



FOUNDATIONS FOR INVESTMENT: PROGRESS AND CHALLENGES IN REGULATORY REFORM IN SOUTH EAST EUROPE

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I. INTRODUCTION AND FUTURE ACTIVITIES

The *Stability Pact* is a declaration of commitment and a framework agreement on international co-operation among 40 countries, organisations and regional groupings to develop a shared strategy for ensuring stability and growth in the countries of South East Europe (SEE). Adopted in June 1999, the Stability Pact aims to support these countries “in their efforts to foster peace, democracy, respect for human rights and economic prosperity in order to achieve stability in the whole region”. In this context, OECD was given the mandate to co-ordinate the efforts of the international community to promote economic growth and investment in the region through the *Investment Compact*.¹ The Investment Compact affirms that the economic revitalisation of SEE depends primarily on private sector investment within a market economy framework.

To promote private investment in the region and thereby rehabilitate the economies of SEE, substantial structural work is needed. The *Regional Flagship Initiatives* are agreed actions aimed at attracting investment and improving the climate for investment on a co-ordinated regional basis. The 2001 Thessaloniki Seminar was the launching event of the Regulatory Governance Initiative (RGI), which aims at improving the foundations for a sound regulatory environment conducive to investment in SEE countries.² The intended outcome of the RGI is to strengthen the institutional, knowledge and process capacities for developing and implementing efficient and effective regulation, supportive of sound and competitive markets.

The RGI builds on the central concept of *Regulatory Quality*, which is the backbone of the OECD *Regulatory Reform Programme*.³ Adopted in the 1997 *OECD Report to Ministers on Regulatory Reform*, the *Regulatory Quality Concept* is built on two pillars: (1) economic development through liberalisation, privatisation, selective deregulation, and re-regulation, and (2) good governance through efficient, transparent and accountable government policies and institutions to protect consumers and achieve social and environmental goals.

As part of the Investment Compact, the RGI is closely linked to the *Monitoring Instruments* prepared by SEE countries with OECD support.⁴ In particular, the RGI is designed to assist SEE countries in implementing measures identified in the Monitoring Instruments through the reduction of regulatory burdens on SMEs, the creation of a legal environment conducive to foreign direct investment and the implementation of a competitive environment after privatisation.

¹ See www.seecon.org/KeyDocuments/KD1999062401.htm for further information on the Stability Pact for South East Europe.

² A publication titled: *Foundations for Investment: Progress and Challenges in Regulatory Reform in South East Europe* presented the contributions made at the seminar. It is available on the Internet at www.oecd.org/puma/regref.

³ Since 1998, the OECD *Regulatory Reform programme* has been documenting reforms efforts that boost sectoral efficiency and innovation, enhancing economy-wide flexibility and potential growth, increasing consumer choice and welfare, and increasing government effectiveness in maintaining high standards of environmental, consumer, and safety protections.

⁴ The Monitoring Instruments of the Investment Compact chart ongoing progresses in implementing reform across the policy areas of the Investment Compact, and set short- and medium-term priorities for reform. The Monitoring Instruments point to five stages of every reform process: (a) strategic planning and policy review, (b) adoption of legislation, (c) institutional reforms, (d) capacity building, and (e) regulation/enforcement of laws.

In line with the Monitoring Instruments of the Investment Compact, the RGI aims to develop regulatory reform *Action Plans* for the adoption and implementation of criteria, processes, and well-structured institutions conducive to investment and economic growth. With assistance from the OECD, but primarily based on a self-assessment approach, each member will be encouraged to prepare an *Action Plan* for the next 2 years. Based on a dialogue with policy-makers, the *Action Plan* will help sustain commitment and monitor progress in order to ensure that investment takes place in a stable regulatory environment. Completed *Action Plans* will be assessed and reviewed by OECD and released as an integrate part of the Monitoring Instruments.

In order to help countries prepare their own *Action Plans*, the OECD will develop a *Self-Assessment Questionnaire*.⁵ The questionnaire will be developed in co-operation with the SEE countries, taking note of their particular concerns and challenges. Answering the Questionnaire commands multi-disciplinary work at the inter-ministerial level. However, past experience shows that such a multi-disciplinary experience brings important long-term effects through the development of a ministerial network of reformers that will help ensuring greater coherence of the regulatory reforms.

In the initial phase of the process, country visits throughout 2002 will provide useful information about the individual countries to the Secretariat. On the demand from SEE countries, the OECD is arranging two RGI seminars:

- **The Use of Public Consultation to Improve the Investment Climate**
- **The Use of Regulatory Impact Analysis to Foster Economic Efficiency and Policy Coherence**

As the launching seminar, the *first* seminar is to be held in Thessaloniki and is co-hosted by the Government of Greece. Public consultation is one of the prime means by which policy makers gather feedback and information for regulatory and legislative proposals. The inclusion of major stakeholders advances the reform agenda. The seminar will focus on consultation techniques to facilitate the dialogue between governments and other stakeholders and gather information on impacts. Particular emphasis will be on how consultation is used to (1) identify impacts on business and investment, ensuring business, and domestic and international investors are heard; (2) balancing business views with the agendas of others; and (3) identifying when consultation should be held during the development of a law from possible proposal to a fully drafted bill, tabled in Parliament.

As one of the key strategies for regulatory quality, the second seminar taking place in January in Sofia with the support of the Bulgarian government will focus on how to incorporate Regulation Impact Analysis (RIA) into the regulatory framework. RIA — the systematic assessment of positive and negative impacts of regulation and alternatives— has helped many countries reduce regulatory costs on businesses, while maximising the effectiveness of government action in protecting public interests. It has been instrumental in improving transparency and communication with concerned interests. RIA is particularly useful to countries undergoing major reform to their legal frameworks, as it helps explore alternatives and provides relevant information to select the best option.

⁵ The Questionnaire will be based on the one developed for the OECD Programme on Regulatory Reform incorporating the 1997 Regulatory Reform Principles and the 1995 Recommendation of the OECD Council on Improving the Quality of Government Regulation

II. AGENDA

REGULATORY REFORM IN SOUTH EAST EUROPE IN THE FRAMEWORK OF THE INVESTMENT COMPACT OF THE STABILITY PACT

19 April, 2002

Chair: Mr. Alberto Heimler, Chairman of the OECD Working Party on Competition and Regulation, Director, Autorità Garante della Concorrenza e del Mercato, Italy.

8:45 – 9:15 *Registration of Conference participants*

9:15 - 9:45 *Welcome and opening remarks: Mr. Patrice Dreiski, Deputy High Representative and Head of Economic Department, Office of the High Representative*

Mr. Dragan Mikerevic, Minister of European Integration and Chairman of Council of Ministers

Mr. Rolf Alter, Deputy Director of the Public Management Service and Head of Programme on Regulatory Reform, OECD

9:45 –12:00 **SESSION I: Regulatory Independence and Institutional Design**

The separation of the State functions for policy, regulation and ownership. The importance of adopting national policies and set-up of an institutional organisation.

- 1) Institutional settings
- 2) Designing regulatory coherence and integration
- 3) Designing regulatory governance for accountability
- 4) Government-Regulator relations, including ways to establish independence
- 5) Assessing institutional effectiveness

Questions and discussion

Invited Speakers:

- ***Ms. Sue Holmes***, Regulatory Reform Division, Public Management Service, OECD
Gains from regulatory reform and the role of the law and good governance
- ***Mr. Panagiotis Karkatsoulis***, Scientific Advisor, Ministry of the Interior, Public Administration and Decentralisation, Greece
The role of law and good governance

10:45 – 11:00 ***Coffee Break***

11:00 – 12:00 ***SESSION I continued***

- 1) The importance of putting a sound legal framework in place before privatising
- 2) Competition policy and regulatory reform

Questions and discussion

Invited Speakers:

- ***Mr. David Parker***, Competition Law and Policy Division, Directorate for Financial, Fiscal and Enterprise Affairs, OECD
Establishing the Regulatory Framework for Competition
- ***Mr. Patrick Massey***, Formerly Irish Competition Authority, Ireland
Competition Advocacy and Competition Authority – Sectoral Regulators relationships

12:00 – 2:00 ***Lunch***

Luncheon Address: Mr. Jadranko Prlic, Deputy Minister of Foreign Trade and Economic Relations

2:00 – 5:00 ***SESSION II: Economic Regulation and Network Industries:
Communications, Energy and Transportation Sectors***

- 1) Policy and Regulation
- 2) Pro-competitive restructuring of network industries

Questions and discussion

Invited Speakers:

- ***Mr. Emmanuel Bergasse***, International Energy Agency
Policy and Regulation: the keys for Energy Market Reforms in Transition Economies

- **Mr. Paul Moffatt**, European Bank for Reconstruction and Development,
Policy and Regulation in Telecommunications

3:15 – 3:30 **Coffee Break**

3:30 – 4:45 **SESSION II continued**

- 1) Policy and Regulation
- 2) The Greek Experience in Networks Privatisation

Questions and discussion

Invited Speakers:

- **Mr. Richard Westler**, Secretary General, Commission on Public Corporations, OHR Bosnia and Herzegovina
A Local Perspective on Regulation in Transport in Bosnia and Herzegovina
- **Mr. Nikiforos Manolas**, Senior Economist, Ministry of National Economy, Greece
The Greek Experience in Networks Privatisation

4:45 **Closing Remarks: Mr. Renzo Davidii, Head of Economics Department, the European Commission Representation Office to Bosnia and Herzegovina**

III. SUMMARY REPORT

Regulatory frameworks for network industries is one of the priority areas identified for further work at the launching conference of the Regional Flagship Initiative in October 2001 in Thessaloniki. The seminar in Sarajevo responded to a specific request from the Office of the High Representative to advance the discussion and point out policy options for regulatory reform in Bosnia Herzegovina. The meeting had the support of Greece, which has made an ongoing commitment to work with the OECD on regulatory governance in SEE. The discussions of the seminar focussed on: (1) the gains from regulatory reform, the rule of law and good governance; (2) regulatory independence and institutional design; and (3) the elements of good design and practice for communications, energy and transportation sectors. The seminar advanced the reform discussion and pointed out policy options for regulatory reform in Bosnia and Herzegovina. Most interest was in improving the efficiency of three sectors - transport, telecommunication and electricity. This includes an exploration of the best model to use - be it full government ownership and control, corporatisation or privatisation taking into account the legal and administrative environment.

Mr. Dragan Mikerevic, Prime Minister and Minister for European Integration, **Mr. Patrice Dreiski**, Deputy High Representative and Head of Economic Department, Office of the High Representative, and **Mr. Rolf Alter**, Head of the Regulatory Reform Programme (OECD) opened the seminar, which brought together more than 100 people from government, business, labour, embassies and international organisations, including the EC. **Mr. Jadranko Prlic**, Deputy Minister of Foreign Trade and Economic Relations, gave the luncheon address. **Mr. Alberto Heimler**, Chairman of the OECD Working Party on Competition and Regulation and Director in Autorita Garante della Concorrenza e del Mercato (Italy), chaired the seminar in a high standard, asking insightful questions and contributing to the smooth flow of the discussions.

Session 1: Regulatory Independence and Institutional Design

Ms. Sue Holmes, Regulatory Reform Division (Public Management Service, OECD), stressed that regulatory reform and management underlie better economic performance, improve government effectiveness and efficiency, and enhance democratic values. Four stages of regulatory policy development were identified: deregulation, regulatory quality improvement, regulatory management, and regulatory governance. The 10 principles for producing efficient, flexible and transparent regulations identified by OECD Ministers and enclosed in the 1995 Reference Checklist for Regulatory Decision-Making were referred to. An important regulatory tool is the Regulatory Impact Analysis, which is a method of (i) systematically and consistently examining selected potential impacts arising from government action and of (ii) communicating the information to decision-makers. The OECD has developed a set of best practices for RIAs. Experience in OECD countries suggests that an effective regulatory management system has three basic components that are mutually reinforcing: a regulatory policy adopted at the highest political levels, explicit and measurable standards for regulatory quality, and a regulatory management capacity.

Mr. Panagiotis Karkatsoulis, Scientific Counsellor to the Ministry of Interior (Greece), described the key characteristic of the European regulation efforts as the conceptual development of “deregulation” to the broader term of “better regulation”. In particular, three important policy steps were mentioned: (1) the introduction of regulatory quality control through the implementation of a RIA procedure; (2) the simplification of administrative procedures; and (3) the codification of regulations. Discussing some potential difficulties facing European reformers, the tradition of legalism and formalism that might lead to extensive bureaucratic systems were listed. Furthermore, he pointed to the parallel development of informative regulatory systems and the communicative obstacles provoked by strong and cultural identities were identified as limits to the reform process.

Mr. David Parker, Competition Law and Policy Division (Directorate for Financial, Fiscal and Enterprise Affairs, OECD) gave a presentation on how to establish a regulatory framework for competition. It was stressed that the objective of network industry reform is efficiency and private participation. However, regulatory governance faces major challenges in the way that reforms are sequenced, how well-functioning institutions are built (e.g. degree of independence and identifying best practices), how to restructure the competition and privatisation process (including natural monopoly regulation), and how to balance regulation against competition. The main message was that it is important for the regulating government to carefully design the reform programme in order to avoid regulatory or market failures.

Mr. Patrick Massey, Formerly Irish Competition Authority (Ireland) characterised the public utility industry as one that combines natural monopoly segments with activities that are potentially competitive. In many European countries, the problem was solved by creating state monopolies, while the United States left the industries in private hands fixing a maximum rate of return on capital. In both cases, the abuse of market power has created a need to introduce competition, and in this process one must address the risk of abuse of dominance due to (1) the network of natural monopoly, and (2) the dominant position of the incumbent. The Competition Authority plays an important role in avoiding lobbying from powerful incumbent firms and other government agencies and in avoiding the risk of regulatory capture.

Session 2: Economic Regulation and Network Industries: Communication, Energy and Transportation Sectors

Mr. Emmanuel Bergasse, International Energy Agency (OECD) characterised the energy sectors in SEE countries as having high-energy intensity, low energy prices, vertically state-owned monopolies, low efficiency and high losses. The Balkan countries have engaged in short-term emergency and rehabilitation programmes without having established energy policy guidelines and institutional set-ups. In order to overcome the structural difficulties and implement efficient and sustainable reforms of the energy sectors, the following priorities were listed: (1) energy policy definition and institutional organisation; (2) creating a stable and efficient regulatory framework; (3) energy companies restructuring; (4) increase energy security; (5) enhance energy efficiency and environmental performance; (6) transition issues; and (7) develop regional energy co-operation.

Analysing policy and regulation in telecommunication, **Mr. Paul Moffatt**, Counsel, Legal Transition (EBRD) defined the objectives of telecommunications sector policy as: to improve the quality, spread and type of telecommunications services, thereby satisfying demand, promoting economic development, and ensuring a continuing contribution to the national budget. A summary of EBRD recommendations for achieving sector objectives in Bosnia Herzegovina was given. *First*, privatisation policy must be implemented without delay. Liberalisation creates positive incentives to improve services and lower tariffs, and privatisation of SOEs will attract foreign investment. *Second*, the new framework for telecommunications law should be enacted in order to reduce regulatory uncertainty. *Third*, telecommunications sector legislation should be harmonised with that at the state level. *Fourth*, corporatisation and commercialisation of the public operators is essential elements in the run up to privatisation and further liberalisation. Without a fully transparent organisation and defined assets, private investors cannot be attracted. *Fifth*, tariff and tariff rebalancing should be implemented while adapting the system of political and socially based pricing of public monopolist operators to a modern system of cost-oriented prices of competitive private operators. And *sixth*, a universal service objective and mechanism should be defined and implemented.

Mr. Richard Westler, Commission on Public Corporations (OHR Bosnia Herzegovina), gave a local perspective on regulation in transport in Bosnia Herzegovina. Significant resources have been invested in renewing infrastructure but much still remains to be done. In this process, safety and environmental protection are important issues if equipment should be allowed to enter other EU markets. It was argued that licensing, in the hands of a competent regulator, is an important regulatory tool in the transport sector (approves schedules, ensures professional competencies and improves financial abilities). Furthermore, regulation imposes service obligations in low populated areas and in off peak periods. Regulation will prevent abuse of monopoly power and will enforce high maintenance and safety standards. A summary of several benefits of regulation accruing to consumers, operators and the government was given.

Mr. Nikiforos Manolas, Ministry of National Economy (Greece) summarised the Greek experience in network privatisation. Structural reforms in Greece started in the early 1990s and were stimulated mainly by the need to comply with EU regulations and the EMU criteria. There was considerable reluctance and opposition of the state-owned enterprises (SOEs) and by workers. The Greek privatisation process faced three categories of SOEs: public enterprises belonging to the business sector, enterprises owned by the state-controlled banks and the banks themselves, and public enterprises/public utilities. Privatisation has, among others, taken place in the telecommunications, energy and water sectors. The result has been significant government revenues, price reductions and growth increases, and increased employment and salaries.

The discussions with country governmental officials led to the conclusions that while good economic progress is being made very substantial policy reforms still need to be implemented. Good processes and criteria, such as RIA and consultation, would help to improve outcomes. Bosnia Herzegovina has found itself in a highly charged political situation and it faces difficulties with moving forward even when it is clear what the next steps of regulation building and reform would entail. For example, there are cases where three agencies have been set up to do the one job, due to the existing levels of government in Bosnia Herzegovina and the differences and mistrust existing between political groupings. Often, the failure to move forward does not reflect ignorance, but a lack of agreement in priorities and the legacy from the past.

IV. LIST OF CONTRIBUTIONS

**MS. SUE HOLMES, REGULATORY REFORM DIVISION
(PUBLIC MANAGEMENT SERVICE, OECD)**

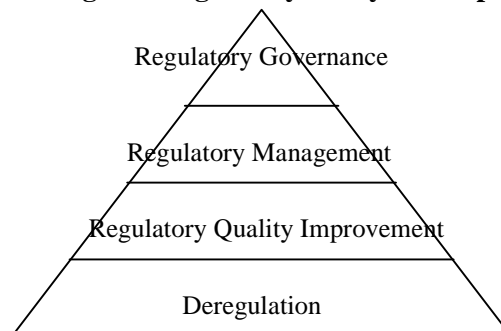
REGULATORY GOVERNANCE: THE RULE OF LAW AND GAINS FROM REFORM

Benefits of Regulatory Reform Regulatory reform and management underlie better economic performance and better achievement of social objectives. Recent research done within the OECD shows that greater competition increases output and the entry of new firms. This increases employment. Employment rates have increased by up to 2.5 % points in reforming countries. Some studies show big gains from regulation reform. For example price reductions result from reforms to particular sectors. The large-scale reform to the airline industry in the USA more than 10 years ago reduced real prices by a third. We see similar gains in electricity, financial services and telecommunications where, real prices dropped between 10 (Korea) and 60% (Finland) over a range of countries. As network industries provide services to industry, these price reductions result in real increases in profits and thus stimulate investment.

Regulatory reform has important economy-wide effects. Estimates of long-term gains in GDP from studies conducted between 1997 and 2000, indicate annual increases ranging from 1% (USA) and 9% (Greece). Product market reform improves productivity because resources are more fully used, new technologies are adopted and there is greater innovation. Recent research done within the OECD shows that regulation reform has accounted for 30 to 50% of GDP growth over the past twenty years in reforming countries.

The greater flexibility provided by better regulations also reduces risk of crisis due to external shocks, because more flexible regulations mean greater ability to adapt quickly to unforeseen outside events. Also, social goals in areas such as health and safety, the environment, and consumer interests are met by using more flexible and efficient regulatory and non-regulatory instruments, including market approaches.

Four Stages of Regulatory Policy Development



In the past 20 years, the regulatory reform agenda has undergone changes. At first, it was thought that governments just needed to get out of the way and let private enterprise take the lead. There followed a period of deregulation. However, sometimes markets fail. Markets require a solid foundation of good law to support their operation. Underlying laws are needed to define private property and provide for legal redress. And in other situations, the industry and its market may have weaknesses that mean an unfettered market produces sub-optimal outcomes. Governments have learned that deregulation and market liberalisation are insufficient to guide the reforms needed to establish sustainable market-led growth and investment, much less to maximise social welfare. Wholesale deregulation resulted in under-institutionalisation and regulatory gaps that hampered markets and harmed consumers.

The first response was to develop criteria to improve the quality of individual laws and regulations on a case by case basis. Hence, we saw the development of Regulation Impact Analysis (RIA) which directed a set of questions towards each proposed new law or regulation. The second response concerned putting in place mechanisms to ensure the systematic application of RIA to all regulations, rather than rely on its ad hoc application. Behind these changes lies the recognition – based on years of experience with regulatory reform – that the success of economic and social regulations fundamentally depends on governments' capacities to produce, co-ordinate, implement, and review regulations.

Now, the concept of regulatory management is giving way to that of regulatory governance, reflecting the dynamic and pro-active role of government in providing quality regulation. Markets and democracy go hand in hand. And there must be a sound underpinning of law for markets and democracy to work. The legal framework is needed to underpin the transition from state-led to market-led growth. Good governance, backed up by supportive civic institutions, boosts the performance of markets.

The Rule of Law and Regulatory Governance

Markets without regulation would be like football matches without rules, a level playing field and an impartial referee. Challenges are great where the core rules needed to underpin market functioning, such as property rights, judicial institutions, commercial codes and bankruptcy laws, are not in place. Markets work best where the maximum amount of competition and free enterprise can operate. However, sometimes, the nature of the product or the characteristics of the industry require some rules to ensure that private interests overlap with public interests or that particular suppliers do not dominate markets. As with the soccer analogy, markets need a set of rules, equal treatment of all and ways to address anti-social behaviour.

Current discussions of governance reflect the need to move toward a more positive and pro-active view of the state in co-operation with civil society. Improving regulatory governance is not an objective in itself. It is always a means to an end. The justifications given for reform programmes often include three core objectives: (1) improving economic performance; (2) improving government effectiveness and efficiency, and (3) enhancing democratic values such as government openness, self-reliance, public participation and responsiveness. If it is done well it also increases trust in government.

Regulatory reform is not primarily a technical problem of getting regulations right. Rather, it is a task of underpinning new relations in society by building new capacities and institutions, or adjusting existing institutions. The regulatory management system – including the processes and institutions, through which regulations are developed, enforced and adjudicated – should support governance objectives in an efficient, transparent and accountable manner. OECD Regulatory Governance Principles advise to: deregulate where markets work better than governments; regulate well, where markets cannot work without governments; establish systems to ensure laws are coherent and well managed; and ensure regulations are made in ways to ensure democratic principles.

Principles that apply to budgets, regulation and administration

- Transparency, accountability and coherence
- Results focus rather than instrument focus
- Efficiency and adaptability
- Inclusive participation in decision-making

The Regulatory Checklist of the 1995 OECD Recommendation

The 1995 Reference Checklist for Regulatory Decision-making endorsed by OECD ministers in 1995 contains 10 principles for producing efficient, flexible, and transparent regulations.

- Is the **problem** correctly defined?
- Is government action **justified**?
- Is regulation the **best form** of government action?
- Is there a **legal basis** for regulation?
- What is the appropriate **level of government** for this action?
- Do the **benefits** of regulation justify the **costs**?
- Is the **distribution of effects** across society transparent?
- Is the regulation **clear, consistent, comprehensible and accessible** to users?
- Have all **interested parties** had the opportunity to present their views?
- How will **compliance** be achieved?

Regulatory Impact Analysis (RIA) Best practices

RIA is a decision tool, a method of (i) systematically and consistently examining selected potential impacts arising from government action and of (ii) communicating the information to decision-makers. Regulation is often made with too little understanding of its consequences, both in terms of direct costs and benefits and indirect effects such as impacts on innovation, competition, and trade. Lack of a full understanding of consequences means that regulations are frequently less effective and more costly than they could be, and that some regulations adopted are unnecessary and even harmful. Improving the assessment of these kinds of impacts before regulation is adopted is an effective strategy for improving the quality of government regulation. At the most basic level, some form of impact analysis is needed to ensure that proposed regulations are necessary and will not cause more problems than they solve. The OECD has developed a set of best practices for RIAs:

- Maximise political commitment to RIA
- Allocate responsibilities for RIA programme elements carefully
- Train the regulators
- Use a consistent but flexible analytical method
- Develop and implement data collection strategies
- Target RIA efforts

- Integrate RIA with the policy making process and begin as early as possible
- Communicate the results
- Involve the public extensively
- Apply RIA to existing as well as new regulations

1997 Report to Ministers on Regulatory Reform

Effective reform is dependent on building a regulatory management system with systematically organised procedures with explicit and sustained political backing and adequate resources, including adequate staffing and expertise. Experience in OECD countries suggests that an effective regulatory management system has three basic components that are mutually-reinforcing: a regulatory policy adopted at the highest political levels; explicit and measurable standards for regulatory quality; and a regulatory management capacity. The OECD has developed a set of best practices for regulatory systems:

- Adopt at the political level **broad programmes** of regulatory reform (objectives and frameworks for implementation)
- **Review regulations** (economic, social, and administrative)
- Ensure that regulations and regulatory processes are **transparent, non-discriminatory** and **efficiently applied**
- Review and strengthen where necessary the scope, effectiveness and enforcement of **competition policy**
- **Reform economic regulations** in all sectors to stimulate competition, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interests
- Eliminate **unnecessary regulatory barriers to trade and investment** by enhancing implementation of international agreements and strengthening international principles
- Identify **important linkages with other policy objectives** and develop policies to achieve those objectives in ways that support reform

Regulatory Reform and Good Governance

- **Role of Government:** capacities to make and review laws
- **Role of Parliament:** Main producers of laws and keepers of the “stock”
- **Role of Judiciary:** Judicial review and appeal mechanisms
- **Role Subnational Level:** Results are reduced if they don’t reach to citizens and businesses
- **Role of Regulators:** Efficient, transparent, accountable and sustainable rules at arms’ length from politicians and producers for consumer gains.

I conclude with a quote from ancient Greece:

“The first result of the rule of law is trust, which greatly benefits all people and is among the greatest goods. The result of trust is that property has common benefits, so that even just a little property is sufficient, since it is traded, whereas without this even a great amount is not sufficient.”

This was written over 2000 years ago, which shows that governments have been tackling the problem of the role of the law in providing the foundations on which markets and investment take place for a long time. I also want to underline that the sustainability and coherence of reform depends on its acceptance by citizens. Concrete and credible steps are needed to demonstrate to citizens that important public interests such as safety and equity will be safeguarded within dynamic and global markets. These steps can engender public confidence that, in turn, reduces political constraints and the risks of excessive regulation, and speeds up, deepens, and sustains market reforms. Lack of trust is a major cause of over-regulation. When effective, efficient government action improves trust in markets and states, it contributes to the performance of both.

**MR. PANAGIOTIS KARKATSOULIS, SCIENTIFIC COUNSELLOR TO THE MINISTRY OF
INTERIOR AND PUBLIC ADMINISTRATION (GREECE)**

REGULATORY GOVERNANCE AND NETWORK INDUSTRIES

The rapid changes all over the world in the economy, the political and administrative systems, and the development of the new technologies have created a new world, full of challenges but also full of risks. In this new environment, States, markets and citizens are trying to find the best way for economic and social welfare, and “better regulation” emerges as a current request of the global society.

The origin of “better regulation” goes back to the ancient Greek and Roman history of law and philosophy. Many of the arguments, the intentions and the visions of the past are revitalised in a strange historical cycle, though expressed in a different jargon. The most successful concepts and models, which in the modern times are transformed into concrete successful policies, are the ones that connect the civil participation with an efficient and ethical State. One of these new concepts is “good governance”. The term is used to signify everything from a philosophy of social organisation to a set of practical recommendations for the organisation of social dialogue on a local level. Especially, “good governance” is often presented as a list of older and newer principles such as the State of law, public participation, administrative capability, and the adequacy and accountability on questions of public goods and public interest.

Incorporating its meaning to the basic principles of the State of law and those of the civil rights protection, governance creates a single teaching which connects the traditional principles of the organisation and the functioning of the State with the modern organisational and administrative principles of effectiveness and quality. Furthermore, governance vindicates the redefinition of administrative reform in political terms. That is, its main difference from the mainstream of new public management reforms that, in many cases, have led to the annulment of politics and the transformation of the State exclusively into an economic mechanism.

Following the criticism that through the last twenty years reforms, democracy has been limited, human rights have been dwindled and national, cultural and aesthetic particularities have been de-differentiated in favour of a flattening economic concept, governance formulates a new, more well-balanced approach to the difficult relations between law and economy. Therefore, the reconstruction of a central interlocutor, a central State that will constitute a reliable partner of the stakeholders, constitutes a major priority. This new, “strong, democratic and strategic State” will function as a guarantee of the legality and the rule of law and, at the same time, as a facilitator, consultant and representative of the different interests of the stakeholders. To acquire this new role, the State is undergoing a “regulatory reform” process.

This is evident in both the European Commission and the member States of EU, who are elaborating a European policy framework of regulatory reform. The key characteristic of the European effort in this field is the conceptual development of “deregulation” to the broader term of “better regulation”. From the prevailing reductionism to the detriment of law, we have passed to a balanced development of the social sub-systems of economy and law both in theory and in policy area.

Concentrating especially on the policy field, three certain policy steps have to be mentioned: First of all, the introduction of quality control of the regulations through a regulatory impact assessment (RIA). A second policy step, very important for the European States having civil law tradition, is the simplification of administrative procedures and, thirdly, the codification of regulations.

Mentioning the major difficulties and problems that regulatory reform is going to face in Europe, one should refer to the tradition of legalism and formalism and, consequently, to the powerful bureaucratic mechanisms. The parallel development of informal regulative systems should also be mentioned as well as the communicative obstacles provoked by strong national and cultural identities.

Searching for the positive heritage of the European legal tradition, one should refer to its character as a normative orientation for a better life and society. The long and precious tradition of the Italian Glossators and the German Pandectists that ensured the intrinsic autonomy of the law should be carefully integrated into its current instrumental understanding as a mean for economic and social welfare. Positive law tradition and regulatory reform governance could share notions and means enriching the relevant discussion.

I see the possibility of evolving a societal character of regulatory reform as feasible. Insofar as it is possible, “regulations” should be developed through co-operation between social partners using the criteria of transparency and accessibility to citizens and businesses. The new concept of law must shed its interventionist, colonialised character and re-emerge as an internal necessity of people, as a structure of the community of people, impossible to exist without them and indispensable for their co-existence. On the other hand, since regulation has been established it develops its own life and, after that, it can be modified only through strictly defined procedures, such as the administrative simplification and codification.

**MR. DAVID PARKER, DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE
AFFAIRS (OECD)**

ESTABLISHING A REGULATORY FRAMEWORK FOR COMPETITION

Main messages:

- **Objectives of network industry reform**
 - **Improved efficiency and private participation:** And environmental/social objectives.
- **Regulatory governance challenges:** Will help achieve objectives and good privatisation outcomes.
 - **Sequencing of reforms**
 - **Institutions**
 - **Restructuring for competition and privatisation**
 - **The balance of regulation and competition**

Sequencing of reforms:

- **Surrounding legal/social system:** Introducing competition into network markets can involve significant complexity in inter party contracts and regulatory arrangements. If the “legal infrastructure” is inadequate the costs of these complexities can be high.
- **New legal framework and institutions – the starting point:** Regulatory institutions and new laws should be set up before structural changes to the industry and especially before privatisation.
- **Detailed operational rules – have to build network markets:** These markets do not always evolve naturally, especially where there are consequences for system balancing (such as in electricity and gas). In these cases it is necessary to regulate for competition.
- **Restructure companies – get this right at the start.** Structure has a very significant influence on competition. A pro-competitive structure can reduce the regulatory “load”.
- **Commence new markets – with transitional arrangements.** Phasing in competition through “vesting” contracts is one way to ensure smooth transition by allowing participants to learn progressively how new system works.
- **Privatise – what balance of objectives?** Maximising sales revenue by privatising firms with market power is a poor policy choice.

Institutional issues – independence and governance

- **Independence from industry:** Need to avoid regulatory capture.
- **Independence from day-to-day political intervention, but accountable.**
 - **Clear mandate and legal status:** Clear objectives to set the limits of regulatory action and guide residual discretion.
 - **Power balanced with appeal or review rights:** To avoid arbitrary and confiscatory decisions – needs effective legal system.
- **All reforms need to be adjusted to address unforeseen problems.** Agents’ learn to game system.
 - **Flexibility vs. certainty and powers of regulator:** Changes have to be transparent and justified.
 - **Take care with self-regulatory models and inflexible governance:** Tend to lock in anticompetitive outcomes where those benefiting can block changes.

Institutional issues – good practice: All following points are interrelated and reinforcing to ensure a regulatory environment that produces good outcomes with no surprises.

- **Communication and consultation – regulatory plans and RIA:** So that all interested private agents know what is going on and is likely to happen.

- **Consistency and predictability – articulated rules and decisions:** So that regulatory decisions are not arbitrary.
- **Accountability – to Parliament, Executive and appeal structure.** To avoid and fix up problems.
- **Transparency – open documentation.** To avoid insider/outsider problems.
- **Effectiveness and efficiency – internal structure.** To reduce the costs of regulation.

Restructuring for competition and privatisation:

- **Allowing competition isn't enough – it has to be promoted.** There can be high barriers to entry in these sectors – simply allowing competition is likely to leave entrenched market power.
- **Vertical and horizontal dimensions**
 - **Competition where feasible regulations were not:** Some industry segments are inherently not competitive and need to be regulated – natural monopolies.
 - **Generation/transmission/distribution/retail:** Competitive segments can be restructured prior to privatisation to create several competing firms.
- **Privatisation**
 - **What objectives (revenue or competition).** Trade off between competitive structures and maximising sales revenue is a real policy choice.
 - **Why not privatise monopolies?** A poor deal for the government, citizens and consumers.
- **Regulatory load**
 - **Some irreducible regulation necessary in these sectors but it is difficult:** The more competitive the structure is the less regulation has to intervene in final outcomes.
 -

Natural monopoly regulation:

- **Access to infrastructure:** Non-discriminatory and cost reflective access is key to allowing competition.
- **Pricing of final supply:** If market is not-competitive or for USO delivery.
- **Investment:** How to regulate for capacity and resilience – planning and the role of markets.
- **System operation – the core of natural monopoly:** Has to be linked to wholesale markets
 - **Incentivation of efficiency:** Desirable to have System Operator working efficiently.

Things to watch out for – the balance of regulation and competition:

- **Market power in competitive sectors in network industries can be a big problem – structure and market design is the key.** Hard to fix up after the fact. Monitor the market and act early.
- **Investment and market signals – planning and prices.** Can long term markets deliver security and capacity goals.
- **Regulation does not go away unless it is made to – interface with competition law vital.** Network industries are more complex than initially thought – regulation is necessary for competition. The state does not “wither away”.

Key messages – a summary:

- **Sequencing - Start with a vision that includes implementation and transition – incremental reform will run into problems**
- **Institutions - Independence does not mean unaccountable. Good practices is essential. Some flexibility is needed to respond to problems**
- **Industry structure vs. regulation - Get structure right at the start > privatise for competition. Regulation is hard. Watch out for market power in competitive segments**

MR. PATRICK MASSEY, FORMERLY IRISH COMPETITION AUTHORITY (IRELAND)

COMPETITION POLICY AND REGULATORY REFORM IN PUBLIC UTILITY INDUSTRIES

Introduction.

The essential characteristic of public utility industries is that they combine natural monopoly segments with activities that are potentially competitive. Some form of regulation of public utility industries was considered essential to protect consumers from firms abusing market power arising as a result of the natural monopoly. In many European countries such regulation took the form of State ownership with the natural monopoly extended into the upstream production and downstream supply markets thereby establishing vertically integrated public utility monopolies. In the United States, private ownership of such industries was the norm with the potential for abuse of market power, due to natural monopoly, being dealt with by regulation which traditionally involved fixing a maximum rate of return on capital for the industry.

Regulatory Shortcomings.

International experience over a long period of time shows that regulation is not a substitute for, and will not deliver the benefits that can accrue from competition. Regulators are heavily reliant on regulated firms for information. This allows regulated firms to manipulate regulatory decisions in their favour. The creation of vertically integrated monopolies further centralises information in the hands of the regulated firm thus exacerbating the problem. Based on this experience countries throughout the world have embarked on a programme of regulatory reform.

Problems with Liberalising Public Utility Industries.

Reforming public utility industries and introducing competition must address the potential for abuse of dominance due to:

- The network natural monopoly.
- The dominant position of the incumbent.

In the case of a vertically integrated incumbent, these problems are compounded.

A vertically integrated incumbent firm has obvious incentives to deny its rivals access to the natural monopoly network or to provide it on less favourable terms than those it applies to itself, thereby frustrating attempts to introduce competition. Consequently vertical separation of the natural monopoly elements from the potentially competitive segments can greatly simplify the task of regulating the natural monopoly.

Similarly the horizontal restructuring of incumbent firms may greatly reduce the need for sector specific regulation. Putting a competitive market structure in place is likely to produce greater benefits for customers than regulation on its own.

The Role of the Competition Authority.

Competition authorities have a potentially important role to play in the liberalisation process. Liberalisation requires significant industry restructuring. Such restructuring is likely to be opposed by potentially powerful incumbent firms and other government agencies such as finance ministries; in the latter case because the revenue from privatisation is likely to be greater if the incumbent is privatised as a monopoly. Of course the higher price merely reflects the fact that buyers expect to earn monopoly profits. While there may be some short-term benefit to the exchequer the cost of retaining a monopoly is borne by consumers.

Similarly the potential for regulatory capture makes it necessary for a competition authority to prevent the development of an inappropriate coalition between the regulator and the regulated firm. The development of competition is essential to ensure that public utility reforms deliver benefits to citizens and consumers. This reinforces the need for a strong independent competition authority that is prepared to take on strong vested interests and other government agencies.

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**POLICY AND REGULATION: KEY ASPECTS OF ENERGY MARKET REFORMS IN
TRANSITION ECONOMIES**

Introduction

The Balkan economies have suffered from devastating conflicts and extensive political instability. After years of economic recession and isolation, they face a major challenge of rebuilding and achieving successful market reforms. The success of infrastructure reforms is crucial for economic recovery. The energy sectors in the region are facing a similar situation to that of Central Europe at the end of the 1980's: high-energy intensity, low energy prices, vertically State-owned monopolies, low efficiency and high losses.

The transition process in the Central European energy sectors has taken the following reform path in the 1990's: design and adoption of national energy policy, institutional organisation, enforcement of the regulatory framework and restructuring of the energy companies. However, the Balkan countries have been engaged in short-term emergency and rehabilitation programmes without having yet established energy policy guidelines and institutional set-ups. This raises concerns about the coherence and sustainability of the reforms (risks of fragmentation).

The International Energy Agency (IEA) promotes efficient energy markets and energy efficiency. Since Central and Eastern European Countries (CEEC) have been engaged in transition towards a market economy, the IEA has developed a specific energy co-operation programme in the region. It aims at assisting the CEEC to achieve market-oriented long-term energy policy goals, and, in particular, a more efficient energy economy and increased energy security. The activities include energy policy reviews, the organisation of workshops, harmonisation of statistics and research activities (<http://www.iea.org/about/nmccee.htm>). This experience together with the know-how of IEA Central European countries (Hungary and Czech Republic), can be useful for policy makers of Southeast Europe.

Key Points of Energy Markets Reforms in Transition Economies

The IEA Energy Policy Surveys (*listed in the same web page*) indicated that some similarities exist between the energy situation in Southeast Europe (SEE) with Central and Eastern European Countries (CEEC) such as:

- Low operational availability and efficiency of energy sector (generation, transmission and distribution),
- High energy intensity at consumer level,
- Inadequate pricing (tariffs below cost, subsidies and cross subsidies) and insufficient billing collection,
- Disruptions of supply for technical and commercial reasons,
- Importance of:
 - coal in power and heat generation and
 - heat and electricity for households

- High environmental impacts of energy production and consumption and low safety standards.

In order to overcome the structural difficulties and implement an efficient and sustainable reform of the energy sector, the following priorities can be mentioned:

Energy policy definition and institutional organisation

- Adoption and implementation of a national energy policy supported by a strategy paper and a supply/demand forecast.
- Separation of government responsibilities: policy (ministry in charge of energy), regulation (independent regulatory agency), horizontal activities (energy efficiency, renewables, research), operation of energy service companies (independent energy companies) and ownership (“National Property Fund”).
- Co-ordination by the government of national and international initiatives.

Stable and efficient regulatory framework

- Enforcement of an “Energy Law”, which sets up the clear market rules licensing, pricing, control of services and transparent financial settlements. Regulation should be enforced by an independent regulator.
- Pricing: new tariff structure (price covering cost, metering and payment discipline). Objectives: rebalance energy demand and provide economic means to energy companies to cover operational and investment expenses for providing adequate services.
- Investment policy (investment of the companies and foreign direct investment).

Energy companies restructuring

- Adapt supply to effective demand: existing capacity should be sufficient and re-organised;
- Up-grade transmission, distribution networks and storage
- Implement the corporatisation (independent joint stock companies) and commercialisation (market orientation and customer orientated strategy) of energy companies towards economic sustainability.
- Demonopolisation: unbundling of monopolistic activities (transmission and distribution).
- Privatisation to strategic investors when conditions for competition met.

Increase Energy Security: diversify energy sources (including renewable sources), diversify import sources and routes, build-up oil and natural gas storage capacities and prepare energy demand restraint plans.

Enhance energy efficiency and environmental performance

- Develop and implement policies and programmes on rational use of energy on supply chain and demand side

- Develop an integrated environmental policy (pollution, greenhouse gases, waste management)

Transition issues

- Social protection for vulnerable groups.
- Ensure continuity of supply.

Develop a regional energy co-operation: essential for the balance of the electricity system and petroleum products market. Domestic market reforms are pre-requisite to reach viable markets and legal compatibility between energy systems.

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POLICY AND REGULATION IN TELECOMMUNICATIONS

In general, the EBRD participates in the telecommunications sector in three ways:

- ❑ The Legal Transition Programme: the EBRD's initiative to contribute to the improvement of the investment climate in the Bank's 27 countries of operations;
- ❑ Through participation in the privatisation process:
 - Pre Privatisation Loans;
 - Post Privatisation Loans;
 - Equity Holdings.
- ❑ Investments in private sector companies in the sector.

Objectives of Telecommunications Sector Policy

The principle objectives of sector policy should be to improve the quality, spread and type of telecommunications services, thereby satisfying demand, promoting economic development and ensuring a continuing contribution to the national budget. These services should satisfy the full range of consumer demand and be supplied under conditions of optimal efficiency. Objectives should fulfil two main criteria: social and economic. From an economic perspective, services should satisfy the full range of consumer demand and be supplied under conditions of optimal efficiency. From a social perspective, services should be made available to all on reasonable terms, whether or not it is profitable to do so.

Telecommunications sector policy is the responsibility of the Government and should be resolved in the interest of Bosnia and Herzegovina. It should be designed to define the parameters within which the telecommunications sector should operate and develop in Bosnia and Herzegovina over the next 3 to 5 years. The sector is expected to evolve from being state owned and regulated with a public monopoly of telecommunications services to the mid-term status of having an independent regulator established, with selected services opened to competition. In the long term, a competitive market should be established with competitive safeguards in place, together with the liberalisation of all telecommunications services.

Summary of EBRD Recommendations for Achieving Sector Objectives in Bosnia and Herzegovina

1. **Privatisation Policy must be implemented without delay:** The first initiative in this regard should be to liberalise the sector. Liberalisation creates positive incentives to improve services and lower tariffs. The second initiative should be to attract foreign investment to the sector and with it, improved management. This would be best achieved through privatisation of state owned operators, through sale of a controlling stake to a strategic foreign investor.

An essential ingredient for liberalisation and privatisation is a stable and predictable regulatory regime to encourage investors (strategic and otherwise) into the marketplace. An appropriate regulatory framework is necessary to guide the sector from gradually developing liberalisation to full competition. This will involve the imposition on operators of regulatory obligations that will address market failures and fulfil social policy, e.g. the regulation of tariffs in the absence of effective competition, obligations with respect to interconnection of networks and adoption of a universal service and access policy. Other pre-requisites would be an adequate legal framework and conditions for inward investment (this would also include corporate governance, corporate law, dividend repatriation, etc.) and a demonstrable ability to implement commercial practices for management, technical operation and financing of the company;

2. **The new framework for telecommunications law for Bosnia and Herzegovina should be enacted without delay:** The main purpose of this law is to reduce regulatory uncertainty by defining types of operations and facilities and to establish structure, role duties and powers of regulatory authority and a licensing regime, together with the rights and obligations of sector participants. Such substantive and procedural provisions are required to ensure public and investor confidence and maximise investment potential;
3. **Telecommunications sector legislation in both entities should be harmonised with that at state level:** The division of regulatory responsibilities between state and entity levels creates the need for co-ordination among the bodies concerned. In some cases, such as tariffs, interconnection and operating standards for basic telephone services, close co-ordination of policies between state and entities is required. While state level regulatory framework has been established and is now functioning successfully, little has been done on a formal basis at entity level to either promulgate state regulatory policy or facilitate the development of entity level policy and machinery that is both appropriate to their competencies and fully consistent with state policy;
4. **Corporatisation and commercialisation of the public operators:** The present structure appears to be based upon technical functions, which largely relate to a pre-digital era. Such a structure is hardly appropriate for today's commercial environment and, consequently, reorganisation, commercialisation and corporatisation of the public operators is essential elements in the run up to privatisation and further liberalisation. Without a fully transparent organisation and defined assets private investors cannot be attracted. Accordingly, reorganisation and corporatisation would place any potential investor in a better position to evaluate opportunities and is essential for an operator to compete effectively in a competitive and liberalised world;
5. **Implement tariff and tariff rebalancing policy without delay:** This is the key to both liberalisation and privatisation. Tariff rebalancing is the process of adapting the system of political and socially based pricing of public monopolist operators to a modern system of cost-oriented prices of competitive private operators. In a competitive market prices cannot deviate for long from the individual costs of providing a service to the customer, therefore tariff rebalancing reflects the cost development of modern technologies in telecommunications. The general trend is for the total cost for telecommunications services of a certain quality to go down. Usage of networks is becoming less costly than access to the network. Costs for international and long distance calls are falling faster than local calls. The difference in price is traditionally used to subsidise loss-making areas of the market (e.g. local calls subsidised by international calls) in the public monopolist model. However, unbalanced prices unsustainable in competitive environment. Therefore, it is important to return tariffs to a cost basis within a definite timetable, co-ordinated with other policies;
6. **A universal service objective and mechanism should be defined and implemented without delay:** Access to socially important services is a crucial political, social and economic issue. The present tariff structures in Bosnia and Herzegovina, whereby profitable international voice services are used to cross-subsidise loss making local voice services will no longer be sustainable in a liberalised market. A new policy approach is required to support access to socially important services. This approach should be aimed at encouraging network roll-out throughout Bosnia and Herzegovina, such that would enable access to basic telecommunications services at a reasonable price thereby reducing negative impacts on socially or geographically disadvantaged areas. The principal policy objectives in this respect are:
 - To permit full participation by all citizens in today's information society;
 - To promote national political, economic and cultural cohesion;
 - To facilitate economic development;
 - To eliminate disparity, perceived or otherwise, between urban and rural communities.

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PERSPECTIVES ON REGULATION IN TRANSPORT IN BOSNIA & HERZEGOVINA

Bosnia and Herzegovina covers a geographic area of 51,000 sq. kilometres and a population of 4.0 million people. It is served by a transport system comprised of (i) a network of roads covering some 3,800 kilometres of main roads and 4,800 kilometres of regional roads, in addition to local roads; (ii) 2 railways with over 1,000 kilometres of track, nearly 3/4 of which are electrified; (iii) 4 major airports at Sarajevo, Banja Luka, Mostar and Tuzla; and (iv) a water system along the Sava River with ports at Brcko and Samac and also the Port of Ploce on the Adriatic Sea, which is operated in agreement with Croatia.

Under the current conditions, the objective of the transport sector is to renew the infrastructure, and close to \$400 million US have been spent in the first five years after the war, but much still remains to be done in all sectors. Safety is a major priority, especially on roads, where BiH has a safety record amongst East European countries that is second to last only before Albania. Increased environmental protection is a growing concern throughout Europe, and European integration is now dominating much of the economic and political agenda.

This requires implementation of EU standards for everything including transport. Here, the two objectives above, safety and environmental protection, take on even greater importance because equipment will not be allowed to enter other EU countries unless it can demonstrate that it is safe and environmentally fit. Finally, privatisation is not a major objective in the same way that it would be in telecommunications or electricity where re-structuring involves large-scale privatisation. In road transport, there are some small firms requiring privatisation. In the rail sector, there are no immediate thoughts of privatising.

Regulation is designed to support the working of the market. In this sense, it should be clearly understood that all markets are man-made and require guidance in terms of rules of operation. There are many factors to consider. In transportation, for example, licensing in the hands of a competent regulator controls entry and provides approvals of schedules, professional competence of drivers as well as certain requirements regarding the financial abilities of the operator to run a safe and viable company. Regulation may impose certain public service obligations on carriers such as providing service in areas with low populations or in off peak periods, which may not be profitable. It also provides pricing approvals in the absence of competition to prevent abuse of monopoly power. It will enforce high maintenance and safety standards including limits on hours of work for drivers, vehicle weights and dimensions, etc., and regulation also enforces consistent inspection and enforcement procedures where all carriers are treated the same.

The benefits of introducing a regulatory process are numerous. It provides an independent quasi-judicial body, which can make impartial decisions by professional experts. It increases administrative efficiency and reduces costs. Why? Because courts are too costly and the current court system in BiH is over loaded with property and other cases. Regulation will provide standardised inspection and enforcement, which is badly needed to remove entity bias, where inspectors penalise operators coming from other areas. As a result of a better inspection and enforcement process there will be increases in maintenance and safety levels to comply with increased standards. Finally, the process removes ministers from being directly involved in licensing and enforcement issues. Such matters are tedious and time-consuming and usually politically linked, which takes away fairness and keeps competition, efficiency and safety at the forefront of what drives the market.

It is clear that transportation today is becoming increasingly complex; in fact too complex for the small independent operator. With increased trade between countries in Europe and Eastern Europe, transportation is becoming increasingly international in scope requiring an even greater degree of sophistication in terms of complying with more stringent regulations and customs requirements. This affects particularly road and rail transport and EU requirements in these modes.

Changes to the regulatory framework will present even greater challenges for the transport sector in BiH. Such issues as (i) separation of infrastructure from operations in rail transport will allow freedom of movement and increased competition; (ii) liberalising cabotage in road transport whereby carriers will be able to carry passengers and cargo within the borders of other countries; or (iii) multi-lateralising truck and bus licences throughout all ECMT countries. These will all present a whole new world of operating challenges and requirements for new rules and regulations.

What can regulation do to address all of this? Some of the benefits have already been identified:

- For consumers of transport services, regulation will
 - improve efficiency,
 - increase competition, and
 - ensure higher levels of service within a single economic space.
- For operators, who stand to gain the most, regulation will:
 - provide a harmonised regulatory process, which is fair and free of political motivation,
 - increase profitability, which will make it easier to get financing to invest in things like fleet renewal and expansion, and
 - improve access to international licences due to improved maintenance and safety standards.
- And for governments, regulation will
 - increase efficiency and reduce costs,
 - reduce crime and corruption and here governments' greatest allied will be the carriers themselves because they want everyone competing on a level playing field, and

shift ministers time away from dealing with minor issues so they can concentrate on more important policy matters.

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THE GREEK EXPERIENCE IN NETWORKS PRIVATISATION

Structural reforms started in Greece in the early 1990s, stimulated by the need to comply with EU regulations and the EMU criteria. Structural reforms have been most visible with regard to privatisation, and privatisation is considered to be one of the main pillars of structural reform that enables an economy to modernise and to grow.

The Greek privatisation programme was undertaken to reduce the dominant role of the government in the economy. Privatisation in Greece started in the early 1990s and has required considerable planning effort and determination. Several institutions had to be transformed into public companies with shares. Furthermore, social security and pension arrangements had to be made and considerable restructuring was implemented. There was considerable reluctance and opposition of state agencies to relinquish control of the companies they controlled and strong opposition by workers.

The Greek privatisation process faced three categories of state-owned enterprises (SOEs):

1. **Privatisation of public enterprises belonging to the business sector.** I.e. the restructuring of “ailing firms” or “problematic firms”(almost 100), that were gathered in the Industrial Reconstruction Organisation (IRO). These companies had huge debts to the state-controlled banks, which led to the de-facto nationalisation of them, and were not allowed to close due to a policy of preserving jobs. The total amount raised by selling the IRO enterprises was \$196.2 million US, which is equal to 1.5 % of the total privatisation revenues raised for the period 1992-2000.
2. **The sale of enterprises owned by State- controlled Banks and the banks themselves.** Before 1987, State-controlled banks dominated the banking sector. Privatisation of public banks, mergers and entry of new banks have enhanced competition and, as a consequence, the volume of financial services has increased, prices (fees) have declined, and profitability and salaries of skilled personnel have increased rapidly. The revenues raised were equal to \$4032 million US or equal to 31.8% of the total proceedings from privatisation for the period 1992-2000.
3. **The privatisation of public enterprises/public utilities.** Inadequate management in Greek public enterprises, inflexible labour agreements, high labour costs, and lags in modernisation have resulted in performance that has induced significant product market distortions and has burdened the cost of operation of other sectors. So, the Greek government has decided to restructure most of them and to sell to the private sector, as described underneath.

Sectors that have been privatised:

a. Telecommunication sector

In the telecommunications sector reforms started in the early 1990s. Since 1992 OTE (fixed telephony) has faced stiff competition from the private GSM mobile telephone operators (Panafon, Telestet and recently COSMOTE), which has led to considerable improvement of services and decline in prices. OTE has currently almost 49% private share ownership and it has raised revenues equal to \$4380 million US for the period 1992-2000 or 35.1% of the total amount of money raised from Greek privatisation for the same period.

b. Energy sector

The energy sector consists of the electricity market in which only one enterprise, the Public Power Corporation (PPC-DEH) still operates (is already privatised by 10% through ASE), and the oil and gas market where two public enterprises are operating, the Hellenic Petroleum Enterprise (ELPE) and the natural gas enterprise (DEPA), in which ELPE holds a stake of 35% and the rests belongs to the state.

- The electricity market has now entered a phase of deregulation, since February 2001, (the market has to be fully deregulated by the year 2005), according to the EU's directive 96/92/EC.
- The oil and gas market consists of three refineries, but the Hellenic Petroleum Enterprise (ELPE), which is partly owned by the state, dominates the market. ELPE core business is the refining of crude oil, marketing and trading of refined petroleum products, and the production and marketing of petrochemicals. ELPE is already partly privatised (42%) through ASE. The share of the State in ELPE is now only 57.9% with the rest belonging to retail and institutional investors. The public Natural Gas Corporation (DEPA) is almost a SOE in which the state holds 65% of its share and the rest belongs to ELPE.

c. Water services.

Athens Water and Sewage Company (EYDAP) was partially privatised in December 1999 by a listing of 30% of its shares on the Athens Stock Exchange. Regarding the Sallonica water and sewage company partial privatisation took place in the autumn of 2001.

d. Other entities/organisations that have been privatised

- **Hellenic Vehicle Industry (ELVO).** ELVO manufactures jeeps, buses and armoured personnel carriers for the Greek Army. Last year, a domestic consortium consisting of the metals-trading group Mytilineos bid to acquire 43% of the company.
- **The Stock Exchange (ASE).** The Greek State has an equity stake of 48.3% in ASE share capital, while the rest is owned by companies listed on the ASE, brokerage firms and institutional investors, such as banks, pension funds, mutual funds and insurance companies. The Greek state, as the majority holder, has agreed to list the company's shares on ASE in the coming years.
- **Duty Free Shops (DFS).** Today, 67% of the shares of DFS has been transferred to the Agricultural Bank of Greece.
- **COSMOTE.** A 15% stake in OTE's mobile subsidiary was floated on the Athens Stock Exchange raising GRD 156 million.

Results of privatisation:

(a) Revenues raised

The total money raised from privatisation during the period 1992-2000 has reached the level of GRD 3.6 trillion (\$12 663,14 million US) or 9,1% of 2000 GDP. These revenue were used mainly to retire government debt, or to fund adjustment policies for employees where necessary.

Price reduction and growth increases

It was found that the potential cumulative (direct and indirect) national income gains from restructuring the main public enterprises and introducing competition in the market where they operate could be of the order of 5-7 percent of GDP. The total effect could possibly be as high as 10 percent of GDP, if the impacts of higher quality products and improvements in the budget balance were taken into account. On the other hand, a more efficient public enterprise performance could have a downward impact on the aggregate price level - one percentage point off the CPI price level.

Employment and salaries results

In some sectors there was a reduction in the employment during the period of restructuring. However, the entry of a variety of private companies to different sectors (telecom, electricity and financial services) has enhanced overall employment. We must point out that the Greek government in some cases of privatisation has been addressing labour issues to privatisation candidates, with the purpose to keep employment stable for some time. On the other hand, because competition has increased in the innovation enterprises, salaries for skilled personnel have increased rapidly.

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