Telecommunications Privatisation in Taiwan:

A Beautiful Mistake?

Kuo-Tai Cheng,

k.cheng@stud.man.ac.uk;

PhD Candidate,

Institute for Development Policy and Management,

The University of Manchester,

The Harold Hankins Building,

Booth Street West,

Manchester,

M13 9QH,

UK

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Abstract

This paper examines the changing role of the government and 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 paper considers lessons can be learnt from the experiences of the Taiwanese telecommunications sector's privatisation policy and regulatory governance. Taiwan completed the revision of the Telecommunication Acts at the beginning of 1996, thus establishing a legal and regulatory foundation for market liberalisation. The cellular-phone business was liberated to other players apart from the state in 1997. The forces of market competition pushed new private operators to provide consumers new choices in addition to Chunghaw Telecom Co. (Government-owned enterprise). Stiff competition amongst the public and private industries stimulated rapid growth of mobile phone and other communications services. By 2002, Taiwan had the number one penetration rate (106.45%) in the cellular market in the world up from number 20 in 1998. By December 2002 Taiwan had a total of 73 companies engaged in Type I telecommunications business and 380 operating Type II businesses. Operating revenues in the domestic telecommunications market reached NT$327.1 billion (US$9.9), accounting for 3.36 per cent of total gross domestic product. The data for this research were collected on a field visit to Taiwan which occurred over a five-month period from Oct 2002 to February 2003. In this paper I argue that a close interplay of external geo-politics of globalisation and regional politics on the one hand, and internal economic and political dynamic shaped the form and pace of reforms by showing that privatisation can be seriously affected if the political context is not taken into account alongside the economic and that the development and effectiveness of regulatory structures is limited by the capacity of Taiwanese government to enforce regulatory rules and monitor contracts.

1. **Introduction**

Writing in 1993, Osborne and Gaebler observed that, "privatisation is simply the wrong starting point for a discussion of the role of government. Services can be contracted out or turned over to the private sector. But governance cannot" (p.45). Their observation is supported by OECD who maintain that, this is an apt summary of the difficulties faced by "linking regulatory policy with governance will also cement acceptance of regulatory policy as a permanent feature of government and public administration and one that is central to its overall performance and ability to meet citizen's expectations." (2002b, p.112). These two observations bring to the fore the key point that, privatisation, per se, should be treated as a means, not an end; the others have argued that the end is better government and a better society (Savas, 2000, p.238).

The introduction of liberalisation and public management reforms (hereinafter called PMRs) have arguably led to have arguably led to a shift from 'the entrepreneurial state' towards 'the regulatory state[1]'. For some it is a transformation from a 'Keynesian Welfare state' to a more 'Hayekian regulatory sate' (Cook & Minogue, 2002; Majone, 1994, 1999; Minogue, 2001, 2002b; Moran, 2001, 2002; Scott, 2000, 2002). This has often involved a change in ownership of network utilities from the government to the private sector. There is also an increasing emphasis on pro-competition regulation by quasi-autonomy independent institutions (Loughlin & Scott, 1997; Stirton & Lodge, 2001).

Several challenges are faced in investigating privatisation and regulatory governance.

[1] For some, the regulatory state represents a retreat from commitment for development and a decline in state autonomy. For others, the regulatory state can be as interventionist as the developmental state. Another view proposes that in the nineteenth century 'Nightwatchman State' (Braithwaite, 1999), most of the steering and rowing was done by civil society, whereas the Keynesian/Developmenatl/Welfare State has tried to do both steering and rowing. The new Regulatory State reached some balance: state steering and civil society rowing is its ideal. As will become apparently shortly, the variations in the advance of the regulatory state across the different sectors are greater than those across countries. This strengthens an understanding of the advance of the regulatory reforms as a sector-level phenomenon and the conviction that research aimed at the study of the reforms should combine comparisons between sectors and nations (Cook & Minogue, 2002).

Firstly, governance mechanisms for regulation in the network utilities which follows the introduction of market mechanism into previously monopolistic 'public' utilities need to be unbundled (Ogus, 2001, 2002a; Stern & Holder, 1999). Secondly, there is need to explore the paradox of liberalisation and privatisation on one hand, and 're-regulation' or regulation on the others (Lodge & Stirton, 2000; Loughlin & Scott, 1997; Majone, 1994, 1996, 1999; Newbery, 2001; Stirton & Lodge, 2002). However, many aspects of privatisation and regulation are not obvious enough to be observed (Stern & Holder, 1999). These unobservable aspects, unfortunately, are often the most critical elements in the process of privatisation and regulation. For instance, 'institution' is assumed as the 'black box' in the economic literature (Lane, 2000). Furthermore, research into privatisation and regulation is pursued by a variety of academic disciplines such as politics, economics, sociology, organisational theory, and management even culture studies. The effect of this is the importance of interdisciplinary orientation. Nevertheless, it is more difficult to investigate regulatory mechanisms in the context of developing countries (hereinafter called DCs), because regulatory governance is relatively new in DCs and is generally viewed as the product of the post-privatisation (Cook, Kirkpatrick, Minogue, & Parker, 2003; Minogue, 2002b). With the fore stated points in mind; we can see why it has often been argued that the institutional approach to privatisation policy and regulatory governance provides a more effective response than narrow 'traditional' notion of NPM.

2. Conceptual Framework for Investigating Privatisation and Regulation

In this section, I outline approaches adopted to investigate privatisation and regulation. The contemporary literature identified three possible approaches. These are economic, social, and institutional approaches. Table 1-1 summaries the key features of each this. We can see that only one of the approaches is sufficiently robust to

investigate privatisation and regulatory governance in the telecommunications of Taiwan. It is for this reason I use the institutional approach. I also see the advantage that it allows to explore five interrelated aspects (Clarity of roles; Participation; Independence; Accountability; Transparency) of regulatory framework which capture the main governance mode of regulation and privatisation in terms of literature reviews, 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 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.

Table1-1: summary of approaches of studying privatisation and regulation

Approach	Key Features
Economic	Concerns about 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 issue.
Institutional	Rules of game and law; governance capacity and mechanisms; policy actors; institutional design; the regulatory state;

Privatisation and regulation are both complicated concepts that can carry many different meanings depending on the context they are used. Too many studies of privatisation and regulation used economic approach and assumed there is good governance incorporated into (Minogue, Polidano, & Hulme, 1998; Paliwala, 2001). These economic studies also assumed social regulation can be achieved by economic regulation, however, the influence of economic theory of regulation is much in decline (Ogus, 2002b). 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

'Mad Dogs Disease' ('policy failure' or 'regulatory capture'), because Taiwanese government unwittingly used 'mad dogs competition' (over-licensing) to undertake its telecommunications liberalisation.

This research employs an **'institutional approach[2]'** to consider privatisation policy as one part of a whole system and can be understood within the context of development only in terms of the whole system. As a result, the research has been constructed in a way that accommodates the historic, social, political, and economic dimensions that comprise the whole system (6, Leat, Seltzer, & Stoker, 2002). As Parker and Kirkpatrick (2002) point out, it is important to recognise and reflect the particular circumstances of each developing country and to study privatisation and regulation in DCs where are heterogeneous and therefore the resulting analytical framework needs to be sufficiently flexible to incorporate the differing needs and problems of DCs. In other words, studying privatisation and regulatory policies without considering the whole system could result in judgements without focusing on all the relevant factors, as Lodge agued that, "the institutional approach points to the constrains involved in the selection of regulatory design ideas and, by assessing …institutional factors that structure relationships between the policy domain and its environments" (Lodge, 2003, p.159).

The data for this research were collected on a field visit to Taiwan which occurred over a five-month period from Oct 2002 to February 2003. Fifty-nine qualitative

[2] Rhodes (1995, p.55) described it as "a subject in search of a rationale". It is also "a subject matter covering the rules, procedures, and formal organisations of government" (Rhodes, 1997, p.68), but institutions are no longer equated with organisations (Lowndes, 2002, p.91). "Institution is understood more broadly to refer to a stable, recurring pattern of behaviour" (Goodin, 1996, p.22), as Peters (1999, p.149) calls new institutionalism as a broad approach. Studies of policy network also show informal mechanisms for policy-making may exist alongside formal mechanisms as a parallel institutional framework (see Lowndes, 1996). In other words, the institutional approach highlights formal constitutions, organisational structures as well as informal conventions that add breadth as well as depth to an understanding of institutions. The main significance in utilising such an approach is its 'holism' (Peters, 1999). Crucially, it concerns not just with the impact of institutions upon individuals, but with the interaction between institutions and individuals (Lowndes, 2002; Peters, 1999; Williamson, 1996).

interviews were conducted with key stakeholders that included: government officials, politicians, telecommunications experts in academic and in the telecommunications corporations. I also used archival and related secondary data sources to trace the emergence of privatisation policy in Taiwan and also to corroborate some assertions from the interviews.

3. Telecommunications Liberalisation towards Privatisation in Taiwan

The GOEs privatisation programme began in 1989 and aimed to incrementally privatise most of the GOEs in Taiwan. However, only six GOEs were privatised by the end of 1996 (Y. S. Chang, 2002). This gives the impression that privatisation policy has been more strategic than substantial in nature (C.-F. Chang, 2001). The state had to carefully consider its overall privatisation policies when dealing with demands from many policy actors, since all the other public utilities on the list could demand similar treatment as well. It was the government's responsibility to set a good precedent with Chunghaw Telecom Co. (hereinafter called CTC) case that can then be used as a template for future privatisations.

Taiwan completed the revision of three Telecommunication Acts in the beginning of 1996, thereby establishing a legal and regulatory foundation for market liberalisation. The cellular-phone business was liberated in 1997, thereby breaking the previous monopoly in the telecommunications market. Following the entry of new competitors onto the market, new private operators emerged to provide consumers new choices in addition to CTC (Government-owned enterprise). 'Mad dogs-like' competition amongst the public and private industries stimulated rapid growth of mobile phone and other communications services. By December 2002 Taiwan had a total of 73

companies engaged in Type I telecommunications business and 380 operating Type II businesses (table 1-2). Operating revenues in the domestic telecommunications market reached NT$327.1 (US$9.9) billion, accounting for 3.36 per cent of total gross domestic product (table 1-3).

Table 1-2: Growth of the Telecommunications Operators

	Type I	Type II
July, 1996	1*	67
Dec, 1999	36	207
Dec, 2002	73	380**

Source: Telecom Database on www.dgt.gov.tw
*As 1st July of 1996, CTC also provided Type I telecommunications service.
**General Type II telecommunications operators: 142; Special Type II telecommunications operators: 238.

Table 1-3: Revenues Analysis of Telecommunications Service

	1996*	2000(%)	2001(%)	2002(%)
Local telephone service	20	24.49	21.91	20.70
Long-distance telephone service	29	9.22	5.93	4.89
International telephone service	22	10.19	7.37	7.56
Cellular phone service	**13**	**51.94(15.95+35.99)**	**54.25(18.04+36.21)**	**54.86**
Internet access service	3	2.56	9.61	11.99
Radio paging service	NA	1.42	0.77	0.71
others	5	0.18	0.17	1.98
Total Revenues (Billion NT$)	**NA**	**300**	**315**	**327.1**

Source: (DGT, 2000, 2001, 2002a).
Note: exchange rate (US$ to NT$): 1 to 33.
*In 1996, Equipment leasing is 8%.

The entry of private operators onto the market at the end of 1997 the number of mobile phone subscribers in Taiwan was approximately one and half million, and a

further one million applications were waiting for numbers. The number of mobile phone subscribers increased about '15 times', after private mobile phone firms entered the market in 1998. By the end of December 2002 the number had skyrocketed to 23.91 million, bringing the penetration rate to 106.15 per cent (table 1-4). CTC has since lost about 70 per cent of its market share and been replaced as the cellular phone subscriber industry's top one by a private enterprise. Data from the International Telecommunications Union (hereinafter called ITU) shows that by 2002, Taiwan had the number one penetration rate (106.45%) in the cellular market in the world from No.20 in 1998 (table 1-5).Total operating income derived from mobile phone business amounted to NT$179.4 (US$5.4) billion in 2002, accounting for 54.68 per cent of all revenues in telecommunications market of Taiwan. Clearly, cellular communications services have boomed with the entry of new operators. In addition to providing simple text messaging, mobile banking, and information services, all of the operators in Taiwan upgraded their networks on the framework of the General Packet Radio Service (GPRS) system between August 2001 and early 2002 and have begun offering multimedia services (MMS), i-Mode, or diversified services utilising the java platform.

Table 1-4: Growth of Cellular Phone Subscribers

	1995	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**
Subscribers (unit: 1,000)	772	970	1492	4727	11541	17874	21633	23905
Penetration rate (%)	3.62	4.51	6.86	21.56	52.24	80.24	96.55	106.15

Notes:
1. New operators began entering the market in January 1998.
2. At the end of April 2002, cellular phone subscribers in Taiwan totalled 22,605,000 for a penetration rate of 100.73% and exceeded one account per person.
3. Compound annual growth rate (CAGR): 74%.
4. Subscriber growth rate: 1502%.

Table 1-5: Top Mobile Markets in the World

	2002Rank	**2002(%)**	**2001(%)**	**1998 Rank**
Taiwan	**1**	106.45	96.88	**20**
Luxembourg	**2**	101.34	96.73	**10**

Hongkong, China	**4**	92.98	85.90	**2**
Italy	**5**	92.65	83.94	**9**
Iceland	**6**	90.28	82.02	**5**
Israel	**3**	95.45	80.82	**8**
Austria	**15**	82.85	80.66	**15**
United Kingdom	**10**	84.49	77.04	**18**
Finland	**9**	84.50	77.84	**1**
Portugal	**17**	81.94	77.43	**10**

Notes:

1. Taiwan's Population is "22,460,000" by 2002.
2. In ITU 2003 data, No.7: Sweden (88.50%); No.8: Czech Republic (84.88%); No.11: Norway (84.33%); No.12: Greece (83.86); No.13: Slovenia (83.52%); No.14: Denmark (83.33%); No.16: Spain (82.28%).
3. *Source:* International Telecommunication Union (ITU), 2000- May, 2003; http://www.itu.int/home/index.html.

In the area of consumer costs, the tariff was greatly reduced following the opening of the telecoms market. The monthly rental fee for cellular phones, for example, dropped from NT$1,400 (US$42.4) in 1995 (before the market was opened) to NT$600 (US$18.2) in 1999; and by 2003, there were even operators with a low-priced program that asks only NT$66 (US$2) per month. The communication fee for cellular phones fell from NT$12 (US$0.36) per minute prior in 1995 to NT$6 (US$0.18) in 1999 and, for some operators, NT$3.6 (US$0.11) in 2001 (DGT, 2001). For cellular phone subscribers, for example, the benefits of market opening are already reflected in connection fees, monthly rental fees, tariff, and handset costs (DGT, 2002b).

With the liberalisation of the market, tariff have fallen by a great amount and mobile phone promotions of all kinds have brought attractive incentives to customers in terms of application services, monthly rental, and connection fees. Customers have benefited further from discounts on various value-added services. Three private fixed-network companies started to operate in mid-2001. All of these new entrants initially focused on the international telephone market, because the network construction is relatively fast and provides relatively large profit margin. They have grown rapidly, and by December 2002, they had already taken over 32.61 per cent shares of that market (via operating revenue). At the same time, they occupied 5.49 per cent of the long-distance

market and 1.26 per cent of the local market. Their share of the long-distance and local telephone businesses is expected to grow as their domestic network is completed (DGT, 2002b).

Despite the fact that the three fixed-network firms did not enter the market until 2001, the price-reducing effect brought about by market competition has already become very apparent. To take CTC's international direct calling tariffs as an example, these tariffs plummeted from NT$17 (US$0.52) per minute in 1999 to NT$10 (US$0.3) in 2000 and just NT$5.9 (US$0.18) in mid-2002 (DGT, 2001), proving abundantly that existing operators have had to abandon the fixed-price strategy of their monopoly days and adopt more competitive fees in response to the entry of new operators.

The state has vigorously promoted the liberalisation of the telecommunications market, bringing about a rapid growth in Taiwan's internet population. At the end of December 2002 Taiwan had a total internet population of 8.59 million with a penetration rate of 38 per cent, up from 22 per cent at the end of December 1999. In the meantime, Taiwan government has decided to boost broadband use. Operators have reduced their operating costs and promoted broadband use, effectively expanding the broadband customer base and boosting Taiwan's broadband subscribers into a period of rapid growth beginning in 2001. Therefore, the number of broadband subscribers rose from 262, 800 at the end of 2000 to 2,116,000 at the end of December 2002 (DGT, 2002a). This was a net increase of more than 1.85 million during a two-year period. Broadband users made up 24,63 per cent of the total online population. On the other hand, the ratio of broadband households to all online households in Taiwan was up 58 per cent in August 2002 (DGT, 2002b). Of the total, the ratio of digital subscribers line (DSL) users to the total broadband population had risen to 50 per cent, from 30 per cent in August 2001. The ratio of narrowband users to the total online population, by contract, dropped from 60 to 40 per cent over the same period. Based on the data of

broadband penetration of ITU by 2002, Taiwan is number four of top fifteen economies where has 2.1 million subscribers.

The booming situation in the mobile market and continuous maturation of mobile broadband communications technology motivated the MOTC to complete competitive price bidding for five 3G mobile communications licenses involving the release of 170 MHz of wireless frequency bandwidth in February 2002. The state issued five licenses to Yuan-Ze Telecom, Taiwan 3G Mobile Network, Taiwan Cellular, CTC, and Asia Pacific Broadband Wireless Communications for a total bidding price that reached NT$48,899 (US$1.48) to NT$15,300 (US$0.46) million more than the government's announced floor price of NT$33,600 (US$1.02) million. According to an analysis by Merrill Lynch, the average cost for the use of each MHz by Taiwan's people is US$0.37. This is much lower that than cost per MHz of US$4.90 in England and US$1.16 in Singapore (DGT, 2002a). Although the release of 'more licenses' in Taiwan has expanded capacity and reduced costs of consumers in short term since liberalisation, the state has neglected to strengthen its governance mechanisms for privatisation and regulation, especially the governmental stake in CTC is still about 68 percent. It is to this that we now turn to.

4. Emerging Issues in Telecommunications Privatisation and Regulation

Where privatisation policy and regulation is perceived as being necessary, the first stage is to outline the objectives of policies and roles of sectors, particularly between government and privatisation and regulatory agencies (Bartle & Muller, 2001). This should make governance mechanisms more effective, by removing any possible confusion about which roles and functions are carried out by agencies and which are carried out by Ministers or others (National Economic Research Associates, 1998). Implementing agencies should have a clear statement of both their roles and their

objectives in carrying out those functions by which these are to be achieved in a way that will minimise costs (Stern & Holder, 1999). Under the traditional 'command and control'[3] regime, strictly defined objectives and decision-making processes should incorporated into the legislation (Majone, 1996; Minogue, 2002b; Ogus, 2001). The implication is that there is certainty and tight control by government over the objectives, which could otherwise be compromised if the provisions were opaque and did not give agencies freedom and decision-making power.

Furthermore, unlike economic indicators of performance, socio-political goals of privatisation and regulatory policies are not as easy to define and vary according to the preferences of society (Muller, 2002). Too much discretion in the hands of agencies or regulators could jeopardise these values, since decisions of agencies may not meet their expectations (Bartle, Muller, Sturm, & Wilks, 2002). On the other hand, the democratically elected government is better placed to make these judgements and therefore the legislative framework should give clear guidance in this field, removing or minimising the scope of administrative discretion.

In Taiwan, Privatisation's Law (The 1991 Privatisation Status and Major Policies) specify powers of functions of each privatisation units under each Ministry. In 1988, the 122 GOEs in Taiwan accounted for 16 per cent of the total enterprises, with 84 per cent privately owned. Sections 107 to 110 of the ROC Constitution classify GOEs into state, provincial, city, and county (Sheng, 1995). Constitution Section 107 defined the domain of GOEs (Bein, 1985, pp.15-16). Jurisdiction over the operation of these GOEs is assigned to their own governing ministries (see figure 1-1). Furthermore, in mid-1996, the government set up 'the Steering Committee for Promoting Privatisation

[3] Minogue (2002a, p.6) states that, " conceptually, NPM is a response to perceived failures of the 'command and control' state, which its Keynsian philosophy of stabilisation and distribution, and strong internal values of public interest and public accountability".

of GOEs (hereinafter called SCPPG)' to expedite the privatisation programme, but it is still being criticised for lack of effectiveness (C.-F. Chang, 2001; Parker, 2002).

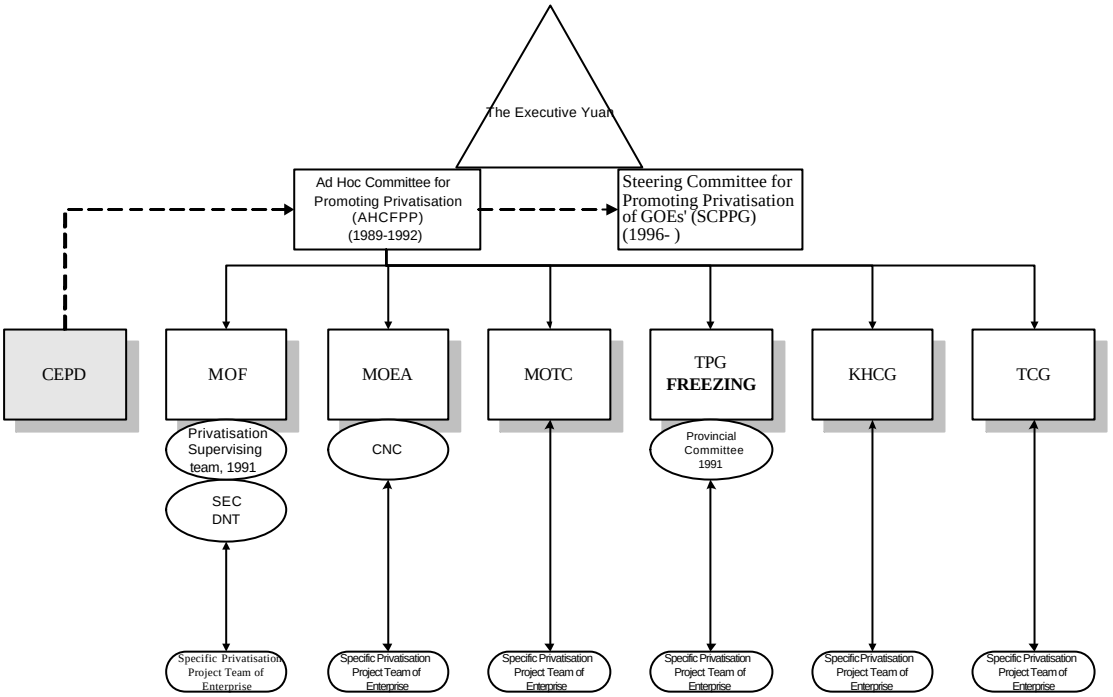

Figure 1-1: Institutional Framework of Privatisation Programme in Taiwan

The main functions of GOEs in Taiwan include: promoting economic development; increasing government revenue; stabilising employment; cultivating manpower for economic development; strengthening national defence; and taking over industries that are inappropriately operated by the private firm (Syu, 1995). Moreover, GOEs also play an instrumental role in adjusting national economic activities: to revive the economic vitality of the nation by increasing the synergistic effects of investment during recession; to stabilising the prices of goods by controlling and reducing prices to their products, such as electricity, petroleum, local phone, fertiliser, steel, etc.(Peng, 1994).

The primary role of privatisation is to coordinate GOEs with the agents who will attempt to maximise the value of GOEs. This presents difficulties since the relative

values of most GOEs are unknown and must be discovered through privatisation and subsequent transactions. This does not mean that the government has no role whatsoever in privatisation. It could, for example, gather and make available information that may assist the privatisation process (Sapington & Stiglitz, 1987). But the acquisition of information is a separate issue than application of information. Even if the government has some quantity of information deemed sufficient to promote privatisation, it cannot be assumed that the information will promote privatisation. To assert this assumes the institutional (political) environment is neutral, and that all relevant incentives are compatible with the promote privatisation. But political institutions such as legislatures, agencies, and judiciaries are anything but neutral in their effects on economic outcomes.

On the other hand, three Telecommunications Acts specify powers and functions of Directorate General of Telecommunications (hereinafter called DGT; the regulator). There is now reasonable clarity between the functions of the DGT and CTC (service provider). The development of public policy is at the core of the Ministry of Transportation and Communications (hereinafter called MOTC)'s responsibilities. The key role of the DGT under the policy direction of the MOTC is to promote the provision, development and regulation of competitive, safe, secure and high quality services for customers in the telecommunications sector. The 'Organisational Statute of the Directorate General of Telecommunications' (OSDGT) of three telecommunications acts in 1997 specified powers and functions of DGT. However, the DGT's regulatory functions must now be read subject to the functions given to the MOTC under the telecommunications act.

The following quotation illustrates this dilemma. It has been declared that, "with this objective in mind, DGT will not only disengage the market monopoly and deregulate in different phases various restrictions of telecommunications market entry but also

build a fair, reasonable and healthy competitive environment by referring to the experience of developed countries, and taking into consideration the enhancement of public interests" (DGT02). A key assumption is that the market functions will be fully developed and the consumers' public interests will be looked after at the same time.

However, here "DGT ignores the responsibility of regulators to look after customer interests; overlapping jurisdictional issues; adequacy of current statutory arrangements in relation to the impartiality and transparency of procedures and decision-making processes of regulators; whether the regulatory authority in each sector should comprise one individual regulator or a regulatory board" (FTC02). They also ignore the question of enforcement powers and the range of powers that the DGT requires to facilitate the effective execution of their functions. In the end, based on the survey, most of the interviews (31 out of 59 in total) agreed that, there is a clarity of roles implementing and regulatory agencies in the process of privatisation and regulation.

Secondly, in DCs, "an absence of rule of law and a lack of transparency both weaken the economy and undermine participatory processes….the rich and powerful have special access to the seats of political power and use that influence…for themselves special favours and exemptions from the rules….also 'buy' special access to the legislative and executive branches of government, thereby obtaining rules and regulations that are of benefit to them" (Stiglitz & Chang, 2001, p.224). Participation concerns the degree to policy stakeholders are permitted to participate in the privatising and regulatory process, especially within the context of political economy.

Participation is present when all relevant stakeholders contribute effectively to the process of privatisation and regulation, that improves the quality of decisions and increases the likelihood of the agencies receiving both support and co-operation from firms, consumers and others. In the absence of this, there is no guarantee that decisions are truly representative of the public interest in terms of an essential service (C.-F.

Chang, 2001). It is also significant that the agencies give reasoned decisions to ensure that there is substantive fairness. Full participation, however, may be inappropriate in the case of economic regulation in the telecommunications given the nature of the decisions being made and the need in most cases for swift action to be taken. There is also the danger that if the formal participation of the firms was allowed, there would be too much opportunity for it to dominate the measures that are introduced, increasing the risk of capture.

When Commission of National Corporations (hereinafter called CNC), MOTC, or other departments encountered some problems of implementing privatisation and regulatory policies, Council for Economic Planning and Development (hereinafter called CEPD) always asked departments to report or CEPD would ask all departments to gather together and discuss them and sort things out at that meeting. However, this kind of meeting is quite few to hold. On the other hand, "departments did not treat that meeting where can help implementing agencies to sort things out, sometimes departments arranged somebody unimportant or who did not have the power to make decisions to represent" (a scholar presented according to her experience attending some public hearings and official meetings related to privatisation policy). As one official noted, "privatisation is the government policy. I can make suggestions and deliver employees' opinions to the government but I have no authority or power to decide what to do".

"The stance of CTC employees opposing the sale surprised me. I believed that the fears of CTC employees resulted from their lack of understanding the government's really spirit of privatisation" (MOTC02). However, CTC02 and CNC01 pointed out, the government did not reveal the relevant information and accesses to participation, how can they expect policy stakeholders, especially employees, to understand and support privatisation policy. "You can say the government only allow the specific

interest groups to take part in the process of privatisation" (HHSI01). "In the past, the KMT government (the Nationalist) even connected its KMT-owned enterprises (hereinafter called KMTOEs) with some GOEs, that is why Taiwan has very complicated political economic context than other countries in the world, and that is why it is special" (SCH03).

"The whole privatisation and regulatory policies just like a 'big black box'" (SCH05). Although government officials believed that they had taken most elements into consideration when they made the sale plan, evidently that the human variable – how to console the employees of the GOE selected for privatisation was neglected in the planning process. MOTC is a concrete example – MOTC officials admitted that their efforts in educating and communicating with the CTC's employees were insufficient prior to publicly announcing the decision of sale (MOTC01 and MOTC02).

In Taiwan, privatisation was suggested and promoted initially by interest groups outside the government. "In the period of KMT government, KMT had intended to use GOEs and its KMTOEs to buy or pay some votes or its supporters. They even established its party offices in every GOEs" (CTC02[4]). That was the main reason why DPP criticised and wanted KMT to speed privatisation policy. Democratic Progress Party (hereinafter called DPP; the current ruling party) wanted to separate GOEs from KMT's control (Chen et al., 1991). "It is pity, now, that DPP government after won the election, they did not honour a commitment" (CTC02). This is not to say that the government was uninvolved but that, in the case of the subject of this research, the government was a reactor rather than an initiator.

Findings of the survey show that interest groups both inside and outside the government made a significant impact on major components of privatisation, for example, which enterprise to privatise, the method of privatisation, how to value the

[4] The Interviewee showed the researcher the place where we had an interview was KMT office before.

assets to be transferred, to whom these assets would be transferred, the amount of assets to transfer, and the timing of privatisation. The survey also shows that interest groups did have significant impact in the process of privatisation and regulation. They were influential, in persuading the government to take action to privatise GOEs. Once the decision was made to privatise CTC, interest groups that emerged were influential and had impact on a number of aspects of the privatisation; for example, timing of the sale, the method of sale, price of stock, and general privatisation policy issues. Decisions made by the government and its agencies were challenged by interest groups, with result that these initial governmental decisions were revised.

Since CTC's stock was never sold in the market, its assets need to be re-evaluated according to the market price. It could be difficult to determine a reasonable stock price without an assessment of its firm assets. If the share price is set too low, the government would have to bear the suspicion of cheaply selling the nation's silver assets. On the other hand, if the price is set too high, the stock might not be attractive to the private firms. So MOTC delegated the foreign company to valuate CTC's reasonable price. However, the price was originally NT$65 (US$2), but the price was lifted by the legislative Yuan (hereinafter called LY; the Congress) to NT$104 (US$3.15) (much higher), because they said CTC is earning company (Golden Hen). The price was set too low and cheap. It is hard to predict what a reasonable price for CTC stock is. Administrative effectiveness is also not very good because they too focus on the election (political sovereignty) and lead to out of order of the priorities of administrative capacities.

In the end, according to the survey, the interviewees were nearly evenly split (20 to 23) on participatory mechanism. There are 10 interviewees said 'Yes' and 10 interviewees said 'No' or 'No opinion' out of 20 in governmental departments. However, based on the interviews, frankly, 9 out of 14 scholars and 4 out of 8 CTC's

staff said that there is no participation in the process of privatisation and regulation.

Thirdly, it is apparently evident that the outcome of 'rent-seeking' behaviour by interest groups and regulators take advantages in the introducing and expansion of government regulation[5]. The emphasis of independence has been facilitated by the widespread perception that governmental powers are too concentrated, that public policies lack credibility, and that accountability by results is not sufficiently developed in the public sector (Blundell et al., 2000; Majone, 1996). However, a pure self regulation is unusual. In practice, there is a complex variety of modes of self regulation which, whilst not involving a governmental agency, often involve the government in some way in light of the degree of formality of organisational structures, the level of legislation and the extent of outsider participation. (Bartle & Muller, 2000, p.3). This also ensures that there is greater continuity and stability in policy-making and implementation. Independence is also more suitable if it relates to a very specialised field where specific technical knowledge is critical (Majone, 1996). Therefore, independence criterion relates to the degree to which implementing agencies are insulated from other influences, particularly from political pressures and specific interest groups. It concerns: the degree of independence of implementing agencies from the political and governmental process; e.g. whether the regulatory body is a decision-marking body or supervising by the Ministry. In consequence, the critical feature of independence is *'independence from governmental intervention'*.

Privatisation involved a multi-stage process from establishing an appropriate administration for privatisation through to completing the sale, in which there is ample scope for one or more interests to disrupt, amend or even reverse the privatisation plans.

[5] Regulation by government can take many forms, ranging from the extreme of central planning of economic activity, to forms of planning without coercion ('indicative planning'), to market-improving measures intended to make the outcome more like that of the neo-classical economist's ideal of 'perfect competition' (Blundell, Robinson, & Barry, 2000, p.2).

Members of sectors of privatisation and regulation are appointed by the central government. The Chairperson should be appointed by the central government. Members of implementing sectors of privatisation and regulation may be removed by the central government according to the formal administrative procedure. They are financed by the central government grants. They are also under the supervisions of their 'higher' Ministry or above. The DGT is an autonomy agency independent from the MOTC for its functions as defined under the act.

This kind of individual-ministry privatisation model has let to the serious delay of privatisation policy and also let to being captured by some interest groups. The most sparkling example is BSE Engineering Co. Some cases are still unearthed. You cannot say they are crimes or corruptions. They are 'fat cat' such as favour some specific firms at the 'too' low price (SCH07). The privatisation of BSE Engineering illustrates the pitfall of privatisation. Privatised GOE is likely to be captured by business groups. BES Engineering was captured by Wei-Ching group, a business group specialising in stock sales. While MOEA retained 20 per cent stake, Wei-Ching ontrolled 46 per cent shares and five seats (out of seven) in the board of directors. In July 1995, the Wei-Ching-controlling board of directors passed a resolution to invest more than NT$ 10 (US$0.3) billion (80 per cent of shareholders' stake) in the risky stock market. Chao-Wei Chen, the president of BES (who represented MOEA's 20 per cent stake) resigned immediately and released a public statement disclosing Wei-Ching's decision to risk most of the company funds in speculative stock purchase would ruin BSE. Employees of BSE Engineering organised themselves to protest against Wei-Ching's decision and requested the MOEA's step-in. Later, MOEA privately negotiated with Wei-Ching. On 1st September, the board of directors cancelled the controversial decision in stock investment (Y. S. Chang, 2002; Taiwan Labour Union, 1999). This

matter has made the government's privatisation mover more carefully.

Therefore, the problem of serious delay of privatisation policy in Taiwan is the lack of '**Specific Privatisation Authority'** (SCH03 and CTC02). "I think the problem is not to set up a responsible body to undertake privatisation, but to free from political pressure no matter being placed on which level" (CTC07). In the recently case of local loop, that reveals the DGT still has a limited power and discretion under the supervision of MOTC (SCH04). It also reveals the regulatory capacity of the DGT is too weak, you shall know those people are second-class persons of the formerly DGT (CTC02). "I support 'Self-regulation' (CTC07). I believe private firms they have their strategies for regulatory arrangements" (SCH07). General issues can be solved by the FTC. Special issues need some special regulatory institutions. But when government tries to build up some regulatory bodies, bureaucracy will find the way to hold their positions such conflicting interests between CEPD and Research Development and Evaluation Commission (RDEC) (their values are different). However, there is no one form of 'fully independent regulation' and systems of pure self regulation are unusual. In reality there is a complex variety of forms of independent regulation which, whilst not involving a governmental agency, often involve the government in some ways SCH06; SCH12).

In response to this trend toward the 'convergence' of telecommunications, information, and broadcasting, and to coordinate with the government's current organizational re-engineering plans, the Executive Yuan (Cabinet) has charged the Ministry of Transportation and Communications and the Government Information Office with the establishment of a Coordination Working Group for the Telecommunications, Information, and Broadcasting Commission (TIBC). The organizational blueprint for an integrated telecommunications, information, and broadcasting agency is expected to be completed by the end of December 2001, and

the related draft bills are to be completed and submitted to the EY by the end of Dec. 2002 towards National Communications Commission (DGT01;DGT02; SCH14; SCH11).

It is the government's responsibility to invest adequate time and resources in developing robust legal, policy and institutional frameworks. To engage policy actors effectively in policy-making, the government must develop and use appropriate accesses. But without political commitments at the highest levels and commitment throughout the bureaucracy, even the best policies will do little to ensure that the public can have a voice and that their views are heard (OECD, 2002a). "I would try to say, independence might be important in Taiwan's political economy, but the most important thing is the lack of policy dialogue" (SCH02).

Based on the survey, implementing and regulatory agencies influenced by specific interest group or political parties (34 out of 59 in total). In the governmental departments, 11 out of 20 stated they were influenced. Furthermore, there are 11 out of 14 scholars agreed that, they were influenced by other interest groups. However, there are 5 out of 7 DGT's staffs said they were independent from the influence of other's interest groups.

Fourthly, recent changes in patterns of privatising public utilities, "sometimes associated with the 'regulatory state', have been said to have eroded citizenship and diminished accountability" (Stirton & Lodge, 2001, p.471). Stiglitz (2003) argues that, "accountability requires that: (1) people are given certain objectives; (2) there is a reliable way of assessing whether they have met those objectives; and (3) consequences exist for both the case in which they have done what they were supposed to do and the case in which they have not done" (p.111). In this research, accountability addresses the question of 'accountable to whom' (Graham, 1995); what are the implications of the delegation for democratic legitimacy and accountability; and to

what extent are institutional mechanisms of accountability ethically desirable or even ethically necessary in the process of privatisation and regulation. Whether accountability mechanism is incrementally lost by privatisation, Majone (1999) pointed out to take a pragmatic look at the problem of holding privatisation implementing and regulatory agencies accountable, recognising the persistence of the political-economic realities that have given rise to a regulatory state. In particular, Stirton and Lodge (2001) argue that any approach to accountability mechanism in the new institutional setting must recognise the increased diversity of arrangements for service provision.

This is particularly problematic in public institutions because, in fact, different participants in the process of privatisation and regulatory governance have different goals. As they represent the views of the members of society, public institution almost inevitably involves a multiplicity of objectives (multiple accountability) (Stiglitz, 2003, p.112). In other words, accountability can take a number of forms and the legislation which set up some possible governance arrangements, such as annual reports and duties to give reasons in certain circumstances (Stern & Holder, 1999). We should address two implications as considering the form of accountability. Firstly, it is important to define the matters for which privatisation and regulatory agencies must be accountable and secondly, it is necessary to identify the appropriate institutions that should be responsible for overseeing privatisation and regulatory activities.

"Nothing happened, since the privatisation programme initiated" (CEPD01). "Nobody has been responsible for the failure of privatisation policy" (SCH03). "There are only two people responsible for the privatisation programme in CEPD, and they also have other businesses to handle, not just privatisation policy" (SCH01). "I do not think these implementing bureaucrats have to be accountable for privatisation policy. It is the decision makers, not street level bureaucracy" (EY02). It is a traditionally

top-down hierarchy relationship between the implementing and regulatory agencies and the government (figure 1-1), and CEPD is accountable for MOEA, EY, and LY (multiple accountability). Staffs of implementing and regulatory agencies have to stand with its supervisory ministry in front of the Executive Yuan (hereinafter called EY; the Cabinet) sometimes. So, these implementing and regulatory agencies are responsible for the EY.

Accountability operates at various levels. At least, there is formal accountability, i.e. the formal legal basis (privatisation and telecommunications laws) within which implementing and regulatory agencies operate. This covers the powers and duties of the regulator, and any legal requirements on the regulatory process as well as appeals opportunities for producers and consumers (SCH11; RDEC01). But, "it is stupid to define and constrain 'privatisation' as governmental ownership under 50 per cent, because the government always reduces its shares about and less half, but it still actually control companies and tries to avoid democratic accountability in front of the LY. The government's intention is very obviously" (CTC02). But it is not just a question of laws and rules, nor even of enforcement, important though that is to establishing a culture in which high expectations of good conduct are the norm. This requires strong leadership. It also requires the setting of clear standards for the acceptance of standards for the conduct of private affairs, backed as necessary by 'disclosure'. Achieving high standards involves reviewing systems for public appointments, recruitment, and promotion within implementing and regulatory agencies to ensure that these processes are open and fair. It means establishing clear lines of accountability and reporting supported by transparent and audible financial management procedures. It means open procurement processes and much more. And, not least, it means dealing with policy stakeholders in an open, fair and objective way.

Without high standards on accountability, there can be no trust or confidence in the

integrity of implementing and regulatory agencies or indeed in the value of democratic processes in promoting and protecting the public interest. Left unchecked, corruption weakens economies (such as political or regulatory captures), discourages trade and investment, creates huge inequalities and undermines the very foundations of democratic government. The absence of high standards on accountability leads to instability and unpredictability (SCH11).

However, the main problem on accountability mechanism in Taiwan is where political pressures have typically dominated economic and commercial factors (SCH09). In those circumstances, whatever the relevant law may specify, it is extremely difficult to sustain implementation effectiveness of privatisation and regulation or their independence. There is an accountability mechanism in the process of privatisation and regulation based on the survey (32 out of 59 in total). However, there is a great difference between interviewees in governmental departments, DGT, and CTC and scholars and in other industries because their different recognitions of accountability. Interviewees in governmental departments, DGT, and CTC said that, there was an accountability mechanism existed in the process of privatisation and regulation, but 10 of 14 scholars and total interview in other industries questioned accountability mechanism in the process of privatisation and regulation.

Finally, international organisations such as OECD and WB have come to treat transparency as a requirement of good governance in developed and developing countries (World Bank, 1994). This criterion is dealt with: whether major documents (licences, codes, etc) are publicly available; whether major decisions are published; whether access of participation is open and clear; to what extent are institutional mechanisms of transparency ethically desirable or even ethically necessary in the process of privatisation and regulation.

When the agency makes decisions, it must be sufficiently transparent. An informed

and reasonable decision can only be reached by taking into account all the relevant issues and ensuring that fair, equal and consistent treatment is provided to all those affected by the decision. A transparency mechanism is important in its fullest sense, since a requirement on privatisation and regulatory agencies to explain their decisions and processes should reduce the likelihood of unfairness or incompetence (Stern & Holder, 1999). Transparency "enhances individual autonomy by involving citizens directly in the process of making decisions which affect their lives and interests". It also "enhances individual autonomy to the extent that transparent institutions are predictable, allowing individuals to order their own private choices knowing the way that these are affecting by public decisions" (Stirton & Lodge, 2001, p.476).

'Information', therefore, should be the first factor to explore transparency mechanism, especially the issue of ***'information asymmetries'***. "Without information, consumers are bound to make 'lemon' choices, leading not only to dissatisfaction but also to a decline in trust" (Lodge & Stirton, 2000, p.5). Furthermore, transparent decisions made by the agencies must meet public interest goals but in doing so must adopt open and consistent approaches to ensure that there is stability and predictability about decision-making (National Economic Research Associates, 1998). It also means that firms can be reasonably confident that the 'rules of the game' will not suddenly change, either through a change in the overall legal and regulatory framework, or through a change in the way that regulators behave within this framework (Newbery, 2001).

At the beginning, very few staffs knew how to undertake privatisation (CEPD01). At that time, we could not think about transparency issue in the process of privatisation. Now we all tried to publish all the documents on CEPD homepage. The DGT, regulator had the same problem at the start, however, now they placed all the

documents, policy statements and rules on DGT homepage. However, licenses are not open to public inspection due to some 'confidential things'. The DGT has to maintain a register of interconnection agreements and such other matters as may be offered for in regulations. These documentations are open to any members of the public on payment of prescribed fees, except classified documents.

Some committees' members are all in anonymous. "They should publish all the members of committees related to privatisation and regulatory policies. That shall be honour to be a member there. I do not understand why the government always keeps in secret" (SCH05).

Transparency is an important issue in the process of privatisation and regulation. "Too many black boxes" in the process of privatisation and regulation are ruined public trust to the government, even our democratic foundation (SCH07). Even all decisions are issued in writing and are open to public inspection according to the interviews by CEPD, CNC, and DGT. CEPD publishes the timetable of privatisation every year; DGT publishes events in its annual report to MOTC (it also published two telecommunications liberalisation white papers, 1995 and 2002).

"To some extend, decisions are supported by reasons. Openness is common sense, why you are asking" (CTC07). But when the researcher asked CTC07 did he publish the decision-making reasons when he had a very high position in the MOTC? He kept silent and asked the researcher to the next question. Members of Committee should be open, all the reasons behind the decision making should be published as well in the democratic regards. I agreed your question we should allow all policy stakeholders to participate in a transparent way, but too many participants, how can we tell everyone? Come on, be realistic.

On the other hand, 'Universal Service Fund' (hereinafter called USF) (MOF01) and

privatisation earning (CNC01) are unpublished. Transparency, as a key element of good governance, includes ensuring openness about policy intentions, formulation and implementation. USF and privatisation earnings are the important policy document of implement and regulator agencies, where policy objectives across the spectrum of economic, social and environmental interests are reconciled and implemented in concrete terms. Therefore, transparency in the process of privatisation and regulatory policies is of paramount importance. Transparency on USF and privatisation fund is defined as the full disclosure of all relevant fiscal information in a timely and systematic manner. Different countries will have different reporting regimes and may select to focus on transparency in specific areas for analysis and possibly improvement.

According to the survey, transparency is quite weak in Taiwan. Firstly, the success of privatisation and regulation should ultimately be judged not by governments, but by the public. As a result, it is the public who are demanding greater transparency and accountability from implementing and regulatory agencies as well as greater public participation in shaping policies that affect their lives (especially network utilities). "Opportunities for *policy dialogue* between policy or regulatory actors are of major importance in this shared endeavour" (SCH11) that can make the process of decision making more transparent.

Transparency, now is the quite big policy agenda, in the public administration is enhanced by strong public scrutiny based on solid legal provisions for access to information. Strengthening relations with the public is a sound investment in better policy-making and a core element of good governance. Investing in transparency allows governments to tap new sources of policy-relevant ideas, information and resources when making decisions. Equally important, it contributes to building public trust in government, raising the quality of democracy and strengthening civic capacity

(SCH10). Active engagement of policy stakeholders can help to ensure that policies are supported or at least understood by the public in ways that also contribute to their effective implementation.

The survey shows that, transparency mechanism is the most interesting issue in this research. It can be observed that there is a nearly 'trade-off' based on the survey. There are 26 out of 59 interviewees agree that it is transparent in the process of privatisation and regulation (most of them are interviewees in governmental departments, DGT, and CTC) Interviewees in DGT totally agreed this view (7 out 7). On the other hand, there are 31 out of 59 interviewees in total say there is 'no' or 'not enough' transparency in the process of privatisation and regulation. In the governmental departments, half agreed transparency mechanism existed, half said 'no' and 'not enough'. Furthermore, almost all scholars questioned (12 out of 14, including 'no' and 'not enough') whether transparency mechanism existed in the process of Taiwan's privatisation and regulation. Based on the survey, it also shows that it is necessary to explore transparency mechanism with other related governance mechanisms such as accountability and independence.

5. Conclusion

This paper provided some critical issues for privatisation and regulatory governance in Taiwan's telecommunications development. This paper shows a close but complicated political-economic interactions affecting telecommunications privatisation in Taiwan. It is argued that privatisation can be seriously affected if the political context is not taken into account alongside the economic. The study however shows that the development of regulatory structures is limited by the governance capacity of Taiwanese government to enforce regulatory rules and monitor contracts. On the other hand, this study asserts that the good results of telecommunications

liberalisation in Taiwan is a 'beautiful mistake'. It is argued that, too fierce competition has resulted in mad gods-like competition in the telecommunications, if introducing this mode of competition without the well-developed regulatory governance will lead to regulatory failure (mad dogs disease) and asserted that, effective regulation is essential for Taiwan's telecommunications privatisation towards the regulatory state. It is also argued that essential linkages between privatisation and regulatory governance should be explored and developed further in Taiwan, and that pursuit of governance values can directly enhance the implementation of privatising public utilities and their regulatory reforms.

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