



Balancing Acts of the Regulator

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1 March 2007

Hong Kong market development

- Monopoly
- Opening up market for competition and regulating to foster market development
- Scaling back regulation as market competition becomes effective

Promoting competition and preserving investment incentives

- Regulator to lower market entry barriers and promote competition
- But will there be “over-competition” if regulator promotes further market entry when market is already competitive?
- What is the impact on the incumbent operators?

- Interest of consumers and interest of investors are not necessarily in conflict
- Undue protection of incumbent operators cannot serve the real interest of community
- Incumbent operators should expect supply of new spectrum to market and additional competition as a result
- More clarity will be provided on future supply of radio spectrum

Short-term interest and long-term interest of consumers

- Type II interconnection increases choice and competition – short-term interest of consumers
- Type II interconnection may undermine investment incentives and product differentiation – long-term interest of consumers
- How to strike the right balance?

- 2004 decisions on Type II interconnection
 - ⇒ To terminate Type II arrangement, after three years, for a building connected by at least one self-built alternative customer access network
 - ⇒ To terminate all Type II arrangements by end-June 2008 except locations where incumbent's local loops are still "essential facilities"

- Where it is commercially viable and technically feasible for self-built alternative customer access networks
 - ⇒ Type II interconnection could undermine investment incentives
- Where it is commercially not viable or technically not feasible for self-built alternative customer access networks
 - ⇒ Investment in alternative network would not happen anyway
 - ⇒ Type II interconnection enhances more competition and choice

Ex ante and *ex post* regulation

- *Ex ante* regulation at the initial stages of market liberalization
 - ⇒ “Any-to-any” connectivity
 - ⇒ Regulatory guidance on interconnection terms
 - ⇒ Regulatory determination of interconnection terms
- Is the *ex ante* regulation still required as the market develops?

- “Any-to-any” connectivity an important public policy objective
- Is it necessary for this objective to be secured through an *ex ante* regulation?
- Should we adopt a more light-handed manner in the regulation of other interconnection terms?
- Regulator should pre-empt market failure – would the market be expected to fail without the *ex ante* regulation?

Facilities-based competition and services-based competition

- Facilities-based competition is the ideal of regulators
- Facilities-based competition has developed in Hong Kong
- Is there a role for services-based operators?
- Is the open internet the right model?

Conclusions

- Finding optimal balance is an art
- Reaction from stakeholders to be managed with skills
- Consultation before decisions
- Fairness with public interest in mind
- Transparency and communications
- Consistency with sound economic principles and best practices



Thank you

Executive Course on telecom regulation organised by
LIRNEasia and CONNECTasia Forum Pte Ltd,
Singapore, 25 February - 1 March 2007