Review of Sri Lanka's licensing framework—industry workshop

Telecommunications licensing in a converged digital environment

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1. Project overview

Terms of reference

- Review existing telecoms licensing framework
  - Identify potential barriers to convergence
- Recommend an alterative licensing model
  - Including licence conditions, licensing processes and fee structure
  - Identify any necessary amendments to law
  - Draft any necessary licensing regulations
- Advise on planning for the implementation and transition process

Scope

Review and recommendations to be limited to telecommunications operating licensing only

- i.e. section 17 licences
- excludes spectrum licensing and and other forms of licensing

Dimensions of licensing

- Categories of licence
- Means of grant
  - Individual / class
- Licensing authority
  - Minister / regulator
- Eligibility
- Application process
- Exemptions
- Period (duration)
- Licence conditions
  - General / specific
  - Where specified
- Fees
  - Initial & annual
  - Purpose and method
- Renewal
- Cancellation, suspension, revocation & surrender

Some initial observations

- The existing legislation and approach to licensing is over 25 years old
- The legislation and current necessary reliance on the use of licence conditions limits the potential for licensing reform without legislative reform
- There is general support for licensing reform but it is not the most pressing regulatory issue facing licensees
  - Some concern about potential for additional entry
- The more pressing (desired) licensing reforms relate to licensing administrative arrangements, rather than licensing structure
  - e.g. renewal process
  - Also spectrum licensing and availability

2. Overview of telecoms licensing trends

Telecoms licensing in the Bronze Age of Regulation

The licensing of telecoms operators originally was used to serve many purposes:

- The allocation of scarce resources
- Expansion of networks and services
- Privatisation and commercialisation
- Regulatory certainty
- Establishing a competitive framework
- Consumer protection
- Regulating market structure
- Generating government revenue

Telecoms licensing in the Iron Age of Regulation

- The principal purposes of licensing changed as the national body of regulation developed over time
- Licences tended to dwell on divergence and superseded contrasts such as:
  - Basic services vs value added service
  - Voice vs data
  - Fixed vs mobile
  - Narrowband vs broadband
  - Specific medium vs multimedia
  - Analogue vs digital

Convergence prompts reform… in some countries

- Various attempts were made to re-categorise services and operators in the late 1980s and early 1990s
- For example:
  - Type 1 and Type II in Japan and Canada
  - The general operator licences in UK and Australia
  - The functional structure in Malaysia

Convergence prompts reform more widely

- Global trends prompted licensing reform internationally
- As the notion of a specific service requiring its own separate network disappeared, so to did the foundation for the traditional approach to licensing
- Recognition that barriers to convergence retard the development of new services and innovation

International trends in approaches to telecoms licensing

Service-specific

- One specific licence per service

Consolidated licences

- Broad categories of services
- Often distinguishes between networks and services
- Multi-service authorisation or global authorisation

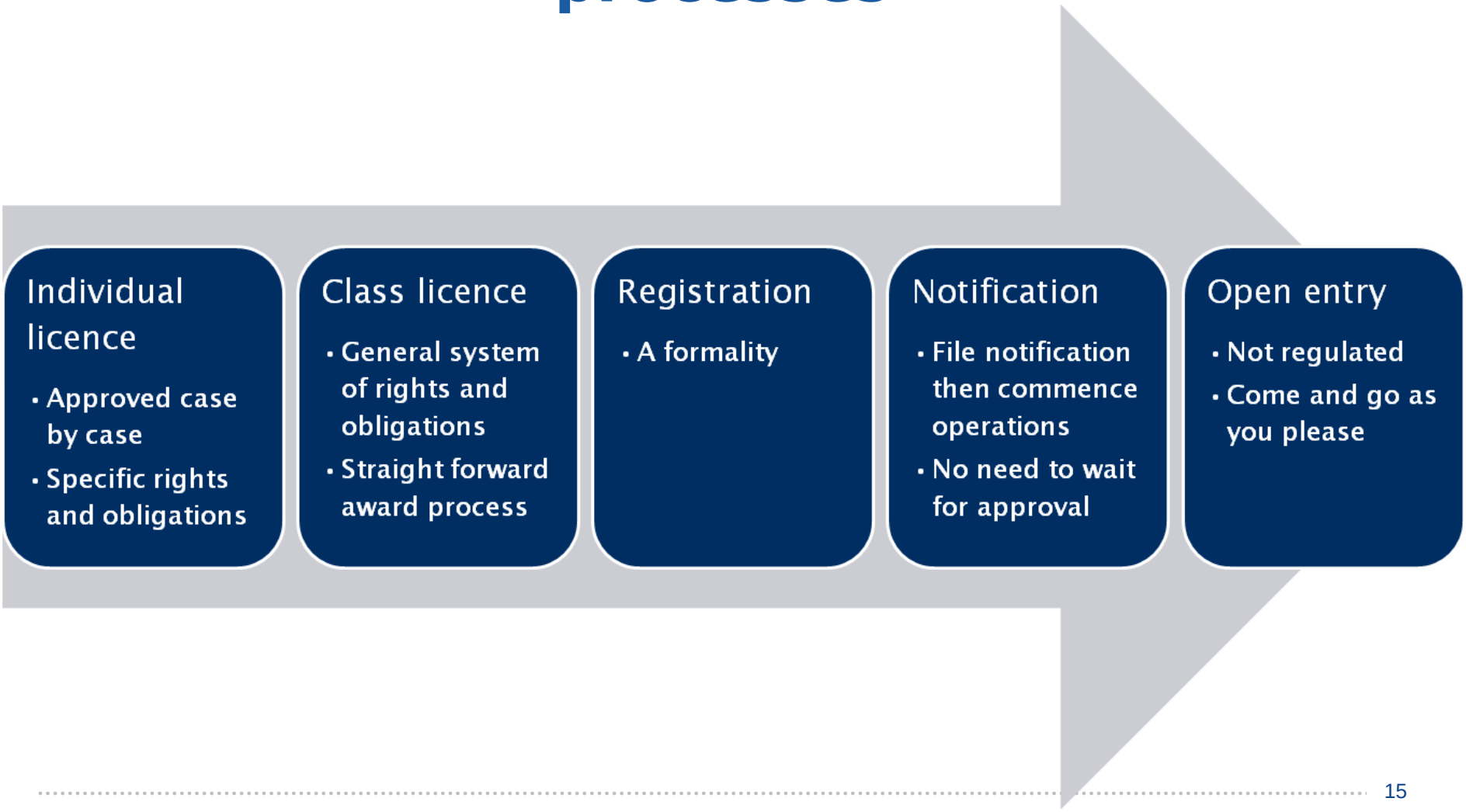
Unified licences

- Combining multiple categories of licences and authorisations

Common objectives behind licensing reforms

- Simplify licensing procedures and reduce complexity
- Make market entry easier
- Reduce legal disputes on scope of licence
- Ensure flexibility and efficient utilisation of resources
- Create a level playing field
- Reduce the cost and complexity of administration

International trends in licensing processes



Best practice telecoms licensing regimes today

- Transparency of all licensing processes
- Licence periods that are either on-going or match investment recovery cycles
- Embracing convergence
- Being generally functional rather than service oriented
  - i.e. network / service / content structure
- Leaving service and technology choices to licensees
- Minimising special conditions and making maximum use of general conditions in legislation or regulations

3. Examples of current licensing regimes from some other countries

Tanzania's licence model

Licence	Market segment	Broadcast segment	Type
Network facility licence	International National Regional District	n/a	Individual
Network service licence	International National Regional District	n/a	Individual
	Closed user group		Class
Application service licence	International National Regional District Community	n/a	Class
Content Service licence	National Regional District	Subscription TV Free TV Free radio	Individual
	Community	Community TV Community radio	Class

Tanzania individual versus class licence

Individual Licences

- Consider to have "big economical and social impact"
- Therefore include specific conditions on:
  - quality of service
  - licensed area
  - interconnection
  - consumer protection
  - universal service obligation
  - shareholding structure
  - roll out plan
  - directory assistance

Class licence

- Issued with standard terms and conditions as considered to have "less social and economic impact"

Exempt licence

- Examples include broadcasting and production studios, private network facilities, internet content application services, web hosting
- Must register with TCRA

PNG's Licensing Model

Network Licence

- Facilities rights: The right to construct, maintain or operate facilities
- Network services: A service for carrying communications
- Facilities access services: The use of, or access to, a facility to supply a network service

Applications Licence

- A service for facilitating communications by means of guided and/or unguided electromagnetic energy provided via one or more network services

Content Licence

- Broadcasting service
- Narrowcasting service
- Definition may be expanded via regulation

Jordan's licensing model

Individual licence

- For providers of public telecommunications services and underlying networks that use **scarce resources**
- Scarce resources are defined as radio spectrum, public rights of way and telephone numbers.
- Does not confer an automatic right to the use of scarce resources
- Exemptions given to VSAT services, unlicensed spectrum (e.g. Wifi) and use of dialling codes, ISPC

Class Licence

- For providers of public telecommunications services that **do not use scarce resources**, or those whose use of scarce resources is determined by TRC not to be material

Jordan's licensing reform enabled it to focus on more important issues

"This [new licensing regime] permitted TRC to adopt a less interventionist and confrontational role in the regulation of the market by placing less emphasis on the enforcement of license terms and more on the assurance of true competition."

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Jordan's TRC

Singapore's licensing model

Facilities based operator licence

- Authorisation to run any telecom system for the purpose of offering:
  - Telecom switching capacity or services;
  - Telecom transmission capacity or services
- Individually licensed

Service-based operator licence

- Authorisation to lease network elements from an FBO
- E.g. transmission capacity, switching services, ducts and fibre
- Individually or class licensed

Australia's licensing model

- Owners/operators of certain types of network facilities require a "carrier licence"
  - Relevant facilities are single or multiple line links over 500m and specified radcom facilities
  - Only relevant if used to supply services to the public
- Everyone else is considered to be a "carriage service provider"
  - CSPs operate on permission automatically granted to them in the legislation
  - They do not require a licence

European Union countries

- A "General Authorisation"
- A general authorisation gives an "undertaking" (an operator) the right to:
  - provide electronic communications networks
  - provide electric communications services
- And, if supplying to the public
  - negotiate interconnection with other undertakings in the EU
- Also, the opportunity to be designated to provide certain universal service functions

Possible conditions of a General Authorisation in the EU

The conditions that may be attached to a General Authorisation are limited

- Financial contributions to funding of the universal service
- Interoperability of services / interconnection of networks
- Accessibility and portability of numbers
- Protection of privacy and minors
- Obligation to transmit certain TV or radio programmes
- Environmental and town planning requirements
- Administrative charges
- Restrictions concerning the broadcast of illegal content
- Use of the radio spectrum

4. Licence migration issues

Licence migration challenges

- Migrating from traditional to convergent licensing regimes is difficult and complex.
- Contributory factors can include:
  - Privileges built into current licences
  - Exclusive provisions in current licences
  - Poor incentives
  - New general obligations in legislation or regulations
    - E.g. new and stricter eligibility criteria

Migration issues (1)

- How quick will the transition be?
- Is compensation necessary?
- Who will be the licensing authority?
- How will the existing licences fit into the new licensing structure?
- Are each licensee's migration rights clear and understood?

Migration issues (2)

- Are migration incentives needed?
- Which licence conditions need to be migrated? And how?
- What new regulations are required?
- Do the licence fee arrangements need to be changed also?
- What effect will migration have on existing spectrum usage rights?

5. Conclusions

- Elements of modern best practice in telecoms licensing:
  - Embrace convergence and
  - Generally substitute a functional approach for pre-convergence regulatory distinctions
  - Transparency of all licensing processes
  - Licence periods that are either on-going or match investment recovery cycles
  - Leave service and technology choices to licensees
  - Minimise special conditions and making maximum use of general conditions in legislation or regulations
- Continuing with outmoded licensing regimes can impose substantial costs on the sector and the economy – and ultimately consumers
- Migration can be a complex and protracted process

Thank you

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