



# Symbiosis Institute of Telecom Management

## Comparative Analysis of ICT Regulation Frameworks: A Study of Seven Countries

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# Introduction

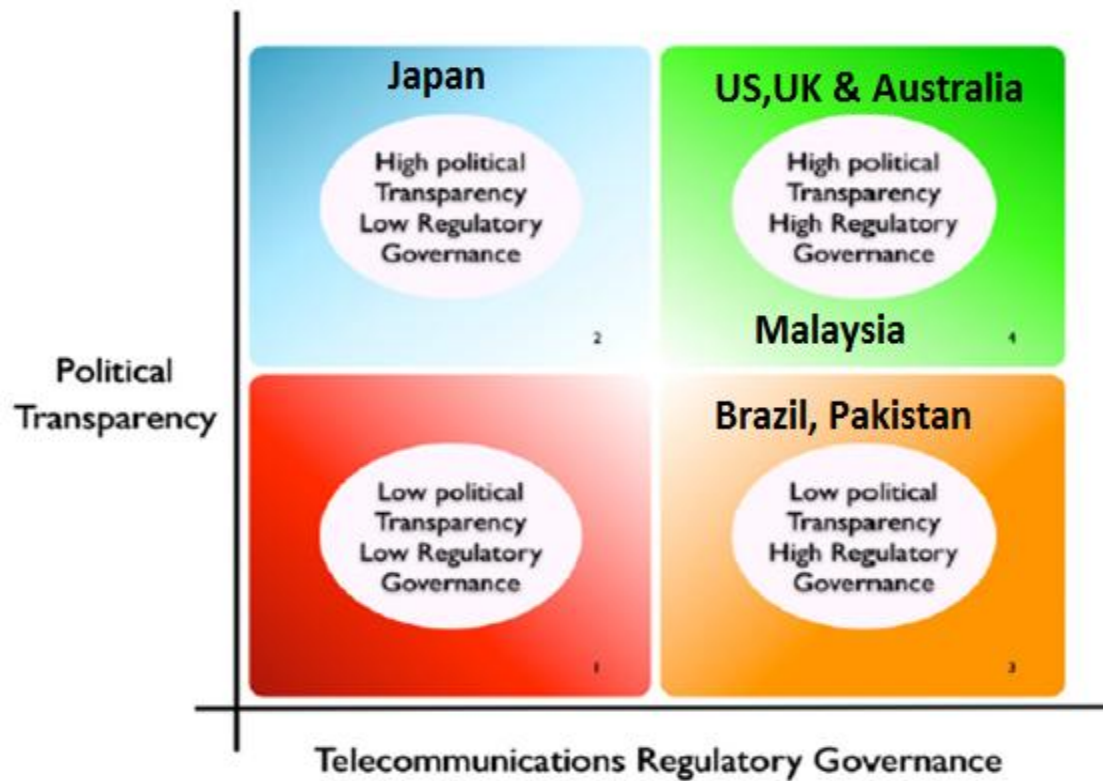
This study analyses the ICT regulatory framework of seven countries namely USA, UK, Australia, Japan, Brazil, Malaysia and Pakistan.

This paper aims to bring out the key learning regarding the regulatory systems from both the developed as well as the developing countries.

The study highlights the diversity and similarity in institutional frameworks across the countries.

It broadly covers two important aspects of regulatory study (1) Institutional Framework and (2) Autonomy to the Regulator.

# Selection of the Countries



The Telecommunications Regulatory Governance Index (TRGI) by Leonard Waverman, Pantelis Koutroumpis.

Rohan Samarajiva, Helani Galpaya, Divakar Goswami, Dimuthu Ratnadiwakara, "Telecom Regulatory Environment (TRE) assessment: Methodology and implementation results from five emerging economies."

# Research Methodology used & reasons

- Most of the research involving multiple countries and their regulatory environment has been quantitative based on generalizing the regulatory environment in a large number of countries on the basis of certain common parameters. The attempt is to generalise.
- However, every country differs from the other in terms of commitment to regulations, political set-up, level of autonomy and availability of competent human resources etc. And hence for deeper understanding of the regulatory environment of a specific country in presence of certain country specific conditions qualitative research method is used.
- Qualitative research methods help to bring forth the similarity as well as the diversity in the regulatory set-up of the various countries. The number of countries selected for this research is small, this has helped the authors to study each country in detail so as to bring out best practices in the domain of telecom regulation

# Selection of parameters for Comparison

- The World Bank Handbook For Evaluating Infrastructure Regulation by Ashley C. Brown, Jon Stern, and Bernard Tenenbaum and Defne Gencer, lists 8 key factors of Infrastructure Regulatory Systems.
- Brian Levy and Pablo T. Spiller “The Institutional Foundations of Regulatory Commitment: A Comparative Analysis of Telecommunications Regulation”
- Drawing from the information available in the above mentioned resources and adding India specific factors the selection of the final list of parameters was done.

# Parameters used for comparison

The parameters have been classified in three broad categories:

## **(1) Institutional Regulatory framework:**

- (a) Number of constitutional bodies involved, b) Division of the authority and scope of the regulator, c) Role Duplication, d) Role of the Ministry and bureaucracy, e) Single Ministry for regulation of Telecom, Internet & Media , f) Office of Ombudsman/ Consumer Protection

## **(2) Process of Policy & Regulation formation:**

- a) Involvement of stakeholders , b) Transparency in process of policy formation and c) Self-Regulation

## **(3) Autonomy to the regulator:**

- (a) Financial Autonomy, b) Process of Recruitment of officials of the Regulator, (c) Autonomy for recruitment and d) Representation of stakeholders in the Regulator's officials.

Country	USA	UK	Japan	Brazil	Australia	Malaysia	Pakistan
Variable							
Clear role definitions (CRD)	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Contribution of stakeholders(CST)	Yes	Yes	No	Yes	Yes	Yes	Yes
Diverse profile of chairman of regulator(DPC)	Yes	Yes	No	Yes	Yes	Yes	Yes
Competition regulator(CR)	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Ombudsman (O)	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Financial Autonomy(FA)	Yes	Partial/Yes	No	Yes	No	Yes	Yes
Freedom in terms of HR(FHR)	Yes	Yes	No	Yes	Yes	No	No
Capacity Building(CB)	Yes	Yes	No	Yes	Yes	No	No
Self-Regulation (SR)	Yes	Yes	Partial/Yes	No	Yes	Yes	No
Single Ministry for Telecom & Broadcasting(SM)	Yes	Yes	Yes	Yes	Yes	Yes	No



# Abbreviations used:

CRD- Clear role definitions

CST-Contribution of stakeholders

DPC-Diverse profile of chairman of regulator,

CR-Competition regulator

O-Ombudsman/ Consumer Protection

FA- Financial Autonomy

FHR-Freedom in terms of HR

CB-Capacity Building

SR-Self-Regulation

SM-Single Ministry for Telecom & Broadcasting





# Findings( 1/4 )

1. From the above table, it can be easily observed that **CRD** , **CR** and **O** are necessary pre conditions for an effective regulatory environment.

*Effective Regulatory Environment is defined as one in which the regulator is structurally, financially and functionally independent so as to enable it to gain credibility, have the authority in order to enact and enforce the decisions that are based on transparent, accountable and predictable regulatory procedures.*

2. Observing the above mentioned combinations, we see that CRD,CR,O,SR,SM and CRD,CST,DPC,CR,O,FA are the two sets which are sufficient for effective regulatory environment.

# Findings(2/4)

3. The combination of variables like Clear Role Definitions (CRD). Contribution/Participation by stakeholders in the rule making(CST). Diverse Profile of Chairmen of Regulator (DPC), Competition Regulator (CR) , Ombudsman (O) ,Autonomy for recruitment (FHR) , Capacity building (CB) and Single Ministry for Telecom & Broadcasting (SM) are observed in three developed countries USA, UK & Australia.
4. Financial Autonomy: In all the countries except Japan, the regulator is funded through a fund administered by the Parliament. The U.S. Congress tried to reduce the discretionary interference of the Office of Management and Budget (OMB) by asking commissions to submit their budget proposals simultaneously to the OMB and to Congress.

# Findings(3/4)

5. Developing Countries Brazil, Malaysia & Pakistan have liberalised under the obligations of WTO , GATT & GATS agreements. However, the driver for extent of autonomy given to Telecom regulator shows an interesting similarity. The Telecommunications ministers in their respective countries played vital roles at the time of formulating the Parliamentary Act.
6. Appointment of Directors/ Chairmen: Although, the regulators have mandate as per the Act of their establishment to recruit competent professionals irrespective of their political affiliations, in Malaysia & Pakistan the Governments have in the past selected Directors either from the erstwhile SOEs. The FCC in the US has a condition of selection three out of the five Commissioners to be selected by the ruling party and the rest come with the backing of the opposition. But, all of them need to be approved by the Senate.

# Findings(4/4)

7. Minutes of the meetings to be made public: Although it is mandatory for the regulator in all the countries to record the minutes of the meeting, in US, UK and Brazil it is mandatory for the regulator to make the minutes public, this adds to the transparency and accountability of the regulatory officials.
8. Emphasis on self-regulation: UK, Australia and Malaysia have adopted the concept of self-regulation in which industry associations participate in the standard making process and also ensure compliance by their members.

# Key references

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# Questions or Comments



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