A Study of the Chinese Telecommunications Industry and Its Regulatory Sustainability

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Abstract: The Chinese telecommunications market has evolved into the world largest market in recent years, which attracted vast attention from both foreign industries and regulators throughout the world. Although having only a short period of privatisation and liberalisation, the market has provided sharp rise in almost every aspect. Being a transitional economy, China is now facing the big challenge of sustaining this fast development in the long run. This research explores the development of the China's telecommunication industry, discusses the driving forces and the domestic regulatory/legal environment, estimates the future developing trend and makes recommendations as to a better regulatory practice in the transitional period. The focus of this research is to assess whether the astonishingly fast development in the Chinese telecommunications industry in the past two decades is sustainable, and if so, what would be the supporting regulatory framework and how should it work.

1. Introduction

Telecommunications became one of the leading engines of economic growth in the 1990s, fuelling activity and trade in all sectors, from manufacturing to the provision of financial services. As part of the consequences, trends of globalisation, liberalisation, market competition, and technological convergence are sweeping the world. Restructuring telecommunication industry has in fact become a significant part of the overall restructuring of the global economy, which has also started to provide a fresh impetus to the telecom development in many parts of the world. Moreover, the nature of ICT industry has developed from a vital economic engine to an enabler of a wider range of issues including social welfare, education, medical progress and many other areas in people's daily life. This social change has been well reflected by the policy makers throughout the world. They started to look at the methods of transforming the digital devices into digital opportunities.

China, with its enormous population and arguably the biggest telecom market, has emerged to be the most admired nation among those new economies in recent years. By virtue of this fact, China has successfully developed its telecommunication infrastructure from one of the least developed into one of the largest and most sophisticated networks in the world. Within a short period of about two decades, China had established its telecommunications network with some very advanced technologies. The services also have a wide range of varieties and extensive coverage (Wen, 2004).

The Chinese government had managed its own way of keeping a momentum in their telecom development, which had received some cons attention throughout the entire world (Wen, 2004). During the period of 2001 t many Chinese telecommunications companies emerged as worldwide players. H just recently in the past two years, the Chinese domestic telecom industry growth to show a much slower movement. Regulatory policy and legal environment some of the concerns in this situation while sustainability started to become a de topic.

Against this background, this paper provides a study of the c telecommunications industry regulations, highlights special characteristics transitional economy and its legal implications, and puts forward an important ar as to:

> *"Whether or not the astonishingly fast development in the Chinese telecommunications industry in the past two decades will sustain in the long run with its current supporting regulatory/legal framework"*

To reach the finding, this research paper sets out four parts. After an intro Part1, Part 2 provides a brief historical examination of the Chinese telecommuni industry and the major driving forces behind the development. Part 3 deals w current state of telecommunications laws and regulations. Finally, discussio summed up in part 4, the concluding part, in which, the central argument will addressed and the findings of this paper are laid out in an abstract form.

2. Development and Driving Forces

2.1 Development

Generally speaking, the industry growth in the period of 1949 (since the Com Party takes the office in mid 1940s) to 1978 was minimal (Guan, 2002). The signif of telecommunications was simply not realised by the government at that time 1997). This situation was changed by Deng Xiaoping's "open-door policy" in late (G. Liu, 1998), In turn, the policy brought some tremendous changes to the coun the results, the overall economy in China had developed at a high speed and standards had improved considerably.

New strategies and policies were also formulated for the co telecommunications industry along with a background of massive economic refon that time, telecommunications was viewed as part of the resources, and the princip was to mobilise all resources to boost the development of the post telecommunications industry (Zhou, 1997). A centralised regulator, Ministry of Po Telecommunications (MPT), was consequently established by the PRC State Cou be responsible for overall planning in the industry and the international develop The industry legal framework during this period was very simple with the State C on the top and MPT as a single Ministry responsible for all the issues in its jurisd (S. Wang, 2001).

With the development of the overall economy, the crucial statu telecommunications as a foundation industry emerged gradually. In the mid t 1980s, the Chinese government came to realise that the underdeve

telecommunications infrastructure was an obstacle to overall economic growth. Thus, special consideration was consequently granted to the telecommunications sector, which then led to an effective sector growth in the following years.

Take a close look, an accelerated expansion period in China's telecom industry started from the 1990s with the average per annum expansion rate approximately 3.8% since then. The telecom industry has been particularly robust and well ahead of China's GDP growth in the past decade. From 1994 to 2000, the industry maintained a growth rate of about four times faster than GDP on an average yearly basis and the proportion of industrial added value increased gradually in GDP by being one of the fastest growing industries with the best economic result. There are external comments stating that the Chinese telecom sector has the strongest and fastest growth in the world in this line of industry (Sautedé, 2002).

Interestingly, the driving force behind this phenomenal growth is nothing like any contemporary regulatory paradigms beloved by the Western world - privatisation, liberalisation, free markets, and so on (Sautedé, 2002), the simple regulatory framework with only the State Council at the top and MPT as the industry regulator, the real driving force was 'the political will'. With this as the background, the following part examines in detail as to reasons for the development and various driving forces.

2.2 Driving Forces

Similar to many other countries in the world, the PRC Government used to have a government-owned and controlled telecommunications monopoly. At that time, telecom was considered to be a strategic element of the national economic infrastructure, which is vital to national security (Chavolla and Samarajiva, 1997). The sector was consolidated under a single authority MPT and its provincial branches Provincial Posts & Telecoms Bureaus (PPTs) (Zita, 1987). Apart from certain telecommunications infrastructure operations delegated to the Ministry of Electronics Industry (MEI) for defense purposes and the Chinese People's Liberation Army (PLA), which had its own dedicated telecommunications infrastructure, MPT and PPTs enjoyed exclusive powers to plan, construct, operate and regulate the country's public networks (Y. Wu, 2004).

With near absolute control there is the temptation to be complacent and gradually become torpid. By 1980s, MPT's substandard performance has undermined the industry for many years. Public complaints against MPT became more and more often. In addition, other Ministries also came to realise that telecommunication is a very lucrative business. Thus, the pressures to break up monopoly formed a strong force (Zhou, 1997).

2.2.1 Creation and Break up of Monopoly

As a single party regime, policy-making in China has always been a sensitive issue amongst the various stakeholders. Any minor change to the existing practices would take months or years to implement. Moreover, considering the nature of this industry, no problems in telecommunications can be dealt with in isolation, which therefore prolongs the policy making process even further (Zhou, 1997). The State Council, after years of hesitation and behind the scenes negotiation, acknowledged the importance of the information age and the need for the efficient flow of information to enable economic reforms to succeed (Ure, 1997).

As mentioned earlier, a very important motivation for telecommun reforms was the realization that it was a lucrative business. This makes reform c as various stakeholders would literally 'wage war' amongst themselves for a shar profit stream (Y. Xu, Levine, & Douglas, 1998). Thus, lengthy bargaining plag development of the regulatory regime in Chinese telecommunications. The neg outcome resulted in the introduction of limited competition dominated by a number of players (Ure, 1997). Observers described this process as 'turf w (Lovelock & Ure, 1998b).

Years of 'turf warfare' made the Directorate-General of Telecommuni (DGT) separated from the postal operations of the MPT's business and corporat become a self-financing operator - China Telecom - in 1995. The aim was to es MPT as an independent regulator; and, at the same time, corporatise telecom busi part of the socialist market economy reform. The legal framework of the ir supposed to be the regulator and the policy maker, MPT, being an independent r and the market player and incumbent, China Telecom, operate as SOE (Y. Xu 1998).

This initiative was however failed. There were many reasons contributed overall failure. The most important one was that the new management in China Te had strong personal connections with MPT (Loo, 2004), which enabled China Te to retain its dominance and enjoy vast policy privileges. In particular, China Te seemed immune from public dissatisfaction (Y. Wu, 2000). At the same time ministries started to look for ways to get a 'slice of the cake'. After years of nego and inter-ministries bargaining, the State Council finally approved new entrants market. As the result of this approval, China Telecom's legal monopoly was cur Those early entrants included JiTong Communications Company (JiTong) and Unicom, which is also sponsored primarily by another ministry MEI (Tan, 1995).

Unfortunately, new entrants did not bring in competition automatically. Unicom was such an example. Since MPT embraced both regulatory and opera responsibility, Unicom as an entity outside the MPT seemed to encounter problems with China Telecom. In fact, Unicom faced the same problems all new en face against the former monopoly - China Telecom. There were no agreed ter revenue-share or universal service obligation. Unicom lacked vital resources to de and was therefore more inclined to look for overseas technical partners and fir reason enough for the MPT to oppose foreign participation on any terms that migh its position (Ure, 1995).

2.2.2 The 1998 and 2002 Shake-ups

Lobbying led by MEI, MOR, MEP, China International Trade and Inves Corporation (CITIC) and other interests groups brought the most significant refo the telecommunications sector in 1998 and consequently in 2002.

In March 1998, whilst reforming the Chinese bureaucracy, MEI and MP former enemies in the telecom market, were merged with State Radio Regu Commission and formed a new ministry – Ministry of Information Industry (MII), became a principal regulator of the telecommunications and information ind Government news release stated that the purpose of this reform is to set u independent regulator and therefore a better competitive market (Hong, 2002). How observers believed that this is a compromise of 'an uncompromised battle' (Hui, 20

Yet after the 1998 restructure, the battle for domination in the telecommunications sector persisted. During 1999-2000, the newly established MII led the market through a complicated restructuring program to accommodate all other competing interest groups. As a result, ministries negotiated a new telecommunications configuration with a total of six SOEs in 2000, breaking up China Telecom's four divisions of services into separate entities. Consequently, four independent companies were formed. They are responsible for the fixed line, mobile, paging and satellite communication services, respectively. The fixed line services retained the name China Telecom. The new China Telecom was officially incorporated on 17 May 2000. The mobile service department of the old China Telecom became China Mobile, which was established on 16 May 2000. A new company, China Satellite, which provides satellite telecommunications services, was also approved by the State Council. The paging arm of the old China Telecom was merged with Unicom. In particular, after the restructuring the new China Telecom, China Mobile and Unicom were comparable with each other in size and hence more equal rivalries were established (Y. Wu, 2000).

As always, the superficial compromise of conflict interests is never a permanent resolution. Not surprisingly, after several years reallocating market share between the various providers the changes were still far from completed. In May 2002, the PRC State Council created six multi-functional state-owned enterprises with a high degree of functional overlap. The market configuration was reorganised again to reflect the socialist market economy policies or another compromise of conflict interests.

In simple, this reform inter-mixed the functions of the market players. Old China Telecom was separated into two parts – southern and northern. China telecom, Northern, was permitted to operate mobile telephony and fixed line services and they operates with China Netcom. Southern China Telecom became a new China Telecom and they were permitted to operate a mobile telephony and fixed line services. China Mobile remained unchanged as China's largest operator in the mobile service market. The New China Netcom combined Northern China Telecom, old China Netcom and Jitong, which remained a strong presence in northern part of China's telecom market. China Unicom remained unchanged and can provide a full range of telecommunications services with a focus on mobile telephony. China Railcom also remained unchanged and can provide a full range of telecommunications services with a focus on fixed-line telephony.

Since the 2002 reform, the Chinese telecommunications services have six major providers including Internet and other value-added businesses and this topography of competition remains unchanged to date.

Not surprisingly, industry observers commented that the current regulatory framework is more of the result from turf war rather than the result of a genuine better regulatory practice (Zhang, 2001). Although the MII claimed that the complicated reform was designed with a primary purpose of improving competition and efficiency (jichuan, 2003), complaints from other Ministries to the State Council and the involvement and the decision made by the State Council showed that the real motivation of these reforms were to ease the inter-ministry tensions (X. Wang, 2003).

In conclusion, the two major regulatory changes did bring in limited or managed competition in the telecom industry in China. The fast growth during early 2000s proved its positive effect. Unfortunately, this growth is merely a result of the inter-ministry bargaining. It does not have enough solid supporting frameworks such as effective market competition or sound industry policy. In this respect, back to the central argument, a sustainable development in the industry is not likely to achieve.

However, at the same time, a healthy regulatory/legal environme positive help to this situation. Thus, the conclusion made above is of nature. The follow part 3 will illustrate the telecom legal environment evaluate further the possibility of a sustainable development in the future.

3. The PRC State of Law

As many foreign lawyers working in Beijing or Shanghai have attested, C many areas is often grey or ambiguous, if indeed law exists at all. A majo investors in the country is to find the applicable law or laws that govern a Foreign companies venturing into the grey areas run many potential ris current transitional economy, an ambiguous legal environment is havin effect on overall development. The telecommunication industry in Chin prime illustration in this regard.

Before 2000, China's telecommunications sector was regulated by administrative rules and regulations. The process for issuing and impler rules and regulations was neither transparent nor consistent (X. Xu, Yip 2001a). Under the Sino-U.S. bilateral agreement for China's accession to 1999, China agreed, for the first time, to allow gradual foreign inves telecommunications business (The White House Office of Public Liason, 1 after that, China signed off the Basic Telecommunications Agreement (I governs the liberalisation of basic telecommunications services among W states and is designed to impose pro-competitive regulatory principles members (WTO, 1996). As with other BTA signatories, China prepared anc schedule of specific liberalisation commitments in relation to the provision a basic telecommunications services and this schedule adopts the cor principles set out in the Reference Paper, which forms part of the BTA.

Currently, the industry is mainly governed by the Regulations of Republic of China on Telecommunications (2000 Regulation), which was the PRC State Council on 20 September 2000 and subsequently promulgat into effect on 25 September 2000. There also have been a number of the ac regulations, ordinances and official notices promulgated by the State Cou since 2000. In addition, two national laws regarding the telecom sector wer the national People's Congress, namely The Decision of People's Congress c Internet Safety 2000 and Law of People's Republic of China on Digital Sig Unfortunately, these two national level legislations are of specific issues on therefore lack of any general power of telecommunications industry in whol 2006, there are five telecommunications related regulations from St (including 2000 Regulation). Moreover, there are 37 MII ordinances and regulations. Among all these, the 2000 Regulation is a core document administrative regulation nature.

3.1 The New Basic Telecommunications Law

The current regulatory framework in PRC reveals obviously that there is a umbrella statute – a new basic telecommunications law. The only two na telecommunications related "laws" are for digital signature and to protect Int

They are very specific to certain areas of telecommunications services and of very narrow application. Thus, their significance to the overall industry is limited.

There has been strong criticism of the lack of basic telecom law for years from both domestic telecom players and the international forum (Lovelock & Ure, 1998a). The criticism has also intensified in recent years (Bailey, 2004). In fact, China started to draft a Telecommunications Law to guide the future development of the industry back in 1980 (The Office of the United States Trade Representative, 1999). After so many years of drafting and has been listed twice in the official legislative planning of NPC (2005 and 2006), the Law has still not been enacted to date. In addition, the long delayed legislative process has left little confidence to the industry and public that the law will be pass through in the near future (L. Wu, 2005).

Over the years, there have been quite tense debates about this upcoming new law. On the one hand, commentators believe that, in general, with the future promulgation of the proposed new Telecom Law, a number of sensitive issues would possibly be solved, which might include the issues such as openness of the pricing scheme, licensing regime, guarantee of interconnection, separation of supervision and regulation. On the other hand, negative speculations have been around for sometime and those speculations are getting intensified in the recent years (L. Wu, 2005). The follow part of his paper discusses some of these negative comments and presents some challenges regarding to the enactment of the new law.

Firstly, MII's heavy involvement in the drafting process has been strongly questioned by the industry. Commentators believed that, as the current industry regulator, policy maker and supervisor, MII should not be involved in the drafting process. It is believed that the proposed Telecom Law should have a major role of separating the functions of the super-power MII as a principle method of achieving independent regulation and fair treatment to the market (Yin, 2005). Also, the future supervising body is quite likely to be separated from the current MII structure. Therefore, MII's heaving been involved in drafting has introduced into the current law-making a vicious circle of protecting the Ministry's power (B. Wang, 2005).

Secondly, there have been questions about the principal purpose of the new Telecom Law. In the past 25 years there have been a vast number of debates and government official notices on the new law, from which it is quite clear that the law will focus on the industry supervision (Suijiao, 2003). However, it is believed that this focus (on the industry supervision) was not appropriately reflected by the current situation in PRC. With a market with few players who are backed up with Ministries and other government departments, the most important issue needs to be thoroughly addressed is anti-monopoly operation rather than supervision (Cong, 2002). This paper also arguing that - although focus on supervision will bring some convenience to the regulator in the future, properly addressing anti-monopoly will set up a fair competition platform for market players, which is far more significant to the current Chinese telecom market. In this respect, the situation also reveals that the market is probably in a great need of an anti-monopoly legislation (Likun, 2005).

Thirdly, this paper believes that there are room to argue that the drafting team of the new law is probably using "the new law" to "regulate" their competitors and suppress customer dissatisfaction. Instead of making a new law to regulate the existing poorly regulated market, things like the length process, behind scene negotiations and the heave involvement of MII have outlined a picture where people might argue that eventuation of this new laws would just be another instrument to protect or guarantee the

interests of several Telco stakeholders and their sponsors (the ministries) ra wider range of market and public interests. In other words, the enactment of tl would be a legal document to support the things that the political wills want and restrict the things political wills want to restrict. To avoid the speculat unwanted situation, a transparent legislative process with much greater pı would be in need. As it says that a fair legal environment is the best supervi the industries. A sound legal environment with a set of legislations reflecting interests and a fair competition platform would be in great needs. To achi fundamental legal reform should be put in to place, which would be more ef free of charge to the telecom sector (H. Xu, 2005).

A power-group collision is also a major challenge to the new law. As e previous parts, there have been many personal, ministries and departments closely associated with telecom. Some of them hold massive power in their harmonize these interests, a lengthy negotiation process is just not somethi easily avoided (Chen, 2005) .

In sum, the significance of this 25-year debate about the new Tel became much greater than the proposed law itself. It brings out a series of fu problems in the Chinese law-making process, which sadly include the trans public interests into personal interests and abuse of government administrati Many Chinese domestic laws, regulations and ordinances to date have a strong of protecting industrial monopolies or ministries' interests. Currently, a r government departments and various ministries have become closely in drafting, testing, public enquiry and even the moderation process by utili political influence and economic power. Spectators believe, with heavy invol these government related market players, the new law, even it can eventually b will be meaningless for industry growth (J. Liu and Lu, 2005).

3.2 The current situation with the 2000 Regulation

Putting aside the discussions of the new Telecom Law, the 2000 Regulation regulating the industry for the past eight years. At the beginning of its arrival i solved a number of urgent issues. However, as time passed it gradually starte its deficiencies as all other dated legislations. Nevertheless, it is still the most regulation today for the Chinese telecommunications industry. The following p paper will provide a summary of this regulation together with a discussi increasing weaknesses.

3.2.1 Summary of 2000 regulation

As a core legal document, this 81-article administrative regulation aims to] basis for regulating the telecom market in China, protecting the interests subscribers and operators, and ensuring the safety and security of the telecom and information (Article 1, Chapter 1, 2002 Regulation). The regulation co major areas in telecommunications: market, services, construction, and se applies to all telecom-related activities in China.

The 2000 Regulation has a very general and widely defined goal, the sa its application/coverage. This will naturally lead its reader to imagine an e bulky legal document covering everything concerning the industry. This, howev

the case - the Chinese 2000 Regulation is a very short document with only 16 pages. Comparing it with the Australian Telecommunications Act 1997, the 2000 Regulation is even shorter than the Australian Legislation's introduction part.

In the 2000 regulation, telecommunications is defined broadly to mean any activity whereby voice, text, data, images, or any other form of information is sent, transmitted, or received through wired or wireless electromagnetic or optical systems (Article 2, Chapter 1, 2002 Regulation). According to the drafters, this definition is intended to encompass broadcast networks, the Internet, and related services, providing a legal basis for regulating the "convergence" of information technologies (Horsley, 2001).

It is generally believed that this document served its purpose of being a welcome first effort by a national rulemaking body to standardize the administration of China's rapid changing telecommunications industry. These regulations helped to prepare and position China to undertake many, though not all, of its telecom-related WTO commitments. In addition, it is also believed that this Regulation has addressed many regulatory principles beloved by the Western world to varying degrees (Y. Xu, 2002). However, it is not surprising to note that this extremely important but short legal document has a number of pitfalls, which undermined it from the day it came into force and have become more pressing in recent years. The following section of this part is an examination of the weaknesses of this legal instrument.

3.2.2 Weaknesses of the 2000 regulation

The entire regulation was formed on the basis of separating the telecommunications business into two wide categories of basic and value-added service. Although this seems to be a common practice in many other countries like UK, US and Australia, China's definition of these two categories remains many uncertainties and grey areas.

First of all, the definition of basic telecom business in the 2000 Regulation appeared to be broad. For example, some telecommunications commentators have argued in the past that the lease or sale of ducts alone should not constitute telecommunications business (Suijiao, 2003). The inclusion of the "lease and sale of ducts" in the definition of basic telecom business clearly brings it within the ambit of the licensing regime introduced by the 2000 Regulation. "Network outsourcing services", "paging services" and "resale of basic telecom business" would appear to be value-added in nature but have been included as part of basic telecom business and are subject to more stringent licensing requirements under the 2000 Regulation. The meaning of certain services included as part of basic telecom business, such as "network bearer services" and "network outsourcing services", is not immediately obvious and is in need of further definition by the MII (X. Xu, Yip, and Chance, 2001b). Secondly, many 'Internet' related issues are not clearly defined. In relation to the definition of VAS. US telecom businesses had a particular argument concerning China's treatment of the Internet as a value-added service, which would entail more liberal entry requirements (McMahon, 2006). Moreover, it should be noted that the provision of Internet access services is governed by many other separate regulations, including the Interim Regulations of the PRC for the Administration of International Connections to Computer Information Networks 1996, and their Implementing Measures 1997. In addition, the provision of Internet information services is subject to the Administrative Measures on Internet Information Services 2000. This situation makes the practice even harder. If

particular Internet related issue occurs, questions such as which should be the go regulation and who should be the operating authority remains unanswered.

Apart from defining the scope of these two categories, there are many parts in license application and approval procedures in the Regulation. As mechanism of guaranteeing competition, licensing is one of the most im regulatory tools. A transparent and fair licensing practice by the regulator guards l market operation. Unfortunately, licence application and approval procedures set 2000 Regulation are neither clear nor practical.

First of all, in the 2000 Regulation, an application for operating basic t services must be submitted to the MII for approval. MII is required to decide whe not to approve the application within 180 days of receiving it (Article 11). In exa an application for basic telecom service, the MII is required to take into consid such factors as State security, the security of telecommunications networ sustainable use of telecommunications resources, environmental protection and th of competition in the telecommunications market. These factors would appear subjective and it remains unclear how the MII considers such factors in practice deciding whether or not to approve an application. Moreover, the issue of basic t service licences is also subject to a tendering process in accordance with the r provisions of the State. It remains unclear as to when and how this tendering proce be implemented as no relevant provisions dealing with the tendering of basic t service licences have been issued as yet. Paging services and the resale of basic t services, which are classified as basic telecom services in the Classification Cat are stated to be regulated as if they were VAS (Art. 8). It is unclear, however, w this means that an application for conducting these two specific typ telecommunications business are subject to the criteria and application proc applicable to VAS or applicable to basic telecom services. Clarification needs sought from the MII on this issue.

In addition, if an applicant intends to operate a new type of telecommunic business, which is not listed in the Classification Catalogue on an experimental bas applicant may do so by making a simple filing for the record (Art. 9). In this reg should be noted that only the city of Shanghai has been authorized to experimen new types of services connected with the technical convergence o telecommunications, Internet and cable sectors. It remains unclear whether such se can be regarded as new types of telecommunications business for the purposes 2000 Regulation; and if so, whether telecommunications operators, cable and/or Ir companies in other parts of China can experiment with such services by advantage of the filing system under the 2000 Regulation.

It is well understood that licensing practices vary from country to country seen as one of the most sensitive issues as to the sovereignty of different jurisdi However, there are generally accepted norms of practice in licensing su transparency, level playing field and fairness, which, again, are the powerful regu tools to guarantee the competition in the market and consequently lead to a h sector growth. ITU studies revealed that regulators could often affect the rat prevalence of telecom growth through their licensing provisions. Good licensing pr brings not only effective competition, direct financial benefits to the State, bu significant impact in the future industry development. In this regard, China's Regulation is failed clearly with its ambiguity and lack of detailed procedures.

In sum, there are many unclear provisions in this regulation not only in the two areas demonstrated above and in many other areas such as interconnection and allocation of resources. Generally speaking, this regulation adopted a framework approach, which could be seen in many other PRC laws. With this type of approach, the law or regulation itself is more like a document presenting the lawmaker's opinion towards issues rather than providing a workable instrument to solve the real problems. In this respect, the 2000 Regulation is far from an effective legal document, which could be properly utilized by the industry and the public.

4. Conclusion

Although there is no government is even close to perfect, one of the most important government functions is to intervene when markets do not work properly so that the markets can serve the public. Claiming of deregulation and continuing government intervention in the telecommunication sectors are therefore expected at the same time. The form of intervention is open to choice by governments depending on the country's telecommunications, social and economic needs. The ultimate objective is the sector performance: that is, all those who desire services based on the telecommunication infrastructure should have access to them at affordable prices, with adequate quality and choice, and socio-political objectives such as universal access and contribution to disaster preparedness and management should be facilitated.

Despite the fact that Chinese telecom market has evolved into the world's largest market with only short period of liberalisation, the market is unfortunately created with some born defects. Responding to the argument set in the introduction of this paper, the finding of this study reveals that the regulatory framework in PRC's Telecommunications industry is not likely to be sustainable in the future. It was also revealed that the major driving force of the development was in fact the inter-ministry bargaining. Prima facie, the inter-ministry bargaining broke the monopoly status and brought in more market players as its direct result, which were welcomed at that time because it came with some limited market competitions. However, this situation is unlikely to proceed with the same speed of growth in a long run. It is established in many authorities that the real telecom market pillar is the proper industry framework, sufficient regulations, transparency and fairness. Unfortunately, current situation in China reflect little about these norms.

In particular, the legal environment in regulating telecom related issues in China is extremely weak. Apart from the only two national level telecom legislations, the industry is mainly regulated by administrative decrees, Ministry regulations and decisions from the State Council. Those two national level legislations are of specific concerns of certain aspects of the industry. They are lack of any overall impacts. In particular, as the central piece, Regulation 2000 has long gone out of date. Although the new Telecom law has been in agenda for years, it has not been enacted to date. Moreover, even with the enactment of the new Telecom Law, the future is still not going to be easy. As revealed in the discussion, although the market and industry needed the new law urgently, it has been in the negotiation for more than two decades. The reason behind this ridiculously long process was because of the finely balanced ministerial or inter-governmental interests. Moreover, criticism regarding to the new law is getting intensified over the years with particular Issues such as the MII's heavy involvement in the law-making process and the close links between the market players and industry

decision makers. Thus, the new law, if it eventuates, will still have many born de this respect, this paper may envisage heroically that this new Law would be a legislation for an imperfect purpose and made by an imperfect process. Ironi would more likely to be a perfect balancing of the imperfect inter-power-group Therefore, it will have little likelihood of changing the current imperfect system. it can make changes to a certain extent, those changes can only be superficial an the realm of the political wills.

In closing, this paper believes that without a more substantial social-eco reform - a reform beyond the boundary of any given industry, the telecommun sector in PRC would more likely to face a downturn or even a backward deg after its initial fast development. Regulatory sustainability will become a challenge.

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