Proceedings of GLOGIFT 12
July 30 – August 1, 2012
University of Vienna, Austria
pp. 124-131

Strategic Perspectives of Governance: A Case of Indian Telecom Sector

Manoj Kumar Sharma[1] and Rakesh Bhatt[2]

Introduction

Indian economy is undergoing a major shift. The major contributors to Indian economy namely agrarian and manufacturing sector has now given way to the service sector. Majority of work force employed in service sector are dealing with information; whether they are involved in creating, processing or distributing. Telecom sector forms the basis as the enabling infrastructure. This leads to the fact that a comprehensive, future oriented, Telecom policy creates a framework for the development of this industry is a prime prerequisite. Over a period of time government of India has laid down several regulations that deal with the issue.

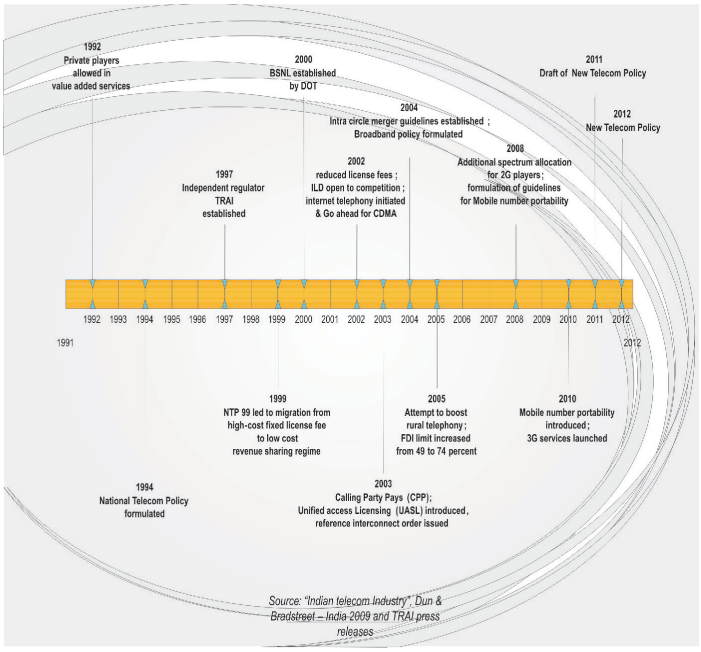


Figure 1: Indian Telecom Industry – Milestones[2]

1. **Professor & Head**, Department of Management Studies
JSS Academy of Technical Education, Noida, India
Email: hod.dms@jssaten.ac.in

2. **Assistant Professor**, Department of Management Studies
JSS Academy of Technical Education, Noida, India
Email: rakeshbhatt.dms@jssaten.ac.in

The Indian telecom sector has emerged as the fastest growing network in the world with a subscriber base already touching 650 million and further growing at the rate of 15 million subscribers per month in 150 state of the art networks of telecom. Roll out of services has happened in 8000 towns and cities and over 500000 villages and there are on an average 6 or more mobile operators in each circle. The flood gates for availability of latest technology and technical innovations have been further opened up by the auctioning of 3G / BWA spectrum in June2010. Total teledensity is about 75% and the telecom revenues are now touching Rs.150000 crores and are growing day by day. (Deepak J.S. *et.al* 2011)[1]

The exponential growth of last few years in telecom sector has also led to a clear deficit in the area of governance, which in turn has thrown up peculiar challenges. In order to resolve the difficult and complex issues of governance along with concern for long time growth of the sector - a well thought out strategy needs to be evolved.

Telecom Regulatory Authority of India (TRAI)

To have or not to have telecom regulator is a seminal question. The recent experience in world economies does point towards that fact, although the best regulation is self regulation but this in fact does not take place on auto mode.

The Indian government was aware of all these nuances and hence the Telecom Regulatory Authority of India (TRAI) was, thus, established with effect from 20th February 1997 by an Act of Parliament, called the Telecom Regulatory Authority of India Act, 1997, to regulate telecom services, including fixation/revision of tariffs for telecom services which were earlier vested in the Central Government.

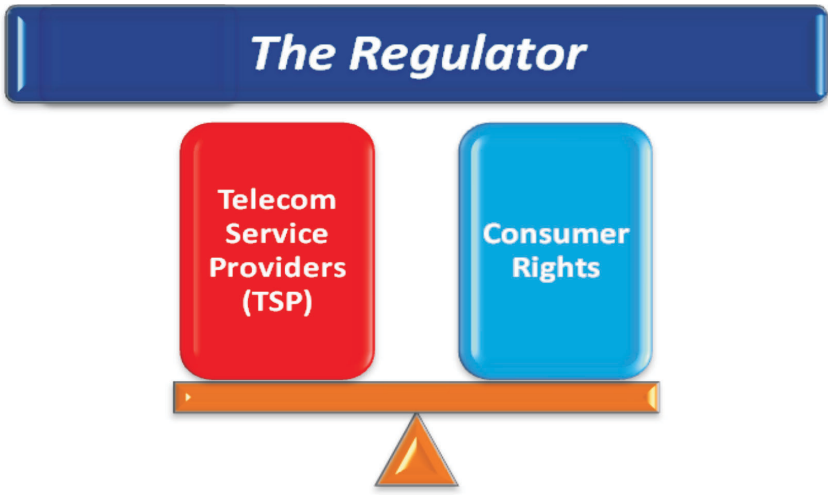
TRAI - Mission

TRAI's mission is to create and nurture conditions for growth of telecommunications in the country in manner and at a pace, which will enable India to play a leading role in emerging global information society. One of the main objectives of TRAI is to provide a fair and transparent policy environment, which promotes a level playing field and facilitates fair competition. In pursuance of above objective TRAI has issued from time to time a large number of regulations, orders and directives to deal with issues coming before it and provided the required direction to the evolution of Indian telecom market from a Government owned monopoly to a multi operator multi service open competitive market. The directions, orders and regulations issued cover a wide range of subjects including tariff, interconnection and quality of service as well as governance of the Authority. The TRAI Act was amended by an ordinance, effective from 24 January 2000, establishing a Telecommunications Dispute Settlement and Appellate Tribunal (TDSAT) to take over the adjudicatory and disputes functions from TRAI. TDSAT was set up to adjudicate any dispute between a licensor and a licensee, between two or more service providers, between a service provider and a group of consumers, and to hear and dispose of appeals against any direction, decision or order of TRAI.

TRAI - Roles

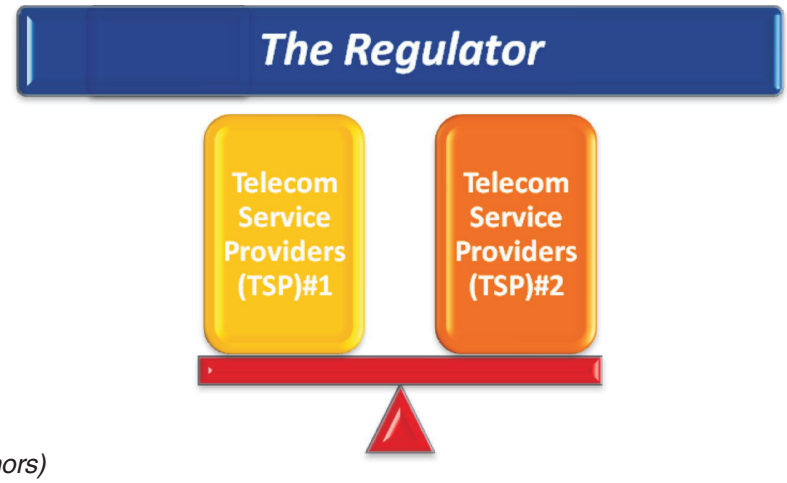
TRAI's two major roles as apparent from its mandate so defined by the government are geared towards playing a balancing act between profit maximization expectations of Telecom Service Providers (TSPs) on the one hand and the rights of the consumers on the other.

This mandate given to any regulator can only be implemented if and only if the regulator is made independent in every sense of the word.



(Source: Authors)

Figure 2: The Regulator as Balancer of Rights



(Source: Authors)

Figure 3: The Regulator as a Facilitator for Providing Level Playing Field for Different TSPs.

Failure on part of regulator to assert itself when necessary leads to severe complications in dealing with issues related to ethics in business. The now well publicized 2G scam also seems to be a direct outcome of less than desired level of performance on part of TRAI.

The Scam

The issue of 2G scam dates to 2008 when nine telecom companies were issued scarce airwaves and licences for second generation (2G) mobile phone services at Rs.1,658 crore (less that $350 million) for a pan-India operation. As many as 122 circle-wise licences were issued.

Later, based on the auction of airwaves for third generation (3G) services, which got nearly $15 billion to the exchequer, and that for broadband access, which fetched over $8.5 billion, the notional loss was estimated at $38 billion to the exchequer.

A new player, Swan Telecom, bought licences for 13 circles with the necessary spectrum for $340 million but managed to sell a 45-percent stake in the company to UAE's Etisalat for $900 million. This swelled its valuation to $2 billion without a single subscriber. Another new player, Unitech, paid $365 million as licence fee but sold a 60-percent stake to Norway's Telenor for $1.36 billion, taking its valuation to nearly $2 billion, again without a single subscriber. Similarly, another licensee, Datacom, later became Videocon Mobile and Stel now has large stake by Baharian Telecom. The other companies are Tata Tele, Idea Cellular, Loop Telecom, Shyam Telelink and Spice (IANS report in Deccan Herald, 15th Nov,2011)[3].

This scam if we carefully consider it, is a scam of governance that inter alia includes ethics. The regulator (TRAI) in its *"Recommendations on Review of license terms and conditions and capping of number of access providers"* (Aug 2007)[4] has clearly stated that "the allocation of spectrum is after the payment of entry fee and grant of license. The entry fee as it exists today is, in fact, a result of the price discovered through a markets based mechanism applicable for the grant of license to the 4th cellular operator. In today's dynamism and unprecedented growth of telecom sector, the entry fee determined then is also not the realistic price for obtaining a license. Perhaps, it needs to be reassessed through a market mechanism". This statement of TRAI clearly enumerates that entry fee for granting of Telecom licenses need to be reassessed .This in turn implies that there existed a situation wherein a precious resource like spectrum would have brought in more money to the government treasury as telecom operators were ready to pay a higher price, but the government of the day overlooked this advice resulting in loss to the state exchequer. This happened since the regulator (TRAI) is not a truly independent entity as its advice/recommendations are not binding on the government.

Ethical Challenges and 2G Scam

One might argue that the people at the helm of affairs in the government were correct in following the preexisting policy regarding spectrum allocation but surely they were not right. Why they were not right? When we could not get even basic necessities in 2007 at 2001 prices how could a precious resource like spectrum can be made available at 2001 prices in 2007. The market for mobile telephony has increased from 6.68 million subscribers in 2002 to 165.11 million subscribers in 2007. Telecom Service Providers would have willingly paid more in this scenario of more than 25 fold increase, but someone was more interested in implementing decisions which were unethical (TRAI, 2007).

An Explanation of Scam as per Agency Theory (Jensen and Meckling, 1976)[5]

We are of the opinion the only theory that seems appropriate for explaining what happened and why it happened is the agency theory. Agency relationship as propounded by Jensen and Meckling (1976) is a contract under which one or more persons (the principal(s)) engage another person (the agent) to perform some service on their behalf which involves delegating some decision making authority to the agent. *"If both parties to the relationship are utility maximizers, there is good reason to believe that the agent will not always act in the best interests of the principal".* The *principal* can limit divergences from his interest by establishing appropriate incentives for the agent and by incurring monitoring costs designed to limit the aberrant activities of the agent. In addition in some situations it will pay the *agent* to expend resources (bonding costs) to guarantee that he will not take certain actions which would harm the principal or to ensure that the principal will be compensated if he does take such actions. However, it is generally impossible for the principal or the agent at zero cost to ensure that the agent will make optimal decisions from the principal's viewpoint. In most agency relationships the principal and the agent will incur positive monitoring and bonding costs (non-pecuniary as well as pecuniary), and

in addition there will be some divergence between the agent's decisions and those decisions which would maximize the welfare of the principal. The money equivalent of the reduction in welfare experienced by the principal as a result of this divergence is also a cost of the agency relationship, and we refer to this latter cost as the "residual loss." (Jenson and Meckling 1976)

Agency Theory states that large corporations are reduced to two participants— managers and Principals —and the interests of each are assumed to be both clear and consistent. Second, the notion of humans as self interested and generally unwilling to sacrifice personal interests for the interests of others is both age old and widespread (Daily M. *et.al*, 2003)[6].

This was the very action that happened in 2G scam. The government was the 'Principal' owner of the spectrum with Minister and Bureaucrats concerned being the agents appointed by the government to take decisions on its behalf. At zero cost to the principal the agents so appointed were not interested in taking decisions to maximize the welfare of the principal. The agents in question colluded with the beneficiaries for making preferential allocation of spectrum in return for alleged financial consideration. The agents of the private Telecom Services Providers that benefitted from the entire episode were also following the agency theory. The loyal agents of the corporations were so behaving in the manner they behaved to increase their chances of getting more incentives from their masters.

Ethical Systemic Flexibility

Systemic flexibility hinges on three major factors - Options, Change and Freedom of Choice. In any management context the three basic entities that are always present are situation, actor and process. A situation is to be dealt with by an actor or a set of actors via a process or a set of processes. Out of the three basic entities, the freedom of choice exists with the actor, who can be an individual, a group, a department, or the whole organization. Here in this context the relevant actors – ethical proactive – as identified, are government through industry regulator, customers through Public Interest Organizations and Telecom Service Providers.

What is a process for an actor can be a situation for another actor or vice versa. For example if the industry regulator decides to investigate the alleged wrongdoing of any Telecom Service Provider - it is a process for TRAI but from the Telecom Service Provider's point of view it becomes the situation to wriggle out from as soon as possible.

The freedom of choice so provided by the situation is the external flexibility. What seems to

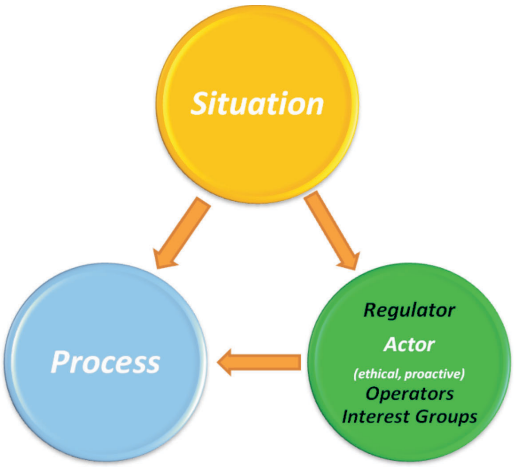


Figure 4: SAP Modeling in Telecom. Adapted from SAP-LAP Framework (Sushil, 2000)[7]

have happened in the 2G scam is that the government through regulator and in isolation influenced the **process of allocation of spectrum which was a situation for the existing and prospective TSPs. By circumventing the process of allocating spectrum the government was in a position to facilitate the entry of ineligible TSPs. All this happened as a result of the lead actors being** proactive but not being ethical. If the desire is that repetition of happenings like 2G scam should be avoided then ethical proactive actors must necessarily take charge and influence both the situation and the process so devised.

The Gap

One way of preventing these occurrences in future is to introducing innovative checks and balances on the policy making and implementing authority of various agents. That could include among other things the use of public interest organizations by the government. Currently the public interest organizations do not have funding of their own. These organizations are invariably getting their funding and other support from Telecom Service Providers, howsoever tacit form it may be and again the agency theory comes into play - in order to get more funding and more support these organizations which are purportedly working for the interests of the consumers in fact have started pressurizing the government for policies favorable to Telecom Service Providers. Consumer is left aloof, with no say in deciding about the policies that affect him.

Filling the Gap

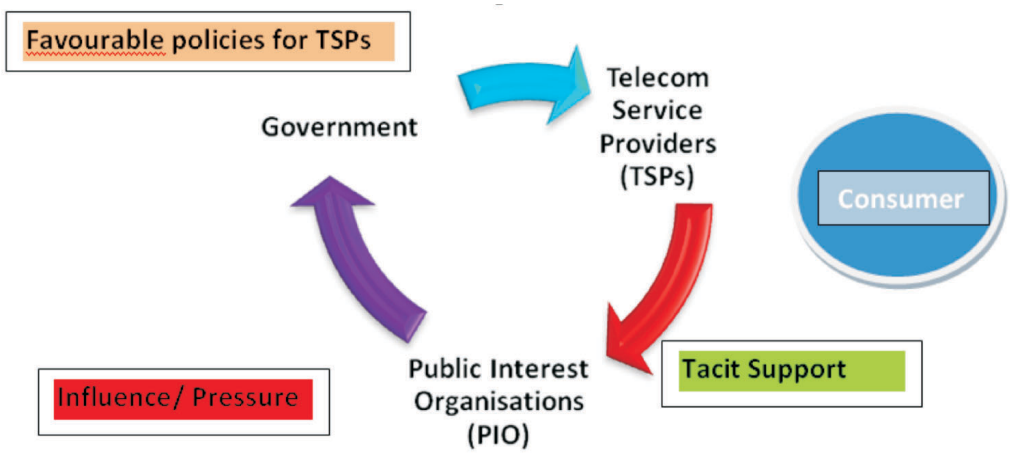


Figure 5: Current Relationship between Various Stakeholders as Perceived by Authors

We propose a model where all the stakeholders are taken care of, their queries addressed and the consumer does not feel cheated. In this model the government takes the lead in providing support and funding to the Public Interest Organizations so that they are free from the influence of the Telecom Service Providers. The government by its actions creates the enabling environment wherein Public Interest Organizations become a force to reckon with in favour of consumers. This would enable both of them to ensure by influencing and pressurizing the TSPs for taking actions that are in favor of the consumer. The next bottleneck that could arise is how to fund the PIOs herein we propose that a percentage of the money collected as penalty from the very same TSPs on various counts may be made available to break this unholy nexus.

PIOs[A] – Public Interest Organization TSPs[B] – Telecom Service Provider

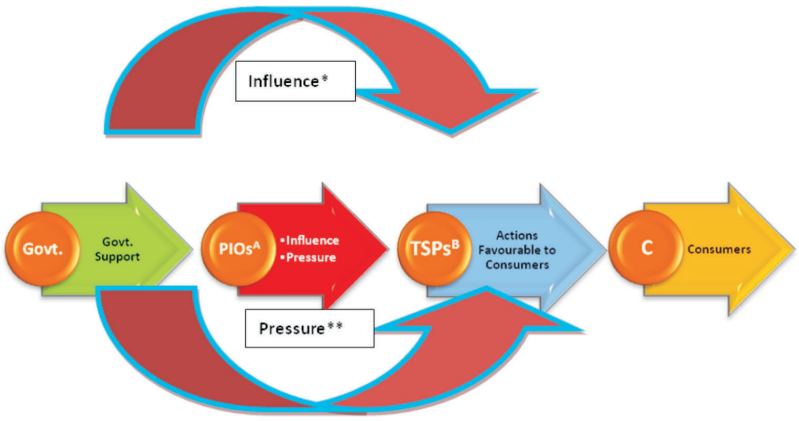


Figure 6: Model for Facilitating Various Stakeholders as Proposed by Authors

*The act or power of producing an effect without apparent exertion of force or direct exercise of Command

**to force (someone) toward a particular end

Summary

As evident, the telecom business environment in India is dynamic. Various lead actors at different times or at the same time trying to influence the process and situation in a manner to get a favorable result for them. In order to achieve the end results that are ethically correct the proactively ethical lead actors need to influence the situation and the process. As Nick Wood says "Corruption makes people wary, and it makes foreign companies wary, until the dust settles". In the short term, "enterprises will worry about the investment climate".[8]

Telecommunications has the potential to act as a means of social change. The lack of physical infrastructure and skilled specialists in social sectors like healthcare, banking and education in rural areas makes the need for mobile based solutions like m-Health, m-Commerce and m-Learning all the more attractive. Apart from this, with tele-density reaching over 166% in the urban markets, the telecom industry is now eyeing to tap the rural market. The high level of growth in the Indian wireless telecom sector, due to low rural penetration, would continue to drive huge investments in building the telecom infrastructure[9]. The only condition being that ethical stakeholders take the centre stage.

This paper extends the application of concepts like SAP-LAP modeling and Agency Theory in an effort to bring in ethical perspective in the middle of the telecom domain. The proposed model's focus on ethics can lead to desired changes at policy level and business operation level so that the events like 2G scam are not repeated in future, the interests of all the stakeholders are taken care and the image of the country could be protected.

References

- Deepak J S *et.al* (2011) Strategic Plan Document for Department of Telecom, Government of India, LBS National Academy of Administration, Mussoorie.
- www.dnb.co.in/IndianTelecomIndustry/regulatoryFramework.asp accessed online at 6.30 PM on 25th Nov, 2011.
- http://www.deccanherald.com/content/112984/what-2g-spectrum-scam-about.html accessed online at 9.56 PM on 26th Nov, 2011.

- http://www.trai.gov.in/WriteReadData/trai/upload/Recommendations/73/recommen29aug07.pdf accessed online at 10.24 PM on 26th Nov, 2011
- Jensen and Meckling (1976) Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure, *Journal of Financial Economics,* 3(4), 305-360.
- Daily, Catherine M. *et.al* (2003) Corporate Governance: Decades of Dialogue and Data, *Academy of Management Review,* 28(3), 371-382.
- Sushil (2000) SAP-LAP Models of Inquiry, *Management Decision*, 38/5 [2000] 347–353.
- Nick Wood (2012) Investing in India- Climate Change, *Total Telecom+,* February, pp. 6-7.
- Deloitte - Technology, Media and telecommunications India Predictions 2012 (Report) (http://www.deloitte.com/assets/Dcom-India/Local%20Assets/Documents/Thoughtware/TMT%20India%20Predictions%202012.pdf accessed online at 11.22 AM on 5th June 2012).