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Are independent regulatory agencies necessarily better for efficient regulation? The case of communications regulation in Israel

Blog Editor



*Delegation of communications regulation to independent authorities seems to be a well-accepted norm these days; the 'best way to go'. In this post, **Tal Sokol** reflects on different regulatory models and offers an assessment based on the case of Israel. After all, the author suggests, the general dislike that un-delegated regulators seem to have received in the literature may be overrated.*

Since the [EU Regulatory Framework](#) was established in 2002, more countries than ever delegated communications regulation from ministries to Independent Communications Regulatory Authorities (ICRAs). Today, out of thirty-four OECD member countries, only seven still have un-delegated regulators, headed by a government minister. Of those, only three are European: Estonia, Finland and Hungary. As the calls for delegation seem to have won the debate, it's interesting to reflect on the performance of different regulatory models over the recent years. Did delegation indeed provide superior regulatory outcomes in communications?

At least in one prominent example, an un-delegated communications regulator proved to implement rather bolder policies in a faster time frame than comparable European ICRAs. The Israeli mobile telephony market, regulated by a minister of communications, experienced substantial increases in consumer surplus, choice and investment over the past three years. The swift shift was achieved *thanks to* the un-delegated model, not *despite it*. With a comparative perspective in mind, it's worth revisiting the assumptions that led to delegation and examine whether they still hold.

Why should communications regulators be independent? The five most commonly cited reasons are that governmental ministries have dubious commitments; are not transparent enough; have close ties to regulatees and favour their welfare; lack professional expertise to analyse the market; and, consequently, lack public legitimacy for their policies (see [Majone, 1996](#) and more specifically [Thatcher, 2002](#)).

Yet the recent "mobile revolution" in Israel, as it been termed by the crowds, has proved that none of the above are deterministic to ministries. When the most recent minister of communications got into office, he had one clear goal in mind: to gain as much political popularity despite the rather dull office he had been appointed to. Starting in 2009, his three years in office were marked by intensive efforts to stimulate competition. Dozens of policies were introduced, such as an 80%-95% slash in mobile termination rates; licenses for two new MNOs and four MVNOs; prohibition on SIM locking, device subsidy by operators, and early contract termination fees; and prevention schemes against 'bill shock' and abusive billing. These policies reduced end prices and boosted investments, while lowering ARPU levels to those of highly competitive markets, such the UK and Germany. While perhaps none of the ministry's policies are unique on their own, it's hard to find comparable examples of ICRAs that implemented such a condense amount of competition-enhancing policies in such a short time frame and despite vocal objection of operators.

What's the rush to enhance competition so promptly? In the above example, the minister raced to have as many ribbons cut before his term expired. He consequently won the consumers' hearts, and is now considered the most popular politician in the country. Such a strong personal incentive to succeed is unique to an un-delegated model, and less relevant to heads of delegated ICRAs. Indeed, there's no doubt that directors of ICRAs have a commitment to make their premiership show success. But this commitment isn't as crucial to their future career as that of a minister aiming at PM candidacy. By fulfilling his own egoistic political endeavour, the minister rushed to achieve more of his office's goals in less time, and at a high standard.

Is the political incentive alone enough to overcome the downsides of un-delegated regulators? Looking back at the five reasons for delegation, it seems that none of them gives a convincing reason to call for delegation in Israel. The minister showed a strong commitment to consumers by implementing his policies. He had good reasons to stand strong against influential share holders trying to hinder competition; his stand bought him even more popularity among the public. The professional analysis of the possible reforms was done by economic consultancy firms, which recommended the proposed policies. This provided professional legitimacy minister's decision, as well as transparency, as consultancy reports were made available for public consultations.

This all shows that independency of communications regulators is perhaps a sufficient condition for reliable regulation, but it isn't a necessary condition. Professional, consumer-oriented regulation isn't exclusive to the delegated model, and can happen just as well in the un-delegated one. On top of that, the un-delegated model has another strong incentive to be fiercely committed to consumers, especially when it is up to a politician to gain credit from the process. It is thus worthwhile to carefully

consider the conventions surrounding the perception of delegated regulatory models as 'the only way to go', at least in the field of communications. The Israeli example might suggest that the grudge that un-delegated regulators received in the literature in the past twenty years may be overly exaggerated.

This article gives the views of the author, and not the position of LSE Network Economy Blog nor of the London School of Economics.

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