

Book Review
Hank Intven (2000) ed. *Telecommunications Regulation Handbook*,
infoDev Program, The World Bank, ISBN # 0-9697178-7-3

by
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The number of separate telecommunication regulatory authorities jumped from twelve to just less one hundred during the 1990s. Separate here means the regulatory functions were no longer performed within the ministry or by the incumbent PTT. Most of them were in developing economies, and by definition had little or no experience of how to manage the transition from a state or private monopoly regime to a competitive one. The publication of the *Telecommunications Regulatory Handbook* is therefore certainly timely, and its appearance should not seem extraordinary. But in one sense it is.

For many years there has been a slightly uneasy relationship between the two world bodies most responsible for telecommunications development issues, the International Telecommunications Union (ITU) and The World Bank. To call it a turf battle would be too strong, so let's just call it a mutual cautiousness verging on suspicion. Whereas the ITU was nervously looking to adjust its role – before it lost it altogether - in a universe no longer dominated by state-run carriers, The World Bank was eyeing opportunities to offer advice and achieve a few success stories in the sexy new world of ICTs. But even this was not so straightforward because the Bank can only lend to sovereign borrowers, so as more and more governments privatized their telecommunications sectors they fell beyond the direct orbit of the Bank itself and into that of the Bank's affiliate, the International Finance Corporation (IFC). Now the Bank and its affiliates work through the new Global Information and Communications Technology Group (GICT) to promote the sector in developing economies.

So the first remarkable achievement of this volume is to bring into collaboration the Bank and the ITU, with a foreword from both sides. And a very fruitful collaboration it is. The *Handbook* covers six modules: an overview of telecommunications regulation, licensing, interconnection, competition policy, price regulation and universal service, with appendices on the WTO's Regulation Reference paper, the economics of telecommunications prices and costs, a glossary, and a list of references, of which more later. The principal authors are the editor, Hank Intven, and his colleagues at the McCarthy Tétrault telecommunications practice, Jeremy Oliver and Edgardo Sepúlveda, with additional input from other members of the practice. The *Handbook* is therefore not the product of Bank and ITU officials, but of practicing consultants who clearly have a wealth of experience at their disposal.

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The second remarkable achievement of the *Handbook* is its scope of coverage within each of the module areas. Defining the limits of a topic can be as problematic as identifying the key points to focus on. For example, interconnection has to cover various permutations of local, long distance and international fixed-to-fixed and fixed-to-mobile, as well as value-added services such as Internet access, but it also involves public payphones, local loop unbundling, access to buildings and so forth. There are technical, regulatory, economic and market issues to be handled. Each module could become a book in itself, especially when examples, cases and scenarios are included. So it is to the credit of the authors and to the editor in particular that these dimensions are handled in such an economical way. The modules run to just over 180 pages, interconnection (53 pages, of which 8 alone are devoted to a checklist agreement) being the longest, although if you include the appendix to chapter six on universal service case studies, that chapter stretches 55 pages. The appendices add a further 70 pages.

The economical style is also reflected in the page layouts, with a clear type face and point size, bold sub-heads and blue-wash boxes, making the appearance look attractive and very manageable. Blue sidebars on the page edges delineate each chapter topic, so searching for the appropriate module becomes very easy. For books like this, intended for use in training courses and for self-learning, accessibility and design are especially important, and although never a substitute for content, they are significant complements. Just one problem, in my copy appendix page D-24 is missing and has been replaced by a repeat of D-34.

The third remarkable achievement is the sheer lucidity of the modules. The language is plain and simple even when the concepts are not. Again design is an important ingredient here too. The *Handbook* makes excellent use of 'boxes' to present illustrations of the issues, examples, cases and scenarios. I cannot think of a better example than appendix B which nicely sets out in graphic form the distinctions between various concepts of costs, everything from LRIC and TSLRIC/LRAIC to FDC/FAC and Stand-alone costs (Figure B-8) and then illustrates the practical application by a regulator (Figure B-9). Another example which springs to mind is the use of quality of service criteria in price capping formulae, illustrated in the case of the Rhode Island Scheme, USA. Table 4-9 tabulates the points system applied to NYNEX whereby the company has to achieve a variety of QoS targets, where failure to achieve would automatically increase price cuts for the following year, thereby reinforcing the notion of a price/QoS trade-off. But every module is full of equally compelling examples, and they are really very well done.

Ironically, the one area where there is a gap is in the interconnection module. After rightfully stating that interconnection is widely regarded as the single most important issue for regulators to handle well, we might have expected at least a demonstration of benchmark interconnection rates. The chapter itself is absolutely full of invaluable information and common sense guidance, but surely for regulators in developing economies a thumbnail reference box to various interconnection rates and charges from a variety of different jurisdictions would be very helpful.

So what, if any, are the weaknesses of the *Handbook*? Everyone will have their own pet theories about what works and what doesn't, what is a priority issue for regulators and what isn't, so my list is subjective.

First, there is an implied danger that new developments, especially in the areas of broadband access and IP, simply present extensions to existing regulatory regimes rather than paradigm shifts. I have argued elsewhere² that the implication of 'broadband economics' is very different from 'narrowband economics' so far as telecom companies are concerned, and this implies that the focus of regulatory concerns has to change. Put simply, telecommunications regulators must embrace the issues of electronic commerce on the one hand – that is the role of telecom companies not just as suppliers of the infrastructure but as players in electronic business themselves – and on the other hand, they must come to terms with issues of convergence. The latter involves both restructuring regulatory regimes, a theme that the *Handbook* does touch on, and understanding convergence not so much as a new business opportunity – industry players hope and expect it to be exactly that – but as a force that is destroying the certainties of the narrowband world. An obvious example is the use of IP as a means to by-pass IDD tariffs. After decades of certainty, what does the move into a world of uncertainty mean for traditional telecom carriers and regulators? What special problems does it pose for regulators? For example, is it too late to adopt the same policies of market liberalization that worked well in the 1980s and 1990s? A decade ago IDD revenues, and cellular revenues, provided a cushion for incumbents, and therefore for regulators, to adjust with relatively little pain. Is this still true today? I would have liked to see this question addressed more openly in all the modules.

Second, the presumption that runs through the *Handbook* may be summed up as follows.

The trend today is toward deregulation. Some traditional forms of telecommunications regulation are now viewed as having been more damaging than beneficial to the development of national telecommunications infrastructure and services. Today, when regulatory measures are proposed or reviewed, governments and regulators must generally ensure that (1) there is a demonstrated need to regulate, and (2) the most efficient measure is selected to meet the specific regulatory objective. (p.1-2)

Now this is probably a fair reflection of current 'best practice' thinking, but there is a problem associated with it. Even in the 'best practice' jurisdictions the voluntary approach has severe limitations that are not adequately reflected in this *Handbook*. An example that is common to most regimes is dealing with disputes, especially interconnection and unfair practices or anti-competitive practices. Section 3-2 of module 3 does deal with dispute resolution guidelines, but some assessment of just how effective the regulator can be, and what a regulator can do when existing procedures prove ineffective, is required. The place to put it is in module 1, the overview, since dispute resolution and enforcement are problems common to a wide variety of

² John Ure (2000) 'The era of international simple resale: not waving but drowning?' *Telecommunications Policy*, v.23.2, February, pp.9-30

issues. For example, access to privately owned buildings and issues of public rights of way involve questions of authority that cut across government departments.

A separate point, worth thinking about, is that for regulators in economies where 'best practice' is, for any number of reasons, not feasible, a 'second best' set of guidelines would be a good idea. Some may object that there is little point in deviating from the 'ideal' in a handbook, otherwise it sends the wrong signals, but this is not a Holy book, it is a handbook. There is advice scattered throughout the *Handbook* that does provide elements of this, such as the module on licensing: "where a country's regulatory regime is not well developed, it is often necessary to include a reasonably comprehensive codification of the basic regulatory regime in the licence." (p.2-18). It would be useful to pull together tips of this sort in the overview. Likewise, to point out some of the practical difficulties of implementing 'best practice', such as the difficulties new entrants have in forecasting their future traffic, yet without such forecasts on what basis can they negotiate interconnection capacity from the incumbent?

Inevitably I have a few other haggles and niggles. For example, I once heard a regulator from a well-developed economy remark with considerable frankness that he started from the outcome he desired and made the assumptions that would produce the required result. Since assumptions can often withstand a wide degree of tolerance, this is a practice that some regulators, and not a few policy makers, have down to a fine art. A smack of realism, a whiff of grapeshot from the way the battles are actually fought out, is missing from this *Handbook*. Now this is a handbook not a treatise on political economy, but it is important to emphasize the boundaries between arbitrariness and objectivity.

For example, the assumption that the price elasticity of demand for IDD calls from Hong Kong by the mid-1990s was close to -0.3 was used in the financial modelling of OFTA to arrive at the compensation figure of HK\$6.7 billion for the trade-in of Hongkong Telecom's exclusive international facilities and IDD licence. A higher elasticity estimate would have greatly increased the amount of compensation. Was OFTA's figure arbitrary? If it was my estimate then no it was not, although this was never publicly acknowledged.³ Privately I was assured it was purely "an assumption". Either way, clearly it was acceptable to HKT in the course of negotiations. By contrast, in Table 4-10, the Australian Productivity Council (1997) assumed, as part of a tariff-rebalancing model, a price elasticity of demand for Telstra's IDD at -1.2 . This is at the very top end of the range cited in Appendix B (Table B-1) which is based mostly on the work of L.D.Taylor. Another story comes to mind, when I attended a seminar in Washington, D.C. at which I referred to my own estimates for Hong Kong. "For God's sake don't let that figure out" reacted one renowned economist, "or we'll never get them to liberalize." Good joke, bad omen.

³ John Ure (1995) 'Telecommunications' in Cheung Y.L. and M.H.Sze eds. *The Other Hong Kong Report 1995*. Hong Kong: The Chinese University Press, pp.380-401. Available at www.trp.hku.hk.

But my final niggle is an Asian one. Do I detect a blind spot? I first thought so on reading module 1. The Bank, we know, is Washington-based and the ITU based in Geneva. Latin American influence is strongly represented both in the ITU and the *InfoDev* Program, and the Bank's focus on Africa and the CIS in recent years is well recorded, and the authors themselves are Canada-based. Does this explain why Table 1-3 lists 24 international organizations, and not one from Asia? (Unless the US Hawaii-based Pacific Telecommunications Council is included.) No reference is given to the inter-governmental Asia-Pacific Telecommunity (APT) based in Bangkok, or to the APEC Telecoms and Information Working Group, or to the PECC Telecoms and Information Industries Forum. Even in the text, all the regional Development Banks are mentioned except for the Asian Development Bank – and, to be even handed, the Andean Development Bank. When it comes to bi-lateral aid agencies, US Aid, Denmark's DANIDA and Canada's CIDA are listed, but not Japan's JICA, nor Korean aid. This got me looking at the references. The statistics speak for themselves: over 400 references of which 250 are from organizations. Of these 16 are from the TRAI (India), 9 from Australia and 8 from OFTA (Hong Kong) and one each from APEC, the IDA (Singapore) and MCMC (Malaysia), or fewer than 15 per cent counting in Australia. Of the 164 other references not a single one is an Asian source.

Does this matter? At one level it does, and that is the level of perception. There is no question that most of the ideas and experiments with regulatory reform come from the 'best practice' jurisdictions, and the purpose is clearly to draw attention to them as guidelines, benchmarks and so forth. But ultimately the learning process is about understanding how the local environment can be rethought with the help of these lessons and insights, and that process requires drawing upon local knowledge. The best example I know of, because it is one I am familiar with, is China. The simple mistake of trying to apply ways of thinking and assumptions which are entirely appropriate to a North American or a European legal, commercial, cultural and political environment to mainland China is one which is repeated endlessly. Despite the Internet, research has, at some point, to be *in situ*. The idea, for example, that China's entry to the WTO will necessarily open China's telecoms markets to foreign investment and that this will be driven increasingly by the impersonal and apolitical forces of the market is far, far too simplistic. If it did happen that way, the depth of radical change overtaking China would be far more profound than has hitherto been contemplated.

So, back to my rhetorical question: yes it matters. In particular, it matters to those who will be using this *Handbook* for training purposes in developing economies, and I shall certainly be one of them. This *Handbook* is a real achievement and a great contribution, and I salute the authors. It deserves a wide readership among policy makers, regulators, operators, users and consumer groups alike, and not least among educators who will find themselves educated by it.

One last very important point: the entire *Handbook* is available electronically at **Error! Bookmark not defined.** This means that it is freely accessible throughout the developing world where it is most needed. For this the *InfoDev* Program should be congratulated for a very good use of public money.