

Why Regulate?

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What do the public expect of us?

Extracts from real complaints made to Oftel...



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Frequently Asked Questions

“Why don’t you....”



- Get BT to drop their prices?
- Get C&W to answer the phone?
- Fine Vodafone for being inefficient?
- Make all local calls free?
- Take BT’s licence away?
- Stop BT from paying their Chairman so much?

Frequently Asked Questions

“Why don’t you....”

- Stop changing the numbering system?
- Force NTL to give me compensation?
- Get BT to launch a new service I’ve just thought of?
- Force BT to provide ADSL tomorrow?
- Allow me to take my new mobile phone to Orange?



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Frequently Asked Questions

“Why don’t you....”

- Find out who’s been illegally accessing my phone?
- Get BT to employ more engineers?
- Override Telewest’s contract with me?
- Sack the people in One2One who refuse to answer my letters?





Frequently Asked Questions

“Why don’t you....”

- Back off and leave the industry to do what it wants?
- Stop meddling in fast moving markets?
- Regulate all companies the same?
- Stop BT having prices lower than ours?
- Prevent BT from being an ISP?

So what are we...

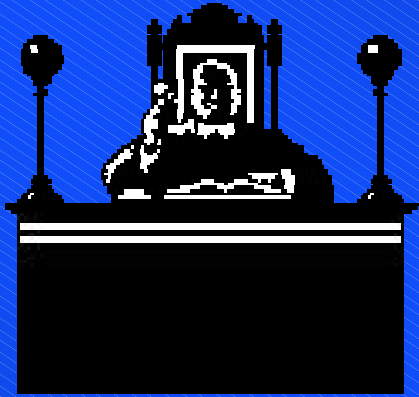
- Watchdog or Fairy Godmother or what?



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Answer is...

- We are a regulator, not the manager, of the market
- So what then does a regulator do?
- Simple answer?
 - Protect customers (but from what?)
 - Ensure fair play (what's that precisely?)
 - Promote competition (always?)



What is regulation?

A wider view

- **Contrary to popular belief, most activities in life are subject to regulation**
- **Regulation can be viewed as (State) intervention as a proxy for citizens or companies who individually have insufficient bargaining power to negotiate with larger bodies in the delivery of desirable outcomes**
- **Has similarities with the wider legal system**

Why do we have Telecoms Regulation?

- To achieve those desirable and justified outcomes for consumers and the community as a whole that do not arise naturally from (competitive) markets;
- Particularly important where fully competitive markets do not (yet) exist
- Clearly important who decides (and how) what the desirable outcomes are
- Shorthand: Regulate where there is 'Market Failure'

Market Failure?



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7 reasons to regulate in the Communication Markets...



Things that Oftel, ITC, RA etc get up to...

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Reasons to regulate - 1

- **Prevent anti-competitive behaviour arising from**
 - Abuse of dominance
 - Cartels
- **Can be in the form of unfair trading**
 - Predatory pricing
 - Margin squeeze
- **Or exploitative practices**
 - Excessive pricing
 - Unfair terms

Reasons to regulate - 2

- **Promotion of competition:-**
 - Removing barriers to entry
 - Reducing costs of entry
 - Removing barriers to switching
 - Encouraging investment
 - Transparency of consumer information

Reasons to regulate - 3

- **Consumer Protection**
 - Price Caps
 - Publication of prices & performance
 - Complaints investigations
 - Negative content regulation
 - Data Protection and privacy
 - Unfair contract terms

Reasons to regulate - 4

- **Achieve Social Objectives**
 - Universal Service Obligation
 - TV Coverage Obligations
 - Low User schemes
 - Geographically averaged prices
 - Public Payphones
 - Free and secure 999 calls
 - Cheap Internet access for Schools etc
 - Positive content regulation

Reasons to regulate - 5

- To correct for ‘Negative Externalities’
 - Externalities are benefits or disbenefits impacting customers that market forces won’t directly affect.
 - Positive Externality as more people join the network (Metcalfe’s Law) - partly underpins the USO
 - Being available for incoming calls

Reasons to regulate - 5 (cont)

- **Negative Externalities:**
 - Radio interference
 - Call termination charges
 - Interconnection and interoperability generally
 - Provision of Directory Information
 - ‘Bottlenecks’



Reasons to regulate - 6

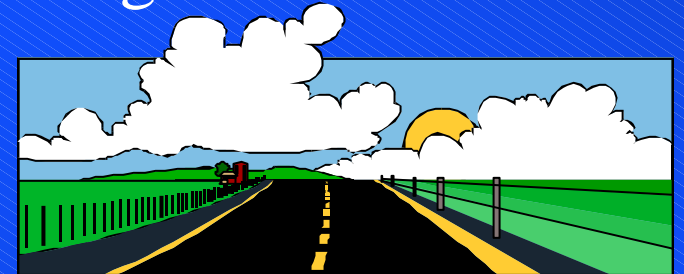
- Management of scarce or finite resources:-

- Radio Spectrum

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- Numbering, Naming & Addressing

- (perhaps) Rights of Way



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Reasons to regulate - 7

- **“Essential Requirements”**: over-arching requirements to achieve public (national) objectives:-
 - Security of Network Operations
 - Maintenance of Network Integrity
 - Needs of law enforcement and national security
 - Respond to civil emergencies



That seems to be a lot of regulation!

- **The preceding reasons are the root causes**
- **But not all causes are justified**
- **Costs may outweigh benefits**
- **May solve one problem but create others**
- **Hence all regulation must be justified to show clear cost benefit**
- **Question anything that requires permanent regulation**

Not only that but...

- Regulators must act ‘reasonably’
- Decisions must be ‘fair’:
 - Objective
 - Proportionate
 - Consistent
 - Transparent



Oftel's 'Competition Plus' Strategy

- Can be summed up as:
 - “Competition wherever possible;
Regulation where necessary”
- Underpinned by 4 objectives and 10 principles
- Recognises increasing competition
- Regulate only when justified - market reviews
- Greater reliance on co- and self-regulation

The 4 Oftel objectives

- **Effective competition - benefiting consumers**
- **Well informed consumers**
- **Adequately protected consumers**
- **Prevention of significant anti-competitive practice**

Who should regulate?

- The role of co-regulation and self-regulation
- Less effective for competition issues
- Does convergence argue for convergence of regulators?
- Real issue is need for convergence of principles



Government White Paper

- Commitment to review regulation
- Debate about the degree of convergence
- Carriage and content?
- Or economic regulation versus content regulation?
- Oftel believes that one body would be best
- But content regulation clearly separated

So is OFCOM the answer?

- **What was the question?**
- **Need to recognise that most regulation is now constrained by EU Directives**
- **Hence the critical importance of the present EU Communications Review**
- **There are generalist regulators as well as specialist (sector specific) regulators**

Specialist vs Generalist



- Oftel
- Broadcasting Standards Commission
- Radio Frequency Agency
- Radio and Television Authority
- ICSTIS
- Nominet
- Internet Watch
- & Govt departments!



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- Trading Standards



So that's very simple then....

- **Regulatory challenges**

- Tension between Competition Act & Telecoms Act
- Fast moving markets
- Internet economy
- Independence from Government
- Public Confidence

Conclusion

It's a dirty job, but someone's got to do it....

Thank you for your attention!

Any Questions?

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