POLICY EXCHANGE

Insights for the Policy & Public Affairs Community

Chocolate Wars – Reforming Regulatory Practice in India Part II

By Dr. Suraj Kumar

http://www.indiaincorporated.com/policy-exchange/item/4000-chocolate-wars-reforming-regulatory-practice-in-india-part-ii.html

The independent regulator landscape in India includes diverse sectors – aquaculture, agri-export, airports, broadcasting, telecom (the most visible), insurance, equity markets and electricity, to name but a few. These regulators have differing terms of reference and organograms, but they have in common the mandate to ensure fairness and accountability in the enforcement of the "rules of the game".

In order to make this happen, the regulator is endowed with specific powers and responsibilities under Act of Parliaments, entrusted with a budget secured from political interference and an "arms' length" relationship with "parent" ministries or departments while drawing staff and infrastructure resources from the regular administrative pool. The latter is also meant to insulate the regulator from blandishments of the private sector and, in cricketing discourse, help it function as a neutral umpire.

While the rules of the game for the independent regulator have common design characteristics, the effectiveness of regulators varies across sectors.

In "large-cap" sectors, with a small number of very large companies, the independent regulators seem to have done better – in speed of action while disposing cases, visibility of decisions and overall public confidence, barring infrequent allegations of malfeasance. Certainly, regulators such as Telecom Regulatory Authority of India (TRAI), The Insurance Regulatory and Development Authority (IRDA), and Central Electricity Regulatory Commission (CERC) are well respected in the world of business, media and government.

In contrast, regulators in the sectors which have a large number of smaller companies find it easier to "bully the user". They also face constraints of capacity to engage with their stakeholders - only partially due to the larger numbers involved. These regulators, including for food safety, are less visible in media or public dialogue on policy. Their interlocutors in the private sector are relatively smaller companies or even in case of large global corporations, with relatively smaller operations within India. Unlike the monopolistic or oligopolistic conditions characteristic of the sectors with large capital investment, regulators in mid-cap or small cap sectors deal with a plethora of ministries and are also hindered by jurisdictional issues vis-à-vis state governments.

There are also issues of capacity among the staff of the regulator. This begins with the technical approval segment. Infrastructure and number of technicians come up short when the sector is growing and number of applicants seeking clearance or product licensing is increasing. There is also a lack of capacity to keep up with global trends and innovations, mostly due to a limited number of learning or exposure visits.

The "frog in the well" syndrome and silo mentality is also abetted by the osmosis of bureaucratic apathy in the main systems of administration where not only the staff pool but also the leadership of these regulators is drawn.

Even as government is now proactively playing the role of facilitator and promote a "business-friendly" environment, the “mind-set” issues make these regulators function as licensing authorities impervious to any service level agreements regarding timeliness and predictability. A change in mind-set is clearly needed. The regulators need to be strengthened in terms of qualified professional staff, not only among the technical cadre but also at the very top levels of their leadership.

The proposed lateral entry of professionals in the senior levels of Indian bureaucracy is a welcome step by the Modi Government. When the heads of regulatory bodies are not conditioned by the “Mai-Baap” (parental/ paternalistic) attitudes, the ease of doing business in India is bound to improve and the “Make in India” campaign would be buttressed further.

In sum, regulators can function more effectively across the board but are constrained due to capacity, culture and leadership. Their interlocutors in industry are equally devoid of an understanding of public policy practice in India. For India to fully realise the potential of independent regulators in increasing investments, expanding markets and improving the quality of life, it is essential to reform regulatory practice. We need a much more professional, service-oriented culture replacing the babu ethos– in the direction of greater predictability, timeliness and transparency. When this happens, the India growth story would be even more impactful.

Dr Suraj Kumar is the chief mentor at Neeti Foundation. He has worked in the development sector since 1993 at progressively senior levels (nearly 15 years with the UN) in design and implementation of programmes on governance, women’s leadership and human development, policy dialogue on rights-based development with governments, and UN coordination in India and South Asia. He holds a PhD in Sociology from State University of New York at Binghamton. He is also Visiting Fellow at Heras Institute, St. Xavier’s College, Mumbai and Fellow at American Institute of Indian Studies from 1991 – 1992.