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Global Forum on Competition

ROUNDTABLE ON BRINGING COMPETITION INTO REGULATED SECTORS

Contribution from Indonesia

-- Session I --

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**BRINGING COMPETITION INTO REGULATED SECTORS:
INDONESIAN EXPERIENCE IN PREPARING FRAMEWORK FOR COMPETITION
IN THE TELECOMMUNICATION SECTOR**

1. Background

1. The development of telecommunication sector before 1995 was monopolized by government. The reason of that was because the telecommunication sector is one of the public utilities that deal with public welfare and the government was therefore obliged to fully provide this service. Through its company, PT. Telkom and PT. Indosat, the government monopolized all business activities in telecommunication sectors. Since the monopolisation was proved to be very not efficient the sector was then restructured gradually.

2. The milestone to competition:

- 8 Sept 1999: Law. 36 of 1999 ordered the competition to be implemented in telecommunication sector;
- 28 Jul 2000: the government, PT Telkom and Indosat agreed on the termination of Monopoly;
- 31 Juli 2002: the government agreed to terminate its exclusive right as provider;
- 30 maret 2004: the announcement of Ministrial of Post and Telecommunication's Decree No. 2 of 2004 on the implementation of restructuring of telecommunication.

3. Consequent with WTO agreement, Indonesia also supports the transition from monopoly to competition and adopted WTO reference paper on Basic Telecommunications Services as one of the guidelines in implementing competition. The main competition elements of the WTO reference paper are:

- The establishment of an Independent Regulator;
- Non discriminatory, cost-based interconnection;
- The establishment of competitive safeguards;
- The creation of a transparent regulatory process.

4. The competition in the telecommunication sector is regulated by Law No. 36 of 1999 on Telecommunication. The law orders the competition to be implemented and regulates:

- The telecommunication providers;
- The termination of monopolisation and grant compensation;
- The competition in the telecommunication sector;
- Handing over some of the power of ministry to BRTI (Sectoral Regulator);

- Interconnection;
- USO.

5. The 1999 Blue Print of Telecommunication started introducing the competition in the telecommunication sector. The Blue Print explained about the termination of exclusive rights of PT. Telkom and PT. Indosat, the calculation of compensation for the termination, the establishment of independent Regulatory Body for Telecommunication (BRTI), Regulation on Universal Service Obligation (USO), cost based interconnection, modern licensing, Frequency Spectrum arrangement.

6. The restructuring process of telecommunication sector was conducted by repositioning the telecommunications operators. The process included 3 (three) main reforms as the following:

- Diminishing all forms of monopolisation by stimulating competition;
- Abolishing discrimination and restriction for big and private company to carry out their business in telecommunication sector;
- Repositioning government role as a regulator and separated from operator.

2. Transition from Monopoly to Competition

7. In the transition period, Indonesia prepared some key items for competition:

- Establishing an independent telecommunications regulator;
- Implementing transparency in the regulatory and legal process;
- Imposing dominant service provider safeguards;
- Providing cost-based interconnection;
- Imposing non discrimination requirements;
- Establishing clear and strong regulatory and judicial enforcement mechanism;
- Imposing a fair tariff regime and process;
- Providing access to scarce resources;
- Creating a neutral funding mechanism to ensure universal service;

8. Besides, the implementation of competition was planned as follows:

The termination of exclusive rights that covered:

- The calculation of compensation by independent appraiser.
- PT. Telkom was licensed for operating International Direct Network.

- PT. Indosat was licensed for operating Long Distance and Local Network.
- Commitment to increase national teledensity.
- Arrangement of frequency spectrum for Fixed Wireless Access (FWA).
- Refrain from cross ownership in the telecommunication providers.

9. Preparation for competition through Full Fixed Network Providers that required:

- Effective regulation (e.g. competitive safeguards, interconnection, access code, numbering).
- Commitment to increase teledensity of fixed lines telephony that included in the license.
- Competitive Safeguards, that covered:
 - Open access to networks of incumbent operators.
 - Rights of new entrants to use network of the incumbent operators.
- Smooth step by step transition process of technical matters.
- Transparent and cost based tariff calculation of Interconnections.

3. Principles Guiding Pro-Competitive Regulatory and Structural Reform and Government's Actions to Prepare Competition

10. Indonesia has also adopted pro-competitive principles in accordance with Cancun Declaration, that include:

- Obligation for major supplier to provide technical matters, such as network and points of interconnection.
- Transparency and non-discriminatory.
- Obligation for major supplier to provide interconnection with reasonable tariff.
- Good faith and effective handling time.
- Interconnection based on cost oriented rates.
- Prevent anticompetitive practices.
- Publications of interconnection by market dominating company.
- Obligation of infrastructure sharing for interconnection.
- Rule of dispute resolution.

11. In order to face competition, government has taken steps to ensure that restructuring process is on the track:

- BRTI has to be strengthened by giving the high legal status.
- Duopoly policy (monopoly shared by PT. Telkom and PTIndosat) is discontinued.
- The issuance of unifying license, fixed and mobile services.
- Clarification on who network and service providers are.
- Comprehensive and effective competitive safeguards in order to implement rule of the games of business in the telecommunication sector.
- Cost based interconnection must be provided by all providers Interconnection with technical criteria.
- Master plan of frequency spectrum that can drive to efficient and optimal spectrum frequency utilisation.
- Effective law enforcement.

4. Problems and Challenges in Competition Transition Process

12. Problems in competition process:

- Most of the telecommunication market had been opened, only the fixed service voice telephony is still monopolized.
- Certain services (mobile) market is still dominated by PT. Telkom and PT. Indosat through cross ownership.
- Duopoly of PT. Telkom and PT. Indosat for fixed services is not comparable market is still dominated by incumbent.
- PT. Telkom and PT Indosat shift their main business and focus more in the quick yielding business e.g. mobile and multi media.
- Investment in fixed access is not appropriate compare to investment in other service established services, such as in long distance network, mobile, and value added services.

13. Some cases in duopoly of PT. Telkom and PT. Indosat:

- Interconnections.
- Access blocking to new entrants.
- Different treatment in access code (issue reselection).
- Discrimination in providing network for new entrants and other providers.
- Role of regulator as dispute settlement.
- In effective competitive safeguards, anticompetitive cross-subsidy.

14. From the cases mentioned above, interconnection was the central issues in competition transition period since it is related to technical and commercial aspects, such as agreements, points of interconnection, access, interfacing arrangement, forecasting and planning traffic capacity, maintenance, numbering and data routing, payment, dispute handling liabilities issues.