

Regulatory governance of telecommunications liberalisation in Taiwan[☆]

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Abstract

This paper examines the changing role of government and market in regulating the telecommunications sector from since 1996 in Taiwan. It contextualises the theoretical aspects of regulatory governance for institutional design and practices, and reviews the concepts and mechanisms for appraising privatisation and regulatory systems. Using a conceptual framework for researching privatisation and regulation, it describes the process and issues pertinent to telecommunications liberalisation and privatisation in Taiwan, supported by a brief presentation of theoretical points of view as well as practitioners' views. The paper presents results concerning criteria for appraising privatisation and regulatory governance and considers policy lessons that can be learned from the experiences of the Taiwanese telecommunications sector's liberalisation.

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1. Introduction

Taiwan completed the revision of the Telecommunication Act in early 1996, thereby establishing a legal and regulatory foundation for market liberalisation. The cellular-phone business was opened up in 1997, thus breaking the previous monopoly in the telecommunications market. Following the entry of new competitors into the market, the forces of market competition encouraged new private operators to provide consumers new choices in addition to Chunghwa Telecom Co. (CTC, a Government-owned Telecommunications Enterprise, GOTE). Rigorous competition amongst the public and private industries stimulated rapid growth of mobile phone and other communications services.

The objective of this research is to improve understanding of the institutional framework and relationships that form the essential links connecting telecommunications liberalisation and regulatory governance, with particular reference to the institutional environment in Taiwan. This paper examines the changing role of the government and the market in regulating the telecommunications sector since 1996 in Taiwan. It also explores changes in the institutional framework for regulatory governance as a result of the new privatisation policy for government-owned telecommunications enterprise. Lastly, the study considers lessons to be learned from the experiences of the Taiwanese telecommunications sector's liberalisation policy and regulatory governance.

The fieldwork which produced the data for this research was undertaken in Taiwan over a cumulative five-month period between 2002 and 2006; fieldwork involved qualitative interviews with 59 policy stakeholders, most of them government officials or policy-makers from the telecommunications industry and regulatory agency in Taiwan. Five identified governance mechanisms (Clarity of roles; Participation; Independence; Accountability; and transparency) were explored with the interviewees.

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There is no relevant study on regulatory governance in a regulatory agency in Taiwan. Current literature also reflects a lack of knowledge in this area and provides an inadequate integration of the respective regulation and governance concepts.¹ Previous published work in Taiwan has focused on traditional regulation or economic regulation; however, regulation and governance are becoming less distinct. Government increasingly uses regulation in order to govern more than redistribute. At the same time in many places and issues, there is a shift from government to governance. These double shifts towards regulation and towards governance reinforce each other. The study reported here research will help clarify and augment the existing literature.

By examining the theoretical aspects of regulatory governance for institutional design and practices, I review the concepts and mechanisms for appraising privatisation and regulatory systems. In the next section, I provide the conceptual framework for researching privatisation and regulation. Sections 3 and 4 describe the process and issues pertinent to telecommunications liberalisation and towards privatisation in Taiwan, supported by a brief presentation of theoretical points of view as well as practitioners' insights via in-depth interviews. Section 5 presents results of the interviews concerning criteria for appraising privatisation and regulatory governance. Section six contains some reflections and the conclusion. The paper shows that the development of regulatory structures is limited by the governance capacity of the Taiwanese government to enforce regulatory rules and monitor contracts. Furthermore, this study asserts that the current impressive results of telecommunications liberalisation in Taiwan may be temporary. It can be argued that essential linkages between privatisation and regulatory governance need to be developed, and that there is a need to recognise that pursuit of governance values can directly enhance the implementation of privatising public utilities and their regulatory reforms.

2. Institutional approach to liberalisation and regulatory governance

The contemporary literature identifies four possible approaches. These are economic, social, political and institutional approaches. Table 1 provides a summary of the key features of each, from which we can see that only one of the approaches is sufficiently robust to investigate privatisation and regulatory governance in the telecommunications sector in Taiwan. It is for this reason this study uses the institutional approach. Such an approach also provides advantage in that

Table 1

Summary of approaches to studying privatisation and regulation

Approach	Key features
Economic	Concerns the pricing and incentive system; competition; capture problem; cost-benefit analysis; impact assessment;
Social	Focus on "the public interest", such as health, safety, the environment, and labour issues.
Political	Legislation; bureaucracy; power; political systems; conflict and bargaining.
Institutional	Rules of game and law; governance capacity and mechanisms; policy actors; institutional design; the regulatory state

it allows the exploration of five inter-related aspects (Clarity of roles; Participation; Independence; Accountability; Transparency) of a regulatory framework which captures the main governance mode of regulation and privatisation in terms of a review of the literature, and these formed the basis of the questionnaire which the author used in the case study. However, a key weakness is that the institutional approach is not clear on how far particular lessons can be generalised for other DCs, especially where privatisation and regulatory policies have been shaped by international agencies and influenced by the economic literature.

After the analysis of privatisation policy within the broader context, a study of the Asia Development Bank and associated groups built up a framework based on some criteria of regulatory governance for some network utilities (*Asian Development Bank, 1995; Stern and Holder, 1999*). Most of these variables have been analysed in the study of governance and regulatory governance conducted by for instance, the World Bank, OECD, ADB, NERA, IMF, and many researchers. However, this study has identified some inter-related aspects of the regulatory framework which capture the main governance mode of regulation and privatisation in terms of a review of the literature and these form the basis of the questionnaire which the author used in the case study. The governance criteria of this study are outlined as the following five inter-related aspects: Clarity of roles; Participation; Independence; Accountability; Transparency.

Having identified the needs for privatisation policy and regulatory governance to improve economic performance and to protect the public interest, an institutional framework of privatisation policy and governance mechanisms for regulation is crucial to ensure that objectives are achieved, otherwise there is a risk of "policy failure" or "regulatory capture", because Taiwanese government unwittingly used "rigorous competition" (over-licensing) to undertake its telecommunications liberalisation during 2000–2002 which was the critical turning point for telecommunications policy.

Therefore, this paper employs an innovative methodology, namely, an "institutional approach" to studying the case of privatisation and regulatory governance in the telecommunications sector of Taiwan. The institutional approach is the study of institutions, described by *Rhodes (1995, p. 55)* as "a subject in search of a rationale". It is also "a subject matter covering the rules, procedures, and formal organisations of government"

¹ For some it is a transformation from a "Keynesian Welfare state" to a more "Hayekian regulatory state" (*Cook and Minogue, 2002; Majone, 1999; Minogue, 2001, 2002; Moran, 2001, 2002*), which is too limited to capture the nature of change in the governance (*Levi-Faur, 2006*). Much rests on the need to regulate post-privatisation, but this should not be taken as a sign of decline in the importance of the role of the state as a unit of analysis. Therefore, we should explore the impact on the governance of capitalism and modes of regulation (*Levi-Faur, 2006, 2007; Levi-Faur and Vigoda-Gadot, 2006*).

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