides a unique and interesting case of 'competition regulation without a telecommunication law'. In the absence of a telecommunications law, telecommunications in China is governed by a disparate collection of regulations and rules, the operation of which is often uncertain and 'inconclusive'. Importantly, both the ex ante specific-regulation and the ex post competition policies should operate jointly in the telecommunications industry. Besides, According to China, its telecommunications regulator has been 'structurally and financially' separate from all telecommunications operators and providers —since the Ministry of Information Industry was established in 1998. However, the distinction between independence from operators and independence from government becomes blurred when the operators are State-owned, as is typically the case in China's telecommunications service industry. Therefore, the author suggests an independent regulator to foster a further reform of the telephony.
- using cost observation to regulate telephony: Through these years regulation reform, China telephony has gain great success, however, some unsolved issues still puzzles the industry, which including the telecom service tariff, the network interconnection ,and the universal services obligation. Generally speaking, the fundamental reasons for these problems lie in the difficulty to measure and calculate the telecommunication services cost. Therefore, According to the author, the telephone termination rates should be based on service cost. Compared with the western telecom carrier, the Chinese operator still face pressures to provide detailed and true cost information to the Chinese telecom regulator, but the next stage of profound reform necessarily require the operator to supply more accurate and sufficient cost data to the regulator.
- Using SMP regulation to further improve market competition: The telephony supervision requires professional regulation tools to fulfill effective regulation, SMP obviously play a significant role in the asymmetric regulation from the experiences of many countries practices. Compared with the western countries, China telephony has to accumulate experiences to future improves the regulation of the industry.

