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FRAMEWORK FOR EVALUATING THE
EFFECTIVENESS OF
TELECOMMUNICATIONS REGULATORS
IN SUB-SAHARAN AFRICA

A Final Report for
the GICT Department
of the World Bank

Prepared by NERA

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1. INTRODUCTION

This report, by NERA Economic Consulting, develops an assessment framework and decision-making tool that, it is hoped, will facilitate evaluations of the effectiveness of telecommunications regulators in sub-Saharan Africa by the regulators themselves, World Bank staff, other institutions and their consultants.

The assessment framework has been developed as part of a larger study for the GICT department of the World Bank in which the framework was developed and then applied in three sub-Saharan African countries - Mauritania, Uganda and South Africa. The individual country assessments are attached to this report as appendices.

In the context of this framework we adopt a broad and dynamic definition of 'effectiveness' or regulatory 'efficiency' which encompasses both the legal and regulatory framework design and the extent to which it has affected the regulator's influence on the sector, as well as the implementation of the framework, regulatory practice, the regulatory decisions taken and their outcomes.

The structure of the report is as follows. Section 2 sets out the rationale for using the analytical framework. In Section 3 we explain the framework's logic and the assessment's role in it. A step-by-step instruction guide to conducting assessments can be found in Section 4. Background material for conducting assessments is laid out in the following 3 sections; Section 5 contains the normative reference point of the assessment and Section 6 covers the background data required together with the detailed questionnaire to be used by the evaluator. In Section 7, we provide a Menu of Options for Corrective Action which can be used, following assessments, to choose possible solutions to the impediments identified. Finally, Section 8 offers an illustration of how the framework might be used, by examining the issue of licensing in the three sub-Saharan African countries assessed.

2. THE RATIONALE FOR THE ANALYTICAL FRAMEWORK

2.1. Key Impediments to the Effectiveness of Regulators

The case studies undertaken in Mauritania, Uganda and South Africa have revealed that a variety of factors may be at play in hindering a regulator from having a more significant impact on the development of the country's telecommunications sector (see Appendices for full reports ¹).

Figure 2.1 below provides a (non-exhaustive) list of possible impediments to the effectiveness of regulators, whilst here we discuss a selection of the most prominent impediments observed in the country studies, together with a brief explanation of the consequences for the regulator's effectiveness.

1. **Rigidity of the legal and regulatory framework:** In both South Africa and Uganda, the legal and regulatory framework was found to be too inflexible to allow for a pragmatic and dynamic approach to regulation.

(A) One example of this in *South Africa* was the dispute in 2001 (and 2002) between the regulator and the incumbent, Telkom, regarding tariff regulations. The Minister of Communications in South Africa is required to publish all regulations issued by the regulator. However, a delay by the Minister in publishing tariff regulations led to a dispute between the regulator and the incumbent Telkom as to whether their tariffs should be filed under the old or the new regulations. Whilst the imposition of regulations inevitably requires a balance to be sought between rules and flexibility, overly stringent rigidity hinders effective regulation by tying the hands of the regulator in those situations where it needs to act quickly and decisively.

(B) In *Uganda*, undoubtedly the key factor hindering the UCC's effectiveness has been the prescriptive nature of MTN's and UTL's licences. Although the contractual nature of regulation through the licences has taken pressure off the UCC as described in the above section, it has also severely limited the UCC's opportunities for intervention in the market and the imposition of regulation in a number of crucial areas including licensing and price regulation.

2. **Lack of clarity in the definition of the respective role of actors (for example, the Minister and regulator):**

Lack of clarity and functional ambiguity between the regulator and other official bodies can be particularly damaging to the regulator's effectiveness, by harming its reputation for consistency and introducing uncertainty into the rules governing the

¹ Note, however, that the reports attached are much more extensive than that envisaged in this framework, and that the arrangement and design of the diagnostic has been slightly modified in the light of the case studies.

sector. Here we offer two examples from the case studies of Mauritania and South Africa.

(A) In *Mauritania*, the regulator has concurrent responsibilities for the implementation of universal access programmes with both the Universal Access Agency and the New Technology Secretariat. To date, they have been unable to agree on a division of roles and responsibilities. This is likely to affect the future selection procedures for the allocation of subsidies to operators. In *South Africa*, the Telecommunications Act provides the Ministry of Communications with powers to override the regulator in the field of licensing. It has exercised these powers on a number of occasions, with the result that potential investors have been deterred from investing in the sector for fear of further executive intervention. The Ministry is also required to approve all regulations of the regulator, which has delayed the enactment of a number of key regulations.

(B) In *South Africa*, the government has not afforded the regulator with the same level of independence as is enjoyed by most other regulators in the region. As a result there are significant functional ambiguities between the Minister and regulator. The Minister can intervene in the regulator's functions in a number of ways:

- The regulator is fully funded through Parliament, and has to obtain annual approval for its budget from the Ministry of Communications;
- Licences for basic services (i.e. excluding value added services and private networks) are awarded by the Minister of Communications rather than the regulator, and only in response to an invitation to apply issued by the Minister;
- The Minister is required to approve and publish all regulations in the Government Gazette before they are enacted;
- The Minister has attempted to intervene in other key regulatory processes on a number of occasions, including the issuing of interconnection and facilities leasing guidelines, and the licensing process for the third mobile licence; and
- The Universal Service Agency is also funded through the Ministry and the Director General of the Department of Communications acts as chair of the Agency's board.

The functional ambiguity and lack of political commitment has not provided for a constructive relationship between the regulator and the Ministry of Communications. As a result potential investors have reportedly been deterred from investing in the country's telecommunications sector, the regulator's staff have been demoralised, and the regulator has been prevented from building institutional legitimacy.

3. **Inadequate mechanisms for the promotion of consultation and transparency:**

In both Uganda and South Africa, there are very limited mechanisms for ensuring that the regulator consults in the development and implementation of policy and that its decision-making processes are transparent. Although in many sub-Saharan African countries, the creation of an independent telecommunications regulator has brought about a sea-change in the relationship between business and government, and mechanisms such as consultations have not, to date, been part of the government's toolkit, nevertheless it is believed that greater consultation on the part of regulators would impart their sectors with greater stability, and generate confidence in the regulator's ability to regulate fairly and predictably.

4. **Inadequate resources:**

- **Human resources:** in both *Mauritania* and *South Africa*, the regulator found it difficult to recruit and retain adequately qualified personnel in telecommunications. However, the reasons were different in each country: in *Mauritania* personnel working on telecommunications were being drawn into projects relating to other regulated sectors, whereas in *South Africa* the budget provided by the Ministry was overly restrictive. As a result, regulatory staff in Mauritania were not able to develop and establish new regulations, and regulatory staff in South Africa were not able to adequately monitor licensees' compliance with their licence obligations. In Uganda, whilst there was found to be sufficient numbers of staff, the level of expertise of the staff, particularly in economic regulation and in negotiation skills, was found to be severely lacking.
- **Financial resources:** in *South Africa*, the regulator is fully funded through Parliamentary appropriations. Whilst the regulator's budget has risen in recent years, their workload and litigations have placed even greater pressures on the budget, thereby preventing the regulator from adequately employing and training its staff (see above paragraph). In contrast, the *Mauritanian* regulator has, in recent years, been heavily dependent on World Bank funds for its operations. This situation may pose problems in coming years once the World Bank's Telecommunications Sector Project is completed. Finally, in *Uganda*, the telecommunications regulator has been required to spend part of its annual budget on interest payments to pay back a loan originating from the Finance Ministry. This is draining the regulator of financial resources that could be more usefully put towards its key functions such as dispute resolution and monitoring of licensee's activities.

5. **Monitoring and enforcement of licence conditions:**

Licence conditions are the principle means by which regulators impose obligations and responsibilities on licence holders in return for the right to run a telecommunications network. On the other hand, licence conditions are a key tool for the regulator to achieve its objectives in universal service and the preservation of

fair competition between all operators. Regulators need, therefore, to monitor licence holders' achievements of their licence conditions to ensure these objectives are achieved, and that the operators are meeting their obligations. However, monitoring and enforcement are notoriously resource-intensive activities and often take low priority in resource-strapped regulatory bodies. There was evidence of this in all countries visited, as explained in the following paragraphs.

(A) In *Maurania*, the regulator has so far failed to find a way to oblige the GSM operators to satisfy their quality of service requirements.

(B) In *South Africa*, the relatively large number of legal disputes between the regulator and operators that have been escalated to the High Courts have required significant, and unforeseen, expenditures that have reduced the budget available for other purposes including regulatory policy development and enforcement.

(C) Finally, in *Uganda*, whilst the national operators' licences have clearly spelled out how monitoring will occur, the regulator has not, to date, requested or received from any of the national operators the data they require to monitor achievement of the licence conditions.

Figure 2.1
List of Possible Impediments to Regulatory Effectiveness²

Dimensions	Issue	Impediment
Design of regulator's legal and regulatory framework (organisational)	Institutional design of the regulator	<ul style="list-style-type: none"> - Poor implementation of legislation - Goal ambiguity of regulator - Chronic congestion (overdemand and underfunding) - Misfit with institutional endowment of country and traditions (including corruption) - Misfit with government sector policy - Poor enforcement of rule of law
	Relationship between policy maker and regulator	<ul style="list-style-type: none"> - Political interference in running of regulator - Function ambiguity between regulator and policy maker - Function ambiguity between regulator and competition authority - Function ambiguity between regulator and universal service agency - Lack of political commitment - Interventions in regulatory decisions by policy maker overly-influenced by its relationship with operators
Regulatory processes and procedures	Accountability of regulator	<ul style="list-style-type: none"> - Inadequate mechanisms for holding regulatory members accountable for their decisions
	Autonomy of regulator	<ul style="list-style-type: none"> - Over-reliance on government/external bodies for funding - Political interference in remuneration, appointment and dismissal of regulator's members - Regulatory capture or excessive influence by a particular group
	Participation in decision-making processes	<ul style="list-style-type: none"> - Inadequate consultation mechanisms for involvement of external parties in processes
	Transparency of decision-making processes	<ul style="list-style-type: none"> - Over-reliance on informal (non-orthodox) lobbying of regulator
	Predictability of decision-making processes	<ul style="list-style-type: none"> - Lack of explanations provided in public and to operators for decisions - Poor enforcement of licence conditions and/or legislation - Lack of consistency in decision-making
	Effectiveness of regulatory policy tools in key areas	<ul style="list-style-type: none"> - Policy tools do not achieve their objectives (eg. ineffective price caps, universal service targets, licensing procedures, ineffective dispute resolution procedures etc)
Internal policies and procedures	Regulator's organisational structure and resource requirements (human, financial)	<ul style="list-style-type: none"> - Inappropriate organisational structure - Inadequate financial resources - Inadequate regulatory/administrative/business management skills of key staff - Over-reliance on external consultants and technical assistance from aid institutions

² Structure based on M. Naim, 'Fads and Fashion in Economic Reforms: Washington Consensus or Washington Confusion?' (table 3), IMF 1999.

External	External factors	<ul style="list-style-type: none">- Political and civil unrest- Significant changes in the financial markets- Changes in the financial strength of the operators unrelated to domestic regulatory decisions- Changes in the country's external aid financing
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2.2. Requirement for Analytical Framework to Enable Precise Identification of Impediments

The framework has been designed with two objectives in mind:

1. To assist regulators in formulating priorities, and developing an action plan to achieve those priorities and to mitigate existing and possible future impediments; and
2. To assist the World Bank in designing strategies and subsequent programmes of technical assistance for telecommunications regulators in the region of sub-Saharan Africa.

As can be seen in Figure 2.1, there are many factors that may hinder the regulator from exerting a greater, and more beneficial, impact on their telecommunications sector.

Moreover, the situation will often be complex, with close interdependencies observed between the different impediments. For example, the South Africa case study demonstrated that the weak predictability of decision-making, the lack of autonomy and the regulator's limited financial resources were all related to the functional ambiguity between the regulator and policy maker.

In view of the large number of potential impediments as well as the possible interdependencies between them, an assessment framework is viewed as necessary to facilitate the evaluation of the regulator's effectiveness and the identification of the key sources of the impediments (or catalysts), and their precise nature.

This is particularly true of evaluations of regulators in sub-Saharan Africa, where problems are often manifold, and published data and information regarding the regulator's activities is scant.³

Once identified, the analytical framework enables the evaluator to confront the problems with a variety of options for corrective actions that could be used in order to resolve or mitigate the impediment.

Where a number of impediments have been identified (as is likely), the tool should also help to define priorities, and develop an action plan and strategy to deal with the issues.

Experience from the case studies suggests that the diagnostic needs to be based on a rigorous analytical framework to ensure that the evaluator understands the motives behind

³ In addition, the diagnostic has been designed to ensure the most prevalent impediments to regulatory effectiveness in sub-Saharan African states are thoroughly considered by the evaluator.

the regulator's activities and the activities of the sector participants, that they cover all possible impediments, and that the interdependencies between the impediments are ascertained.

Finally, the evaluator should bear in mind throughout the assessment that regulatory agencies are not created, and do not operate, in vacuums, but are inevitably the result of a large number of complex political, social, historical and economic factors. This is as true in sub-Saharan African countries as elsewhere. The identification of impediments to regulatory effectiveness as well as the formulation of possible solutions must therefore explicitly consider these factors for the evaluation to be credible and realistic.

3. THE ANALYTICAL FRAMEWORK

The analytical framework is built on a dynamic and broad notion of regulatory ‘*efficiency*’, which encompasses both:

- The legal and regulatory framework design and the extent to which it has affected the regulator’s influence on the sector (the ‘traditional’ notion of efficiency); and
- The implementation of the framework, regulatory processes in practice, the regulatory decisions taken and their impacts/outcomes.

Much has been written about the theory of regulatory design in developing countries and the principles for good regulatory practice. Generally, the literature distinguishes regulatory governance criteria (i.e. the framework for regulation) from the actual outcomes of regulatory practice (i.e. the extent to which regulatory decisions achieved their goals).⁴

The analytical framework is depicted in Figure 3.1 below. Here we briefly explain each element of framework in turn.

Firstly, a systematic assessment of the regulator’s efficiency is carried out. The analysis is achieved using data and information obtained through the use of a comprehensive questionnaire in cascade-menu format as well as a list of documents and data directly requested from the regulator and/or Ministry with responsibility for telecommunications.

The objective of the assessment is to identify those impediments to regulatory efficiency, as defined above. As we saw in Section 2.1, impediments may have a host of causes - Figure 2.1 provides a selection of common impediments observed in sub-Saharan African countries in particular. The final output of the assessment is a precise diagnostic that identifies impediments to regulatory effectiveness, which can be used by (a) regulators to define priorities and an action plan, and (b) for the World Bank to develop an assistance strategy.

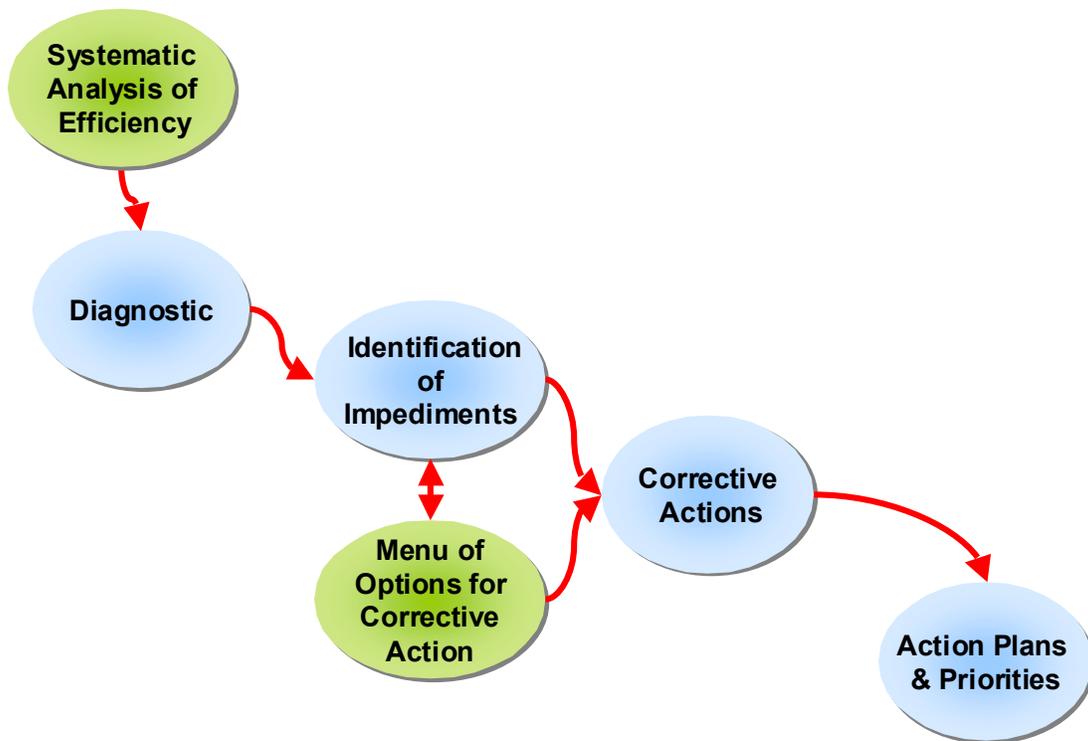
Once the impediments have been identified, a menu of options for corrective actions can be used to help assess the most appropriate policy response to overcome or annul the impediments. Since the menu is generic in the sense that it cannot take into account country-specific contexts, the evaluator needs to ensure the corrective actions selected to deal with the identified impediments are appropriate in the country-specific context within which they are operating. Furthermore, often there will be strong independencies between the impediments identified. For example, two or more impediments may be children (or

⁴ See, for example, J. Stern and S. Holder, “Regulatory Governance: Criteria for Assessing the Performance of Regulatory Systems”, Utilities Policy, February 1999, World Bank, “Telecommunications Reform in Uganda’ World Bank Policy Research Working Paper 2864 (June 2002), and G. Makaya, ‘The Determinants of Regulatory Effectiveness in Liberalised Markets: Developing Country Experiences.’ University of Witwatersrand, Johannesburg, presented to the TIPS 201 Annual Forum (Sept 2001).

symptoms) of one larger parent-impediment (primary causal impediment). This highlights the importance of analysing not only the impediments themselves, but also the possible relationships between them, and then taking the relationships into consideration when assessing the most appropriate corrective action to take (and the order of priority for those corrective actions).

Finally, an action plan can be developed to prioritise the corrective actions and to determine the optimum approach for their implementation, given the resources available and country-specific particularities.

Figure 3.1
Overview of Analytical Framework



4. ASSESSMENT'S MODUS OPERANDI

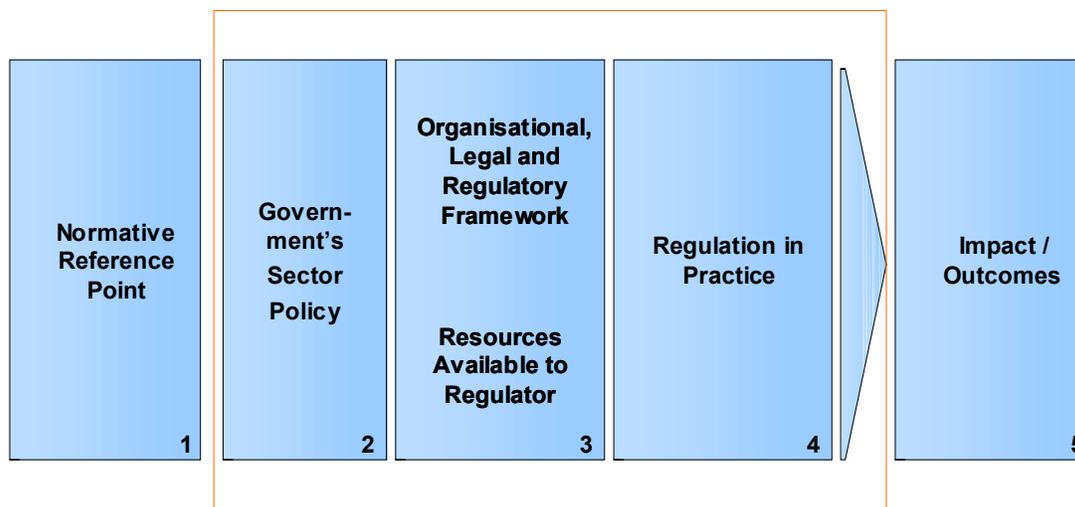
In this section we explain in the modus operandi of the assessment in detail.

The assessment has been designed under several assumptions:

1. That the evaluator will have access to regulatory staff and all relevant documents;
2. That at least four days will be spent on the evaluation; and
3. That the evaluators already have a detailed understanding of concepts and methods of telecommunications regulation.

The assessment's structure is portrayed in the following figure.

Figure 4.1
Structure of the Assessment



4.1. Steps of the Assessment

As can be seen, there are five steps of the assessment. These steps are sequential in the sense that information gathered in each step is used as an input in the following step.

We now discuss each of these steps in turn.

4.1.1. Step 1 - The Normative Reference Point

This component of the assessment contains three sub-components, each of which is referred to during the other steps of the assessment. The three sub-components are:

- 1.1 Common objectives of telecommunications regulators in developing countries;

1.2 Brief explanations of what are considered good regulatory governance criteria; and finally

1.3 The table of possible impediments to regulatory effectiveness as portrayed in Figure 2.1 above (developed and updated where necessary).

A full outline of the normative reference point which may be used in future evaluations can be found in Section 5 of this report (apart from the table of possible impediments which has already been discussed above).

4.1.2. Step 2 - Government's Sector Policy

This is the first part of the evaluation phase of the assessment. In this Step the evaluator determines:

2.1 The aspirations and objectives of the regulator of the government that conceptualised and incepted the regulator; and

2.2 The aspirations and objectives of the existing government (at the time of the evaluation) for the regulator.

Generally, the government will have specific objectives for the telecommunications sector (usually articulated through policy statements of the executive Ministry) and may also have specific policy objectives articulated for the regulator's role in the development of the sector.

The information obtained is then evaluated to assess conformity with the common regulatory objectives identified in the normative reference point (Step 1), and is also used as an input for the following Step (Step 3).

4.1.3. Step 3 - Organisational, Legal and Regulatory Framework (as provided by the legislation) and Resources Available to the Regulator

Step 3 is the second part of the evaluation phase. It is here that the evaluator assesses the detail of the organisational, legal and regulatory framework of the regulator under investigation to verify:

3.1 Whether the framework is consistent with the achievement of the government's objectives identified in step 2; and

3.2 The extent to which the framework adheres to the good governance criteria listed in the normative reference point.

Where the framework is either found to be inconsistent with the achievement of the government's objectives, or found to not adhere to the good governance criteria, the reference table of possible impediments to regulatory effectiveness, which is found in the normative reference point (Step 1), can then be used to identify possible impediments.

In an identical fashion, the evaluator, as part of this step, also needs to assess whether the financial resources and human resources (both numbers and skills) available to the regulator are sufficient for the regulator to:

- Achieve the government's objectives for the organisation and:
- Adhere to the good governance criteria of the normative reference point.

Once again, the information obtained is used as an input in the following step, Step 4.

4.1.4. Step 4 - Regulation in Practice

In this final stage of the evaluation phase of the assessment, the evaluator assesses the way in which regulation actually takes place in practice in the country to assess three interlinked issues:

- 4.1 The telecommunications laws, directions, regulations and other primary and secondary legislation and other texts with legal force that underpin the regulator's actions.
- 4.2 The internal and organisational processes that are used in practice to formulate, develop and implement regulatory decisions; and
- 4.3 The actual regulatory decisions and actions of the regulator. Whilst the regulatory decisions to be examined will depend on the regulator's mandate and specific powers, these are likely to include:
 - Universal access/universal service;
 - Licensing;
 - Interconnection;
 - Price regulation;
 - Dispute resolution;
 - Spectrum management; and possibly also
 - Competition policy.

Each of these three issues are then assessed for:

- Conformity with the organisational and regulatory framework and resource allocation which was dealt with in Step 3; and
- Consistency with the good governance criteria listed in the normative reference point (Step 1).

Using this method, the evaluator ensures that each Step of the assessment is fully consistent with, and takes into account, the results of the previous Steps.

4.1.5. Step 5 - Impact/Outcomes

In order for the evaluator to be in a position to assess the effects of the regulator's decisions on the sector, it will be useful for the evaluator to have at hand a number of key sector indicators over the past few years, including:

- The number of fixed lines;
- Number of subscribers;
- Penetration rates;
- Numbers of subscribers and market shares of key operators;
- Service quality indicators of key operators; and
- The key operators' prices and coverage indicators over time.⁵

A data and information request is therefore also provided as part of the assessment structure which the evaluator can use to ensure all relevant information has been gathered.

In addition, governance indicators will also be useful in assessing the extent to which the regulator has achieved the good governance criteria identified in the normative reference point.

It will also be necessary to make a judgement on whether there have been any important external events (i.e. outside the regulator's control) that have adversely affected the regulator's performance. Such factors, which are likely to be particularly important in sub-Saharan Africa, might include:

- Political and civil unrest;
- Significant changes in the financial markets;
- Changes in the financial strength of the operators unrelated to domestic regulatory decisions; and
- Changes in the country's external aid financing (note that this step will only be relevant in certain cases, and is therefore not depicted in the above figure).

4.1.6. Output of the Assessment

The final output of the assessment is a precise diagnostic that should identify all the impediments to regulatory effectiveness and efficiency, which can be used both (a) by the

⁵ The evaluator should, however, be wary of the possibility that changes in the indicators are due to factors outside the regulator's control. Note also that the evaluation is still primarily qualitative rather than quantitative and does not aim to assess the quantitative impact of regulation in the same way as studies such as Fink, Mattoo and Rathindran, World Bank Policy Research Working Paper n.2909, October 2002.

regulators themselves to define priorities and resulting action plans, and (b) by the World Bank to develop an assistance strategy, if deemed necessary.

5. THE NORMATIVE REFERENCE POINT OF THE ASSESSMENT

As indicated in Figure 4.1, the normative reference point of the diagnostic (Step one) consists of three components: common objectives of regulation in developing countries, the good governance criteria, and the table of impediments to regulatory effectiveness. Having discussed the table of impediments in Section 2.1, here we focus on the other two components.

5.1. Common Objectives of Regulation

In most developing countries, basic telecommunications are seen as essential for economic development and also as an essential public service. Together with the liberalisation of telecommunications and the introduction of private companies in the running of services, the introduction of regulators in developing countries has been one of the cornerstones of sector reform in recent decades. The regulator is usually set up with the aim of ensuring fair competition between the incumbent and new entrants and restraining the incumbent's abuse of market power in intermediate and end-user markets. The promotion of fair, transparent and predictable conditions for new entrants would generally be expected to encourage private investment in the sector. However, the task of regulators in many sub-Saharan African states is often complicated by the fact the telecommunications incumbent enjoys a monopoly over certain 'protected' services, particular where the incumbent is yet to be privatised.

Whilst objectives for telecommunications regulators do vary across countries, the most common objectives can be seen in Figure 5.1 below, which is adapted from the InfoDev Telecommunications Regulation Handbook by McCarthy Tétrault.

Figure 5.1
Common Regulatory Objectives in Telecommunications

- Create a favourable climate for promotion of investment to expand telecommunications networks
- Promote universal access to basic telecommunications services
- Prevent abuses of market power such as excessive pricing and anti-competitive behaviour by dominant firms
- Foster competitive markets to promote:
 - Efficient supply of telecommunications services,
 - Good quality of service,
 - Advanced services, and
 - Efficient prices
- Promote public confidence in telecommunications markets through transparent regulatory and licensing procedures
- Protect consumer rights, including privacy rights
- Promote increased telecommunications connectivity through efficient interconnection arrangements
- Optimise use of scarce resources such as radio spectrum, numbers and rights of way

In sub-Saharan African states in particular, the most common objectives tend to be related to promoting universal access, creating a favourable climate for investment, and ensuring fair competition between operators:

1. Creating a favourable climate for investment:

In less developed countries, attracting private investment can be vital for the improvement of network rollout and population coverage. Predictability and credibility seem to be major ingredients for reducing investment risk, especially in countries that have, in the past, engaged in expropriations of private businesses. Setting up an independent entity, separate from the government (which can periodically change) and from the incumbent (which has every interest to damage competitors), is central to the achievement of this aim.

2. Promoting universal access:

This is often the primary aim for the regulator, and can even cause the government, when developing the regulatory framework, to override other aims such as promoting fair competition and ensuring efficient prices. Licences for new entrants and private investors will usually involve roll out obligations which may be required

to be calculated, monitored and enforced by the regulator. In addition, regulators need to strive to achieve the optimum balance between improving universal access and achieving other goals such as affordability and the introduction of competition.

3. **Preventing abuses of market power:**

It can be expected that, in a liberalised market, the incumbent operator may still retain a higher market share than new entrants (particularly in fixed line services). Regulators usually need to intervene in several policy areas to safeguard fairness and to enforce their decisions. Private investors will also require assurance that the incumbent operator is policed adequately by the regulator, to safeguard their investment.

Other less common objectives include the promotion of the country as a regional communications-hub, compliance with external norms, pressures and best practices (for example, the GATS Basic Telecommunications Agreement).

5.2. The Prerequisites of Good Governance⁶

5.2.1. Institutional Design Criteria

5.2.1.1. *A Clear and Pragmatic legal and regulatory framework*

A key condition for a regulator to be effective is that the legal and regulatory framework within which it operates is clear and pragmatic. This means that the framework should clearly specify the regulator's:

- Missions and functions;
- Funding mechanism;
- Powers; and
- Organisation structure, and who is responsible for day-to-day management of the organisation.

The framework should be pragmatic in the sense that it is able cope with changes in industry structure, technologies and uses of telecommunications services.

It should also be fully internally consistent, for example, providing the regulator with sufficient powers in order to fulfil the functions listed.

5.2.1.2. *Clarity of roles and objectives*

The WTO reference paper defines independence in the context of telecommunications regulation as requiring separation of the regulatory entity from the country's network operators, rather than separation from government ministries or departments. Nevertheless, in recent years, both private investors and consumers have come to expect telecommunications regulators to also be able to implement their regulations and use the powers afforded to them by their legal and regulatory framework without the fear of political interference or intervention. This is viewed as critical in ensuring the regulator builds and continually reinforces its own legitimacy and record in predictable decision-making. William Melody, the regulatory theorist explains this as follows:

“The term independence as used in the context of telecom reform...does not imply independence from government policy, or the power to make policy, but rather independence to implement policy without undue interference from politicians or industry lobbyists. It implies independence to acquire special skills, to manage

⁶ This section draws, in part, on the highly commendable publication of the ITU, 'Effective Regulation: Trends in Telecommunication Reform 2002'.

without interference and to be accountable for results according to specific performance criteria.”⁷

It is useful to distinguish between two aspects of this type of independence:

1. Separation of roles and objectives:

The clear definition of roles, especially between *Ministers and regulators*, must remove any confusion about the respective functions and areas of responsibility of each institution.

While Ministers normally have responsibility for policy-making, a badly designed framework might induce the regulator to perform similar functions or for its regulatory functions to inadvertently ‘create’ new policy, resulting in potentially harmful outcomes for the industry and ultimately consumers.

Competition authorities may also have concurrent powers with the sector regulator. Furthermore, *Universal Service Agencies*, which are increasingly being created in sub-Saharan African countries, may also be afforded powers and functions closely related to those of the regulator. The demarcation of their respective spheres of responsibility and the mechanisms of co-operation therefore become important aspects in the institutional design.

2. Autonomy from political intervention:

Autonomy from policy intervention is seen as a necessary step in achieving independence. This tends to include autonomy in the:

- Procedures for the appointment and dismissal of regulatory staff and the regulatory agency members (apart from appointment of the leadership such as the Board Chairman or Director General who is often appointed by the government)⁸;
- Financing of the regulator (i.e. that the regulator must not be financially dependant on Parliamentary appropriations or transfers from government departments); and
- Exercising of its regulatory functions, as provided by the legal and regulatory framework.

⁷ W. Melody (1997), *Telecom Reform: Principles, Policies and Regulatory Processes*, pp 19-20. Available at: <http://www.lirne.net/resources/tr/>

⁸ Evaluators should be responsive to, and take into consideration, cultural and historical factors that may affect the scope available to the government for introducing autonomous procedures for the appointment of key regulatory staff.

5.2.2. Decision-Making Process Criteria

For the purposes of evaluations of regulators in sub-Saharan Africa, we focus on the four process criteria identified by Stern and Holder in their work on using regulatory criteria for assessing the performance of regulators: accountability, participation, predictability and transparency.⁹ A summary of the criteria is provided in Figure 5.2 below.

1. **Accountability:**

This condition requires that the regulator's decisions can be challenged in an effective way when thought to be unfair or negligent. 'Weak' accountability may occur through the legislature (for example through submission of annual reports or oral reports to Parliamentary committees). 'Strong' accountability is more likely to occur through the judiciary (for example using the appeal courts, or judicial reviews) or through a communications tribunal (or potentially even the competition authority) that is independent of the regulator and the government.

Generally, the more accountable a regulator is, the greater the level of confidence operators and consumers will have in the regulator's ability to regulate competently fairly. However, the mechanisms instituted to ensure accountability also need to be consistent with the country's wider legal, social and historical context.

2. **Participation:**

This aspect concerns whether the regulator involves (not merely 'informs') other non-governmental entities (for example, regulated firms and consumer bodies) in its decision-making processes. Possible mechanisms include the use of public consultation procedures, publishing draft regulations on web-sites and holding public meetings.

Improving participation tends to increase the regulator's credibility and legitimacy, provided that consultations are not purely formal exercises but occasions to actively contribute to the regulator's thinking.

3. **Predictability:**

Certainty and stability in the regulator's approach to its mandate and functions is critical to attract potential private investors to the sector, and to ensure they continue to invest in the country; in other words, they need to be assuaged that their

⁹ J. Stern and S. Holder, 'Regulatory Governance: Criteria for Assessing the Performance of Regulatory Systems', Utilities Policy, February 1999. It should be noted that similar criteria are applied in many other reviews of telecommunications regulatory effectiveness including the World Bank Policy Research Working Paper 2864, 'Telecommunications Reform in Uganda' (June 2002) and the set of regulatory effectiveness case studies developed by the ITU (available at www.itu.int).

investments and commercial activities will not be frustrated by arbitrary or sudden changes in the “rules of the game”.

4. **Transparency:**

Transparency is, in many senses, the foundation of regulatory accountability and legitimacy. Transparent procedures and regulatory processes are the key tool by which regulators can defend its record and shield themselves from accusations of arbitrariness, incompetence, bias or regulatory capture.

Mechanisms to increase transparency are many and might include:

- Consultation procedures;
- Published responses to consultation exercises that demonstrate how the responses have been reflected in the regulator’s actual decisions or proposals;
- Published proposals or decisions;
- The ability for consumers to contact directly or to make direct complaints to the regulator;
- Rules and codes of conduct on disclosure of informal “lobbying” before the regulator;
- A code of ethics that governs the behaviour of the regulator and the regulatory agency staff (for example, governing informal meetings with operator staff outside the regulator’s premises or the receipt of gifts);
- Obligations on regulators and regulatory staff to declare financial and other interests in telecommunications companies in order to avoid conflicts of interests (or accusations thereof).

Figure 5.2
Good Decision-Making Process Criteria

<ul style="list-style-type: none"> • Accountability: ensure that the regulatory body is fully accountable for its actions • Participation: encourage inclusiveness, by ensuring that affected parties such as regulated firms and consumers are actively involved in the decision-making processes • Predictability: ensure that the “rules of the game”, including the legal framework and its implementation, will not change suddenly without warning • Transparency: ensure that the regulator implements the principles of transparent decision-making

5.2.3. Resources

5.2.3.1. *Human resources*

The recruitment, motivation and retention of appropriately qualified staff is widely recognised as one of the overriding challenges faced by telecommunications regulators in the sub-Saharan African region. The problems faced by regulators in this issue can be alleviated in a number of ways, as demonstrated by the following summary of best-practice examples from the ITU.

However, the ability of the regulator to follow these paths will inevitably be constrained by the limited financial resources available to it. The key question for the evaluator to assess is therefore whether the regulator has spent his allocation for human resources wisely and whether priorities in human resources planning and spending are consistent with the overall needs of the organisation:

5.2.3.1.1. *Summary of best-practice examples from the ITU¹⁰*

Governments can:

- Pass laws allowing autonomous agencies to speed up hiring procedures and provide greater remuneration;
- Give the regulatory authority and its senior management the power to manage without undue government interference (cf. South Africa case study); and
- Grant the regulatory authority financial flexibility to recruit skilled staff.¹¹

Additionally, regulators can offer:

- *Education, training, and professional development opportunities*, including in-service training programmes. Bonded scholarships can be offered as recruitment incentives (for example, in the Uganda case study, technical staff were offered opportunities to study for Masters degree programmes in the UK (part-funded through aid programmes));
- *Good working conditions*, including comfortable and spacious offices close to public transport nodes, and flexible working schedules;
- *High quality work tools*, including ICT tools such as agency intranets, and high speed access to the Internet and other data services;

¹⁰ See chapter 7 of ITU, 'Effective Regulation: Trends in Telecommunication Reform 2002'.

¹¹ See <http://www1.worldbank.org/publicsector/civilservice/limitedrecruit.htm>

- *Well-defined priorities*, leading to greater productivity and, in turn, job satisfaction. For example, the Uganda Communications Commission began with a very small number of staff who focused on the key priorities involving licensing issues;
- *External expertise and outsourcing*, either local or international, providing valuable assistance to overstretched and undersourced staff;¹² and
- *Financial incentives and bonus programmes*, providing additional incentives for loyalty and greater productivity (although this is often difficult to measure and the influence of external factors and unexpected priorities also needs to be considered).

5.2.3.2. *Financial Resources*¹³

The ability to obtain sufficient funding is crucial to improving a regulator's effectiveness and transparency. Without the appropriate funds the agency will not be able to carry out its mandate or contribute constructively to the sector's development. There are a variety of approaches to funding regulatory agencies in sub-Saharan Africa. For example, the Uganda Communications Commission is funded through licensing fees, spectrum fees and commercial activities, the South African regulator is funded through Parliamentary appropriations and the Mauritanian regulator has, to date, been funded through fees from the operators, charges for regulatory activities and external aid (primarily from the World Bank).

If resources are inadequate, then this may have one or a few of the following consequences:

- The agency will have difficulty recruiting and retaining staff;
- The agency will be forced to scale back the scope of its activities, thereby not fulfilling its entire mandate;
- The agency will continue to attempt to perform all mandated functions, but will carry them out ineffectively;
- The agency will become increasingly reliant on external institutions such as government agencies and the private sector; or
- The agency will seek to obtain additional revenue sources that may threaten its perceived or actual independence, including government allocations or funds from the private sector.

¹² See also <http://www1.worldbank.org/publicsector/civilservice/limitedrecruit.htm>

Experience in sub-Saharan African states suggests that governments should be careful to ensure that the regulatory funding mechanisms adopted:

- Do not over-burden the industry or distort markets;
- Offer the agency a number of options which it can use to fund its activities (See the Uganda case study); and most importantly
- Do not dilute the independence or transparency of the agency.

5.2.3.3. *Planning and Budgeting*

In view of the fact that regulators in sub-Saharan Africa are often faced with particularly challenging human and financial resource allocations (particularly in their years of inception and the early phases of market liberalisation), regulators should try to ensure that they adopt best-practice techniques and approaches to resource management comparable to those found in similar private sector bodies. Such approaches have begun to be implemented in countries such as South Africa, and include the use of:

- A programmatic (or thematic) approach to resource budgeting;
- Budgets which are reviewed and re-implemented quarterly;
- Annual business plans;
- Longer term strategic plans; and
- Regular management (as opposed to regulatory agency) meetings.

¹³ This section is based largely on chapter 8 of ITU, 'Effective Regulation: Trends in Telecommunication Reform 2002'.

6. THE QUESTIONNAIRE SECTION OF THE ASSESSMENT

In this Section we provide the list of practical questions for the evaluator to use in the questionnaire for Steps 2 to 4 of the evaluation, as depicted in Figure 4.1.

The questionnaire has two purposes: one, to allow for a radiography of “the existing stock” to be performed (for example, the objectives of the sector policy, the mandate of the regulator, the decisions in the area of interconnection etc.); and two, to allow for identification of the impediments to regulatory effectiveness.

6.1. Checklist of Factual Material and Data Needed for the Exercise

The following provides a list of recommended factual material, information and data for the evaluator to gather for their evaluation. Those items that are essential are presented in *italics*.

6.1.1. Documentation

6.1.1.1. *Background country information*

1. Any documentation on the economic and political background of the country
2. Articles/papers providing a brief history of the telecommunications sector in the country, over the last 20 years
3. Recent analyst reports of the telecommunications sector in the country evaluated

6.1.1.2. *Legal texts*

4. *All the relevant Laws, Acts and Decrees that govern the operation of the telecommunications regulator and regulation of the sector, and the dates when each of these has been enacted (as well as lists of what still requires enacting)*
5. *All draft telecommunications bills, laws and decrees*
6. A list of the country's commitments under the General Agreement on Trade and Services' (GATS) Basic Telecommunications Agreement

6.1.1.3. *Regulations, Licences and other Regulatory Documents*

7. *Licences of major fixed and mobile operators (including all annexes and appendices)*
8. *All major regulations published in last three years*
9. *All draft regulations and regulations put out to consultation*
10. All relevant documentation relating to all regulatory consultations, mediations and decisions in the last three years, including licensing process documentation

(Invitations To Apply etc.), interconnection guidelines, dispute resolution case notes, and complaints

6.1.1.4. *Organisational Texts*

11. *Statements, press releases and other documents that explain objectives, the overall approach to regulation, and strategies adopted over the last three years.*
12. *Annual reports and annual management plans, for last three years if produced*
13. *Annual reports of incumbent operators and other key operators, for last three years*
14. *Organisational chart for the regulatory authority*
15. *Budget requests and budget allowances obtained over the last five years, broken down by source of funding (including licence awards, auctions, licence fees, government appropriation, numbering fees, spectrum fees, regulatory fees, fines and penalties, contributions from operators based on turnover, financial income and other)*

6.1.2. **Data**

16. *Market shares for all fixed line operators over the last five years, in terms of subscribers (broken down by residential and business if possible) and revenue*
17. *Market shares for all mobile operators over the last five years, in terms of subscribers (pre-paid and post-paid) and revenue*
18. *Number of licences awarded in last five years, by type of licence*
19. *Number of Internet users and hosts over last three years*
20. *Shareholdings of (former) incumbent operator and other major operators, and dates of changes in shareholdings*
21. *Market share of fixed line voice service resalers and mobile service resalers*
22. *Number of fixed telephone lines over last five years, broken down by type (PSTN, ISDN, public payphone, private payphone, telecentre) and broken down by technology (PSTN, fixed wireless etc)*
23. *Number of mobile subscribers over last five years, broken down by type (private subscriber, public GSM payphones, private GSM payphone, telecentre) etc*
24. *Country population over last five years, and rural/urban percentages*
25. *Other indicators of service accessibility over the last five years, including for example, the percentage of the population within 5km of a telephone, regional breakdowns of telephone lines or public payphones/telecentres*
26. *Network coverage maps for the fixed network over the last three years*
27. *Network coverage maps for the mobile networks over the last three years*
28. *Fixed line rental charges and call tariffs for connections, local, national and international calls to neighbouring countries, the UK and the US, for the last five years*

29. *Mobile subscriber rental charges and call tariffs for local, national and international calls to neighbouring countries, the UK and the US, for the last five years*
30. International benchmark fixed and mobile tariffs of neighbouring countries
31. Quality of Service indicators for incumbent fixed line operator for last three years
32. Quality of Service indicators for major mobile operators for last three years

6.2. Structure of the Questionnaire

The structure of the questionnaire reflects the Steps of the assessment:

1. Step 2 - Government Sector Policy;
2. Step 3: Existing Organisational, Legal And Regulatory Framework;
3. Step 4: Regulation In Practice; and
4. Step 5: Impact / Outcomes.

6.3. The Questionnaire

As explained above, the questionnaire is structured Step-by-Step. Starting overleaf, we provide the list of elements and practical questions within each element that forms the first column of the questionnaire.

6.3.1. STEP 2: GOVERNMENT'S SECTOR POLICY*6.3.1.1. Objectives and Expectations of Founding Government**6.3.1.1.1. Policy objectives for creation of regulator at time of creation*

- What were the government's objectives?
- Were the objectives stated in a policy document/law/decreed (i.e. how binding - or easy to renege by successors - were the government's objectives)?

6.3.1.1.2. Expected impact on the sector at time of creation of the regulator

- How many operators were expected to be in operation today at the time of the regulator's inception?
- What was the expected sector objective in terms of increased penetration of fixed/mobile lines, lower prices, higher quality etc?

6.3.1.1.3. Other / external reasons for the regulator's establishment

- Were there any pressures from World Bank or the IMF, commitments under GATS, lobbying from foreign operators or governments, etc.?

*6.3.1.2. Objectives and Expectations of Current Government**6.3.1.2.1. Telecommunications policy objectives*

- What are the objectives for the sector of the current government?
- Has there been a change in policy compared with founding government (or any new policy document/telecommunications law since the regulator's establishment)?

6.3.1.2.2. Expected impact of regulator on the sector

- What is the expected impact of the regulator on the sector of the current government?
- What are the objectives for the regulator of the current government?
- How do these compare with the expectations and objectives of the government at the time of the founding of the regulator?

6.3.1.3. Comparison with normative reference point

- Are the government's objectives in line with the normative reference point (Step 1)?

- With reference to the sector indicators (Step 5), is the expected impact in line with the normative reference point (Step 1)?

6.3.1.4. *Foreseen changes in telecommunications policy*

- Are there any bills or policy documents under discussion?
- Would any foreseen changes be inconsistent with current policy?

6.3.2. STEP 3: EXISTING ORGANISATIONAL, LEGAL AND REGULATORY FRAMEWORK

6.3.2.1. *Transparency and Participation*

- What are the mechanisms used by the regulator to improve transparency:
 - Does the regulator publish its annual report regularly?
 - Has the regulator established standard procedures for consultation with the industry and with consumers? If so, what are they?
 - Are consultation responses made public and if so, in what way (newspapers, mass media, public hearings, website, meeting with interested parties, other)?
 - Are there any examples where consultation responses have influenced the regulator's final decision, for example, where the regulator its decisions following consultation?
 - Are major regulatory documents in the public domain (for example, licences) and if so, where?
 - Does the regulator publish all major decisions, and if so, after how long?
 - Is the regulator required by the law to publish its reasoning behind major decisions? Whether required or not, does it do so?
 - If decisions and reasoning are not published, are any participants told of the reasons informally?
- Have any market players ever lobbied for greater transparency and participation in the regulator's decision-marketing processes, and if so, when, and what lies behind their requests?
- Has the transparency of the regulator's decisions improved in recent years, and if so, how has this affected the way it makes decisions and interact with market players?

6.3.2.2. *Predictability*

- Has the regulator modified substantially its approach in a given area by issuing new regulations (if it has the power of issuing regulations)?
- Are the regulator's decisions viewed by interested parties as predictable, given the government's objectives and the regulator's mandate?
- Roughly, what is the percentage of appeals against decisions out of number of decisions?
- Roughly, what is the percentage of overturned decisions out of appealed decisions?

6.3.2.3. *Consistency with the normative reference point*

- Are the decision-making processes and organisation in line with the normative reference point (Step 1)?

6.3.2.4. *Regulator's Mandate and Powers*

6.3.2.4.1. Regulator's mandate on the basis of legal texts

- What is the regulator's mandate?
- What is the legal basis of the regulator's mandate?
- With reference to the sector indicators (Step 5) what are the indicators that best show the achievement or otherwise of the regulator's objectives?

6.3.2.4.2. Powers of regulator on the basis of legal texts

- Does the regulator have the power of to issue regulations?
- Does the regulator have the power to arbitrate disputes?
- Does the regulator have the power to obtain information from operators?
- What enforcement powers does the regulator have (including monetary fines, additional licence obligations, modification, suspension or revocation of licences)?

6.3.2.5. *Adequacy of regulator's mandate and powers*

- Are the regulator's powers adequate in relation to its mandate?
- Are the regulator's mandate and powers adequate in relation to the common regulatory objectives set out in the normative reference point (Step 1)?
- Do the sector indicators (Step 5) provide evidence of whether the regulator's mandate and powers have been adequate to achieve the government's sector policy objectives?

6.3.2.6. *Separation of roles*

- What are the government's institutions and agencies with responsibilities over the telecommunications sector, and what are their respective spheres of responsibility?

- What is the function of the Ministry of Communications (or other Ministry in charge of Communications), and has it kept to these functions in the past?¹⁴
- Does the law/other legal instrument make it clear in which areas the regulator has an advisory role (for example to the Minister) rather than a decision-making role? (for example, does the government set policy objectives and priorities or is that left to the regulator)
- Are there any functions carried out jointly, or any that are ambiguous, between the regulator and the relevant Minister (for example, Broadcasting, Internet?)
- Is the above applicable to any other entity overseeing the telecommunications sector or parts of it (for example, universal service agency)?
- Does the regulator have responsibility for any commercial activities?
- Is there a competition authority in the country, and if so, what is the formal relationship between the regulator and the competition authority? How is jurisdiction determined in individual cases? Are there guidelines that explain this?
- Who has the final say in areas of overlapping powers between the regulator and competition authority?

6.3.2.7. *Autonomy of the regulator*

- What is the relationship between the regulator and the government (for example, is it independent of any Ministries or totally independent of government)?
- What are the regulator's possible financing mechanisms? Who has to approve the funding?
- What financing sources has it used in the past (ie. what is the breakdown of the regulator's budget by source of funding)?
- Who nominates, appoints and dismisses the organisational head and the members of the regulatory board/commission according to the regulatory legal framework?
- Are appointments renewable and if so, how often?
- For what reasons can the head of the regulator (and other key officials) be dismissed and by whom?
- Is the head's term of office fixed (for example, four years) or is it at the discretion of the appointer?
- What are the policies to prevent conflicts of interests for regulatory officials? Are the members of the regulatory board/commission allowed to have any interests in operators (financial or managerial or other)?

¹⁴ Include references to Primary Legislation and legal instruments where this is formalised.

- Who decides on the regulator's internal organisation?
- What is the role of the regulatory board/council etc. in the day-to-day management of the regulatory agency staff?

6.3.2.8. *Accountability of the Regulator*

- To whom, and through what mechanisms, is the regulator formally accountable for its decisions (government, parliament, the courts)?
- Does its annual report need to be approved by the government or by the parliament?
- Can the regulator's head (or other key officials) be dismissed for failing to fulfil his duties, and has this ever occurred?
- Is there a facility for judicial review under the legal framework that underpins the regulator, and has this ever been used?
- Is there a formal mechanism for regulated firms (and others) to challenge regulatory decisions, for example, appeals to the High Court, Consumer Courts etc., and has this been used?

6.3.2.9. *Resource capacity of the regulator*

- How many administrative and support staff?
- Number of (full-time / part-time) staff by type of degree? Number of (full-time / part-time) staff by type of expertise (legal, economic, technical, financial, etc.)?
- Have these numbers risen or fallen in recent years, and what effect has this had on effectiveness? What is the approximate annual turnover of staff in a year?
- How many professionally qualified staff does the regulator employ (full time and part time)?
- Does the regulator have sufficient expertise?? If not, in which areas is there a shortage (legal, economics, engineering and technical, accounting, negotiation skills, business management, other)?
- If so, is this because of lack of budget, salaries are not attractive or expertise is not available?
- To what extent does the regulator use external consultants? How does this affect the regulator's effectiveness?

6.3.2.10. *Overall effectiveness of organisational, legal and regulatory framework*

- How does the structure compare with the good governance criteria set out in the normative reference point (Step 1)?

- To what extent is the framework consistent organisation with its mandate as defined in legal texts?

6.3.2.11. *Interconnection policy*

- Which operators have rights and obligations to interconnect (and are there different obligations for incumbents or operators notified as having Significant Market Power – if such definition exists under the country’s telecommunications legislation)?
- Can interconnection be refused and under what circumstances?
- Are interconnection agreements negotiated commercially by the parties? How are tariffs set? What is the role of the regulator in this respect?
- Does the law/decreed/regulation establish any principles for setting charges and any accounting principles for interconnection?
- Does the incumbent operator (or operators with Significant Market Power) have any additional requirements concerning interconnection charges and accounting principles?
- Is infrastructure sharing commercially negotiated? Is it mandated?
- What are the procedures for solving disputes? Are there any deadlines for solving them? Can the regulator intervene at its own initiative?

6.3.2.12. *Universal service/access policy*

- How is universal service defined in the telecommunications law (or any other legal text on this subject)? Are there any specific targets in terms of access in any legal text or policy declaration?
- How is the provider(s) of universal service/access selected?
- How is universal service/access funded?

6.3.2.13. *Price regulation policy*

- Are retail tariffs regulated? If so, for which services? How are they regulated (price caps, etc.)? Which entity has responsibility over tariff regulation?
- Does the law/other legal texts require price rebalancing?

6.3.2.14. *Licensing policy*

- Which entity is responsible for issuing licences?
- Which entity has responsibility for running licensing procedures? Are there any legal texts that define how procedures should be organised?

- Do licences include coverage obligations/other targets of service provision/use-it-or-lose-it conditions?
- What is the regime for general authorisations?
- Are there any services / infrastructures that can be provided without any licence or authorisation?

6.3.2.15. *Dispute resolution policy*

- When can the regulator be called to mediate in a dispute? When can he intervene at its initiative?
- Does the law/legal texts specify a procedure for dispute resolution?
- Is it possible to appeal against regulator's decisions?

6.3.2.16. *Spectrum management policy*

- Is the regulator in charge of spectrum management?
- Has a national frequency plan been approved?
- What is the regime for spectrum fees?
- What are the legal/regulatory provisions concerning spectrum control?

6.3.2.17. *Competition Policy*

- What is the regulator's role according to legal texts?
- Do legal texts specify a definition of dominance? What are the consequences of dominance in terms of obligations imposed on the dominant operator?

6.3.2.18. *Country's institutional endowment (historical, social and cultural background)*

- What is the importance of legislative institutions, as opposed to the government, for major reforms?
- Has this affected the development of telecommunications and the regulator's effectiveness, and if so, how?
- Has the country's political system affected the development of telecommunications and the regulator's effectiveness, and if so, how?
- Are contracts and property rights easily enforceable? Does the country have a modern commercial law?
- To what extent is the judiciary predictable? Are there many court cases on commercial litigation?

- Are there appeal courts? If so, how important are they (in theory and practice)?
- Has this affected the development of telecommunications and the regulator's effectiveness, and if so, how?

6.3.2.19. *Informal constraints on regulator's use of formal powers*

- How important are informal channels in government and business?
- To what extent do operators or other parties provide input into the regulator's decision-making process through informal channels such as direct representations to Ministers or through the media?
- Is there a problem with corruption in society, and if so, has this affected the development of telecommunications and the regulator's effectiveness, and if so, how?

6.3.2.20. *Consistency between country's institutional endowment, legal and regulatory framework*

- Is the institutional, legal and regulatory framework in place for the telecommunications sector consistent with the country's institutional endowment?
- Is the regulator's extent of autonomy from the government in line with the country's tradition of regulatory agencies (for example, is there an independent central bank, is the judiciary fully independent, etc.)?
- Are the informal constraints as defined above affecting the regulator's capability of carrying out its mandate?

6.3.3. STEP 4: REGULATION IN PRACTICE

6.3.3.1. *Implementation of Texts*

6.3.3.1.1. Separation of roles

- Which legislative texts relating to the regulation of the sector have yet to be enacted?
- Does the implementation of the organisational and regulatory framework reflect the principles embedded in the telecommunications laws and other legal texts?
- How stringently is the separation of roles between the regulator and the Ministry of Communications followed in practice?
- In the case of functions carried out jointly, or that are ambiguous, what effect has this had on the regulator's effectiveness?
- Are there any examples of decisions taken by the regulator that have had unintended effects for the government's objectives, for example by changing the market structure (for example, interconnection decisions, numbering decisions, mobile roaming decisions etc.)?
- If there is a competition authority in the country, and if so, how has the relationship with the regulator worked in practice in telecommunications cases?

6.3.3.1.2. Autonomy of the regulator

- How has the funding mechanism for the regulator affected its effectiveness?
- How does the process of appointment/dismissal of the head and members of the board/commission work in practice?
- How long has the term of office of the head(s) of the regulator been since inception?
- How are the policies to prevent conflicts of interest implemented in practice?
- Has any current regulatory board/commission members (including the head) have worked in the past for the incumbent operator(s)?
- Has any past regulatory board/commission members (including the head) have gone to work for the incumbent operator(s) following their term at the regulator?

6.3.3.1.3. Accountability of the regulator

- If there is a mechanism for judicial review of regulator's decisions, provide cases where decisions have been challenged, disputed or subject to review (and explanations of what caused the challenge). How were these cases resolved?
- Does the regulator publish its annual accounts regularly, if required to do so?

6.3.3.2. *Regulatory Decision-Making in Key Areas*

6.3.3.2.1. Interconnection

- What are the existing interconnection/infrastructure sharing agreements?
- Were they achieved by commercial negotiation or did the regulator intervene (if this is compatible with the regulator's mandate and powers)?
- Have the operators/regulator developed any cost models for interconnection services?
- Using the sector indicators as evidence (Step 5), has the regulator achieved its mandate?

6.3.3.2.2. Universal service / access

- What is the current status of universal service provision?
- If applicable, have the providers of universal service been selected?
- Using the sector indicators as evidence (Step 5), have the universal service/access policy decisions been effective at achieving their goals, and if not, why?

6.3.3.2.3. Price regulation

- Has the regulator issued any decisions on retail tariffs (if this is part of the regulator's mandate and powers)?
- Using the sector indicators as evidence (Step 5), have the price regulations been effective at achieving their goals, and if not, why?

6.3.3.2.4. Licensing

- If the regulator has the function to issue licences, how many licences have been issued so far, and which types of licences?
- Who are the licensed operators (for example, international operators, local investors, etc.)?
- Were there any conflicts relating to licensing procedures?
- Have any licences been issued without a tender?
- Do operators pay licence and spectrum fees?
- Have operators respected the obligations incorporated in their licences (if applicable) so far?
- If not, what did the regulator do (within the limits of what was it legally entitled to do)?

- Is there an ongoing process for monitoring the operators' compliance with licence obligations (if applicable)?
- Have any licences been withdrawn/suspended?
- Using the sector indicators as evidence (Step 5), have licensing policy decisions been effective at achieving their goals, and if not, why?

6.3.3.2.5. Dispute resolution

- Has the regulator intervened (or been asked to intervene) in any dispute, if applicable? Has his decision been appealed by either party?
- Has the regulator achieved its mandate in dispute resolution?

6.3.3.2.6. Spectrum management

- If this is part of the regulator's mandate, does the regulator have the necessary facilities for spectrum management and control?
- Has a frequency allocation table been prepared and approved?
- Does the regulator monitor whether spectrum use complies with the frequency allocation?
- Has the regulator achieved its mandate in spectrum management?

6.3.3.2.7. Competition policy

- If the regulator is involved in (or responsible for) competition policy, has it investigated any cases and what have been its decisions? What areas has it investigated?
- What is the average length of an investigation? Have its decisions been appealed?

6.3.3.3. *Effectiveness of regulatory framework in key areas*

- Is the existing regulatory framework consistent with achieving the objectives defined in the normative reference point (Step 1)?
- Does the existing regulatory framework implement the government's policy objectives (Step 2)?

6.3.3.4. *Effectiveness of regulatory implementation with respect to the regulator's mandate*

- In light of the decisions made, to what extent has the regulator achieved its mandate/objectives (Step 3)?

- What has been the impact (positive and negative) on sector development of external factors such as the following, on the general decision-making ability of the regulator:
 - Political and civil unrest;
 - Significant changes in the financial markets;
 - Changes in the financial strength of the operators unrelated to the regulatory environment in the country under investigation;
 - Changes in the country's external aid financing.

6.3.4. STEP 5: IMPACT / OUTCOMES

6.3.4.1. *Sector Indicators*¹⁵

As listed in Section 6.1.2.

6.3.4.2. *Governance Indicators*

- How many regulatory heads or board members have either held or stood for public office before and after their term in the regulator?
- How many regulatory board/commission members including the head, are publicly affiliated with a particular political party (and relative position)?
- How many regulatory members or heads have resigned or been dismissed, and what were the reasons given for the resignations and dismissals (in particular whether they followed election of a new government)?

6.3.4.3. *Other*

- Is there anything else you would like to discuss with us in the context of this study?

7. THE MENU OF OPTIONS FOR CORRECTIVE ACTION

There is a number of options for corrective actions available to help resolve observed impediments to regulatory effectiveness.

The following Figure, which adopts the structure used for Figure 2.1, provides key options for corrective actions which might be appropriate to deal with any particular impediment.

¹⁵ The indicators should be selected with reference to the government's policy objectives and the regulator's mandate.

Figure 7.1
Menu of Options for Corrective Actions to Resolve Impediments to Regulatory Effectiveness

Dimensions	Issue	Impediment	Policy Options	
Design of regulator's legal and regulatory framework (organisational)	Institutional design of the regulator	- Poor implementation of legislation	- Full implementation of legislation	
		- Goal and function ambiguity of regulator	- Modification/addition of legal provisions or secondary legislation	
		- Chronic congestion (overdemand and underfunding)	- Modification/addition of legal provisions or secondary legislation - Use of external consultants - Cooperation between regulators - Use of ITU capacity building unit - Review of funding sources and use of available funding mechanisms	
	Misfit with institutional endowment of country and traditions (including corruption)	- Misfit with institutional endowment of country and traditions (including corruption)	- Modification/addition of legal provisions or secondary legislation - Amendments to regulatory framework - Mechanisms to increase autonomy, transparency of, and participation in regulatory processes	
		- Misfit with government sector policy	- Initiate dialogue between government and regulator to update the sector policy statement	
		- Poor enforcement of rule of law	- Modification/addition of legal provisions or secondary legislation - Amendments to regulatory framework - Use of arbitration panels or alternative dispute resolution mechanisms	
		- Political interference in running of regulator	- Modification/addition of legal provisions or secondary legislation - Amendments to regulatory framework - Mechanisms to promote autonomy and transparency of regulatory processes	
	Relationship between policy maker and regulator	- Function ambiguity between regulator and policy maker	- Modification/addition of legal provisions or secondary legislation	- Modification/addition of legal provisions or secondary legislation
			- Amendments to regulatory framework	- Amendments to regulatory framework
		- Function ambiguity between regulator and competition authority	- Initiate dialogue between government and regulator	- Develop document setting out respective spheres of responsibility and mechanisms for co-operation
- Function ambiguity between regulator and universal service agency		- Develop guidelines setting out respective spheres of responsibility and mechanisms for co-operation	- Develop guidelines setting out respective spheres of responsibility and mechanisms for co-operation	
- Lack of political commitment		- Initiate dialogue between government and regulator	- Initiate dialogue between government and regulator	
- Interventions in regulatory decisions by policy maker overly-influenced by its relationship with operators	- Mechanisms to increase autonomy, transparency of, and participation in regulatory processes	- Mechanisms to increase autonomy, transparency of, and participation in regulatory processes		

Dimensions	Issue	Impediment	Policy Options
	Accountability of regulator	<ul style="list-style-type: none"> - Inadequate mechanisms for holding regulatory members accountable for their decisions - Over-reliance on government/ external bodies for funding 	<ul style="list-style-type: none"> - Mechanisms to increase accountability to independent (non-governmental) or parliamentary bodies - Review of funding sources and use of available funding mechanisms
	Autonomy of regulator	<ul style="list-style-type: none"> - Political interference in remuneration, appointment and dismissal of regulator's members - Regulatory capture or excessive influence by a particular group 	<ul style="list-style-type: none"> - Mechanisms to increase autonomy of regulator and transparency of appointment, remuneration setting and dismissal procedures - Mechanisms to increase transparency of, and participation in regulatory processes
Regulatory Processes and procedures	Participation in decision-making processes	<ul style="list-style-type: none"> - Inadequate consultation and involvement of external parties in decision-making - Over-reliance on informal (non-orthodox) lobbying of regulator 	<ul style="list-style-type: none"> - Mechanisms to increase transparency of, and participation in regulatory processes
	Transparency of decision-making processes	<ul style="list-style-type: none"> - Lack of explanations provided in public and to operators for decisions 	<ul style="list-style-type: none"> - Mechanisms to increase transparency of, and participation in regulatory processes
	Predictability of decision-making processes	<ul style="list-style-type: none"> - Poor enforcement of legislation - Lack of consistency in decision-making 	<ul style="list-style-type: none"> - Mechanisms to increase accountability of regulator - Increased use of planning and budgeting - Mechanisms to increase accountability of regulator
	Effectiveness of regulatory policy tools in key areas	<ul style="list-style-type: none"> - Policy tools do not achieve their objectives (eg. ineffective price caps, universal service targets, licensing procedures etc) 	<ul style="list-style-type: none"> - Review of offending regulatory policy tool(s) and their implementation
Internal policies and procedures	Regulator's organisational structure and resource requirements (human, financial)	<ul style="list-style-type: none"> - Inappropriate organisational structure - Inadequate financial resources 	<ul style="list-style-type: none"> - Appoint external consultants/World Bank technical assistance/ITU assistance to review structure - Review of funding sources and use of available funding mechanisms
	Inadequate (e.g. regulatory/administrative/legal/business management etc.) skills of key staff	<ul style="list-style-type: none"> - External training to develop local capacity (long term) - Secondments to similar (successful) regional telecommunications regulators (short term) - Internal group training by external training (short term) - Use of ITU capacity building unit (short/long term) - Greater access to information (for example, data, benchmark, documents, conferences, seminars, best practices, resources BM, UIT) (short term) - Cooperation between telecommunications regulators (eg. twinning, exchange of information) (long term) - Sharing of staff between regulatory bodies (long term) - Rapid intervention of external experts (eg. to resolve interconnection disputes) (short term) 	

Dimen- sions	Issue	Impediment	Policy Options
		- Over-reliance on external consultants and technical assistance from aid institutions	- Build local capacity through above policy options

8. SELECTIVE ILLUSTRATION OF THE USE OF THE DIAGNOSTIC QUESTIONNAIRE

In this section, we offer a selective illustration of how the questionnaire will be used. We have chosen to use the example of the element 'Licensing' in the Category 'Regulatory Decision-Making in Key Areas' in Step 4 (see Section 6.3.3.2.4).

The illustration, which comes from the three case studies follows the format of the questionnaire proposed in Section 6.1 above.¹⁶

Note that the questionnaire has six columns:

- The Element (for example, 'Separation of Roles') & related questions from questionnaire in Section 6 above (for example, in the case of functions carried out jointly, or that are ambiguous, what effect has this had on the regulator's effectiveness?);
- The actual Description of the element (for example, 'Separation of roles between regulator and policy maker') and the answer to the question posed;
- The impediment identified and its source (for example, ambiguous legislation, or poor implementation of legislation);
- The Tools/Corrective Actions and lead actor (e.g. revision of legislation, Ministry);
- Priority (relative impact of problem identified on sector development, compared to other problems identified)¹⁷; and finally
- A success indicator which can be used to monitor progress against the objective of the corrective action.

¹⁶ Column 5 (Priority) is, for obvious reasons, not completed in the illustration.

¹⁷ Some very basic rating system could be introduced, e.g. priority on a scale from 1 to 5.

8.1. Illustration of Step 4: Regulation in Practice

8.2. The Case of Licensing Policy Decisions

8.2.1. Category: Regulatory Decision-Making in Key Areas

8.2.1.1. Element: Licensing (Mauritania)

Sub-Elements & Questions	Description	Problem identified and source of problem	Corrective Actions and Lead Actor	Priority of identified problem	Success Indicator
<p>If the regulator has the function to issue licences, how many licences have been issued so far, and which types of licences?</p>	<p>Three procedures for national wireless licences (1 GSM to a new entrant in July 2000, 2 GMPCS licences launched in February 2002, and 2 GMPCS licences for low speed data services in January 2003)¹⁸</p>	<p>No licences have been issued for fixed wireless access, due to a debate on whether this service falls within Mauritel’s exclusivity. Internet development seems to have been restrained by lack of infrastructure (in particular, bad quality and low speed were mentioned by ISPs). FWA was seen by ISPs</p>	<p>Ruling issued by the relevant Ministry to clarify the decree on exclusivity.</p>	<p>/</p>	<p>Number of licensed operators/type of licences issued.</p>

¹⁸ The last GMPCS licences do not seem to have been assigned yet, according to information on the regulator’s website.

		<p>as a way of overcoming this obstacle by providing their own infrastructure.</p> <p>With the end of the exclusivity period, this barrier to market development will be removed. However, this may have slowed down market development so far.</p>			
<p>Who are the licensed operators?</p>	<p>GSM licences: Mattel (Tunisie Telecom) and Mauritel Mobiles (mobile arm of incumbent) paid \$28 million. GMPCS awarded for free (Mauritel for Inmarsat system, Mattel for Thuraya system). The fixed licence (Mauritel) was not assigned through a tender.</p>	<p>None</p>	<p>/</p>	<p>/</p>	<p>/</p>
<p>Were there any conflicts relating to licensing procedures?</p>	<p>Excluded bidder from GSM pre-qualification appealed against the regulator's decision. Court confirmed the regulator's decision to exclude the bidder, but first it suspended it.</p>	<p>None, the regulator ensured transparency of the procedure and notified the other bidders of the temporary suspension.</p>	<p>/</p>	<p>/</p>	<p>/</p>
<p>Have any licences been issued without a tender?</p>	<p>The GSM licence to Mauritel Mobiles, awarded at the same price offered by Mattel.</p>	<p>None</p>	<p>/</p>	<p>/</p>	<p>/</p>

tender?						
<i>Spectrum fees</i>						
Do operators pay licensing and spectrum fees?	Yes	None	/	/	/	/
<i>Licence obligations</i>						
Have operators respected the obligations incorporated in their licences (if applicable) so far?	Mauritel's licence and the GSM licences include coverage obligations. The GMPCS operators have to install public phones in all villages with > 1,000 inhabitants. Coverage is not a problem, while quality of service for GSM networks has not been as high as required by the licences.	The regulator does not have certain data on fixed network (for example, # public phones, QoS) due to non-implementation of its legal right to obtain information from operators. For GSM networks, the regulator obtains information but has not taken any measures to enforce QoS standards.	The regulator should establish credible information requirements for Mauritel. As for GSM, the regulator should define with the operators a timetable for complying with the obligations and related penalties. A possible compromise may be to exempt the GSM operators from paying contributions for universal access for a given period in exchange for improved QoS.	/		Establishment of regular information collection for fixed network. For GSM, firm agreement with the operators on a timetable for compliance.

<p>If not, what did the regulator do (within the limits of what was it legally entitled to do)?</p>	<p>Based on article 21 of the GSM operators' cahiers des charges, operators can be sanctioned. Operators had verbally committed to respect their obligations in 2003, the regulator set a deadline for 1st October 2003.</p>	<p>The regulator is perceived as credible but has not been very active so far. It understands the importance of investors in the market and the trade-off with consumers' interest.</p>	<p>The regulator should find a compromise (see above) with the GSM operators to obtain their compliance. On the other hand, renegotiating the licence conditions could be open to legal challenge by other bidders and damage the regulator's credibility in the industry.</p>	<p>/</p>	<p>/</p>
<p>Is there an ongoing process for monitoring the operators' compliance with licence obligations (if applicable)?</p>	<p>Yes, the regulator's staff carries out surveys on quality of service and coverage for GSM operators. Mauritel (fixed) submits data on the number of installed lines and it is not clear whether the regulator has any way to verify that the information is correct.</p>	<p>The GSM operators do not agree with the regulator's methodology. This is an obstacle for them to recognise that they are in breach of their licence obligations.</p>	<p>The regulator may set up a working group with the operators to agree on the methodology to measure QoS of their networks. Technicians from the operators may participate in the surveys carried out by the regulator.</p>	<p>/</p>	<p>Agreement on a methodology to measure QoS.</p>
<p>Have any licences been withdrawn/suspended?</p>	<p>No</p>	<p>/</p>	<p>/</p>	<p>/</p>	<p>/</p>

Element: Licensing (South Africa)

Sub-Elements & Questions	Description	Problem identified and source of problem	Corrective Actions and Lead Actor	Priority of identified problem	Success Indicator
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<i>Licensing procedures</i>					
<p>If the regulator has the function to issue licences, how many licences have been issued so far, and which types of licences?</p>	<p>Ministry issues ITAs for new major licences, including public fixed and mobile services, and then issues licences (sometimes) following recommendation of regulator. Regulator issues other licences. Regulator has issued approx. 300 VANS licences and 50 private network licences (66 VANS and 3 PTN licences in 2002/03). Regulator has also reissued licences to mobile operators MTN and Vodacom and issued a multimedia licence to Sentech</p>	<p>No problems in areas where regulator has powers to issue licences. However, licence was issued to Sentech through Telecommunications Amendment Act 2001 without consultation of regulator. And for issuing of third mobile licence and SNO fixed licence, Minister did ignore regulator's advice.</p>	<p>- Amendments to regulatory framework - Initiate dialogue between government and regulator - Develop document setting out respective spheres of responsibility - Lead actor: Ministry of Communications</p>	<p>/</p>	<p>- Number of licensed operators/type of licences issued - Length of major licence processes</p>
<p>Who are the licensed operators?</p>	<p>Major licence holders: SA Telkom (fixed), MTN (mobile), Vodacom (mobile), CellC (mobile, licence fee: R100m over term of licence), Sentech (multimedia)</p>	<p>None</p>	<p>/</p>	<p>/</p>	<p>/</p>
<p>Were there any conflicts relating to licensing procedures?</p>	<p>None relating to non-major licences (eg. long distance services, international services, VANS and PTNs)</p>	<p>None</p>	<p>/</p>	<p>/</p>	<p>/</p>
<p>Have any licences been issued without a tender?</p>	<p>Yes - Sentech (see above). Also Ministry gave 30% of SNO licence to utility parastatals Transel and Eskom</p>	<p>Issuing of licence to Sentech was deemed unfair and arbitrary by existing operators.</p>	<p>None (retrospective action not considered appropriate)</p>	<p>/</p>	<p>/</p>

		Source of problem: Inadequate separation of roles between Ministry and regulator as laid out in legislation			
<i>Spectrum fees</i>					
Do operators pay licensing and spectrum fees?	Yes	None	/	/	/
<i>Licence obligations</i>					
Have operators respected the obligations incorporated in their licences (if applicable) so far?	Telkom met all its 16 service quality and line roll-out targets for the fixed-line business, except one quality of service target – the number of residential faults. MTN and Vodacom comfortably met their rollout obligations and CellC is expected to meet theirs by the deadline.	None	/	/	/

<p>If not, what did the regulator do (within the limits of what was it legally entitled to do)?</p>	<p>N/A</p>	<p>/</p>	<p>/</p>	<p>/</p>	<p>/</p>
<p>Is there an ongoing process for monitoring the operators' compliance with licence obligations?</p>	<p>Yes. The regulator's staff conducts surveys on quality of service and coverage for GSM operators. Telkom has to submit annual reports on the attainment of its obligations to the regulator, although it is not clear how these are verified.</p>	<p>None</p>	<p>/</p>	<p>/</p>	<p>/</p>
<p>Have any licences been withdrawn/suspended?</p>	<p>It is not believed that any licences have been withdrawn or suspended</p>	<p>None</p>	<p>/</p>	<p>/</p>	<p>/</p>

Element: Licensing (Uganda)

Sub-Elements & Questions	Description	Problem identified and source of problem	Corrective Actions and Lead Actor	Priority of identified problem	Success Indicator
<i>Licensing procedures</i>					
If the regulator has	Ministry for Communications	None	/	/	/

<p>the function to issue licences, how many licences have been issued so far, and which types of licences?</p>	<p>issues major licences, eg. for fixed and wireless basic telephony services, public payphone services etc. Regulator issues minor licence, eg. for paging services, value-added services, ISPs and private networks. Regulator has issued 17 ISP licences and 8 VSAT licences</p>				
<p>Who are the licensed operators?</p>	<p>UTL (fixed), MTN Uganda (mobile), CelTel (mobile). Largest ISP is InfoCom (licence costs not known - confidential)</p>	<p>None</p>	<p>/</p>	<p>/</p>	<p>/</p>
<p>Were there any conflicts relating to licensing procedures?</p>	<p>The reissuing of the licence to CelTel in 2001.</p>	<p>Privatisation Secretariat had responsibility for renewing the licence: UTL and MTN argued that the term in CelTel's new licence which enabled it to establish an international gateway for its own traffic (but not to offer the service to others on a commercial basis) in the event that it was denied fair interconnection terms by UTL and MTN, was contrary to the list of</p>	<p>Modify CelTel's licence, if regulator thinks necessary. Lead actor: regulator</p>	<p>/</p>	<p>Terms of CelTel's licence</p>

		reserved services in their licences. Source of problem: political motives for the granting of additional rights to CellTel.			
Have any licences been issued without a tender?	Only CellTel which was grandfathered from before Telecommunications Act	None	/	/	/
<i>Spectrum fees</i>					
Do operators pay licensing and spectrum fees?	Yes	Neither licence fees nor spectrum fees have been reviewed or changed since 1997. According to UCC officials, a review has been in the pipeline for some years but has been delayed due to limited internal capacity.	Initiate review of fees, perhaps employing external consultant (knowledge transfer not critical). Lead actor: Regulator	/	Announcement of review of licence and spectrum fees
<i>Licence obligations</i>					
Have operators respected their obligations so far?	All operators have met their rollout obligations, although MTN had a dispute with the regulator as to whether mobile phone subscribers should be considered subscriber lines for the purpose of fulfilling its licence roll-out obligations,	/	/	/	/

	<p>which was eventually resolved. No operators were able to provide information to demonstrate whether they had attained their service quality obligations.</p>				
<p>If not, what did the regulator do (within the limits of what was it legally entitled to do)?</p>	<p>N/A</p>	<p>/</p>	<p>/</p>	<p>/</p>	<p>/</p>
<p>Is there an ongoing process for monitoring the operators' compliance with licence obligations?</p>	<p>According to the licences, the regulator is supposed to monitor compliance with licence obligations using subscriber line expansion plans to be submitted by the regulators annually, annual compliance reports for service quality requirements, to be submitted by the national operators, and more general annual reports on their operations in a format prescribed by the regulator, to be provided</p>	<p>Monitoring and enforcement of licence conditions by regulator is weak. It is believed that the operators have yet to submit subscriber line expansion plans or annual compliance reports.</p>	<p>Improve monitoring procedures Lead actor: regulator</p>	<p>/</p>	

	by the national operators.				
Have any licences been withdrawn/suspended?	No	/	/	/	/

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