



Asia-Pacific Economic Cooperation

2004/SOMII/CPDG/SEM/010

The Role of a Sectoral Regulator: Case of Indonesia in Telecommunication Sector

Purpose: Information
Submitted by: Indonesia



**Seminar on Best Practices in the Enforcement
of Competition Policy
Pucón, Chile
26 May 2004**

The role of a sectoral regulator: Case of Indonesia in Telecommunication Sector

Bambang Adiwiyoto
(Commissioner)

Commission for The Supervision of Business Competition
(KPPU)
Indonesia

SIGNIFICANT EVENTS IN INDONESIAN TELECOMMUNICATION REGULATIONS AND INDUSTRIES

Introduction of Law No 36 of 1999 in Telecommunications, with the spirit of leaving in any form of monopoly practices towards the full multi-operator market for telecommunication industry;

Cellular mobile business has started to be competitive market since early 1990`s and shows remarkable growth; as well as the internet business which started in the late 1990`s;

Early termination of the exclusivity right for PT TELKOM on fixed local call, and for PT INDOSAT on long distance call and exclusivity right international/overseas call; and both becoming Full Network and Services Providers for fixed local, long distance and international/overseas call;

Local exclusivity right from originally Dec 2010 to August 2002;

Long distance exclusivity right from Dec 2005 to August 2003*;

International/overseas exclusivity right from Dec 2004 to August 2003* ;

Note: In actual implementation was from 1 April 2004.

Existing Conditions:

1. Two dominant enterprises
2. Disparity service rates
3. Poor regulations
4. Poor institutional capacity
5. Heavy intervention

It is necessary to establish regulatory agency which is transparent, independent, and impartial to all operators to give fair competition

Legal Backgrounds of the REGULATORY AGENCY

Law No. 36 of 1999, article 4 in the Explanations stated :
The Ministry of Communication could authorize a regulatory agency to regulate, control, and supervise the telecommunication sector.

Ministerial Decree No. 31 of 2003:

- **Establishment of *Badan Regulasi Telekomunikasi Indonesia (BRTI)* – Indonesian Telecommunication Regulatory Agency;**
- **To ensure of *transparency, independency, and fairness* in telecommunication network and service operations;**
- **BRTI was effective as of 5 January 2004;**
- **As the transitional regulator towards full independent regulatory agency .**

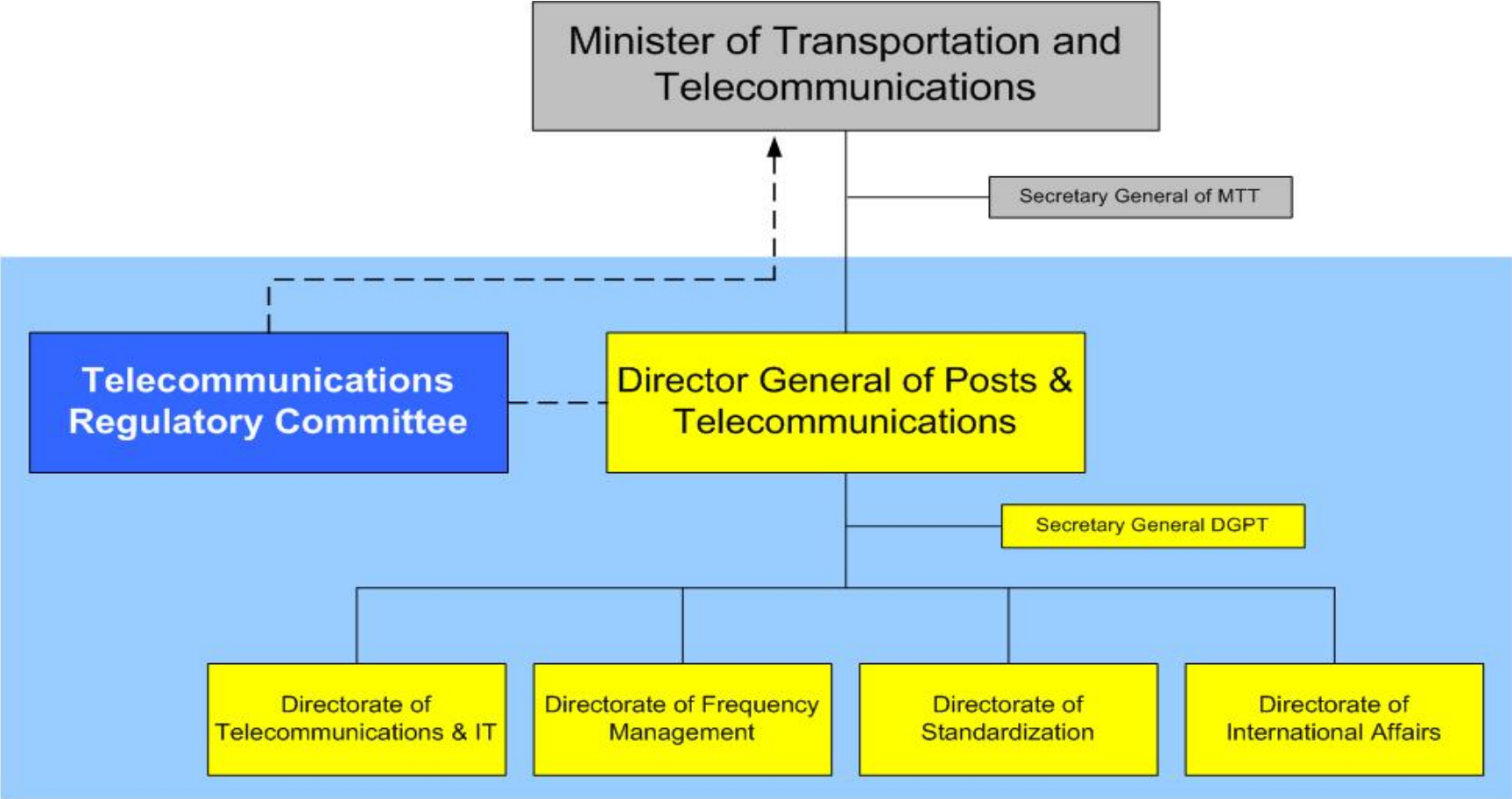
Organization Structure (1/2)

- **BRTI consists of Telecommunication Regulatory Committee and the Directorate General of Post and Telecommunication**
- **The Committee consists of a Chairman which is Director General of Posts and Telecommunication, and 4 (four) members of professional in Telecommunication & IT, Legal, Economics, and Social Science backgrounds.**

Organization Structure (2/2)

- **The 4 (four) members of professionals are selected through an independent selection team;**
- **The Committee Members are elected for two year term, which can be extended one more term, if necessary**

Indonesian Telecommunication Regulatory Agency Structure of Organization



- Notes:**
- BRTI (Indonesian Telecommunications Regulatory Body)
 - Line of Commando
 - - - Line of Coordination
 - -> Report To

Decisions

The decision of BRTI is made by the Committee members collegially or based on consensus. In case no consensus reached, voting would have taken by the Committee members with equal voting right

In carrying out its task, each Committee member is independent from any pressures and influences from other interest parties.

Each Committee's decision has to :

- go through the process by taking into account any opinion and thought which developed within the community ;
- ensure transparency, independency, and fairness.

The BRTI's decisions are in the form of Director General decree.

BRTI reports to the Minister of Communications every three months, or anytime if necessary.

Regulatory Functions (1/2)

Regulatory functions consist of regulating, supervising, and controlling of telecommunication network and service operation.

Regulating of telecommunication network and service operation consists of processes for:

- **License-granting;**
- **Standard operation performance;**
- **Standard quality of service;**
- **Interconnection tariff; and**
- **Standard telecommunication tools and equipments**

Regulatory Functions (2/2)

Supervising telecommunication network and service operation of processes for :

- **Operational Performance;**
- **Ensuring Competition;**
- **The utilization of telecommunication tools and equipments.**

Controlling telecommunication network and service operation of processes for:

- **settlement of dispute among operators;**
- **utilization of telecommunication tools and equipments;**
- **enforcement of standard quality services;**

Weaknesses & Strengths of the Agency (1/2)

Weaknesses:

- BRTI does not have a strong legal basis;
- BRTI budget comes from National State Budget, which is a part of Directorate General Post and Telecommunication (DGPT) budget; this situation causes bureaucracy and less independent;
- The Chairman of BRTI is the Director General of Post and Telecommunication, while BRTI consists of DGPT and the Committee; as a consequence resulting of confusion for the authority of BRTI or the Ministry of Communication in making decision;
- Several final decisions made and signed by the DGPT

Weaknesses & Strengths of the Agency *(2/2)*

Strengths:

- Four out of five Committee members are selected from various field of expertise and sources (public, private, academics, and practitioners)
- Decision is made collegially among the five members
- Do not have to work from a scratch, BRTI can proceed the work initiated by DGPT;
- Initial step for an ideal Independent Regulatory Agency.
- Even in Asia Pacific region, there are only 37% countries have IRB. There is no rule on how IRB should be governed.

The Role of KPPU as a competition authority in the telecommunication sector

- 1. In principle, the responsibility of KPPU is to ensure competitive behavior in any industry**
- 2. Eventhough telecommunication industry shifted from monopoly to competitive behavior, the role of KPPU is still significant in this sector**
- 3. KPPU takes regulatory action ex-post based on the competition law, after determining that there has been anti-competitive behavior in the market**
- 4. KPPU is entitled to provide advices and suggestions concerning government policies related to monopolistic practices and/or unfair telcommunicaion business competition**

Conclusions

1. Indonesian telecommunication shifted from the monopoly market to become multi-operator market;
2. In order to create fair competition in the telecommunication industry, the Indonesian Telecommunication Regulatory Agency (BRTI) was established with the participation of public and private companies;
3. KPPU as a competition authority is also responsible to develop a fair competition in the telecommunication industry;
4. Even though BRTI is still have many weaknesses, it is hoped as an embryo of an ideal Independent Regulatory Agency to support the industry to grow and increase the welfare of the society.

THANK YOU