Regulatory Frameworks in OECD countries and their Relevance for India

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This Presentation:

• OECD Programme on Regulatory Reform
• The regulatory frameworks in OECD countries
• Relevance for India
OECD Regulatory Reform Reviews

- OECD has carried Regulatory Reform Reviews of 26 OECD countries and Brazil, China and Russia.
- Based on the OECD’s methodology of comparative analysis and peer review.
- Underpinned by OECD principles (2005)

OECD Regulatory Reform Review

The reviews cover three core themes

1. better regulation
2. market openness
3. competition policy

Multi-level governance is newly emerging theme (Sweden, Italy & Australia)

The sector focus has covered a number of infrastructure sectors including telecoms, transport, energy, water, postal services and others
The regulatory framework in OECD countries

The overall regulatory framework for public services can be defined to include three distinct but closely related elements:

• regulatory rules
• regulatory bodies
• regulatory processes

Regulatory Rules

• **Controlling market entry** (New policies and regulations that expanded opportunities for more competitive delivery of infrastructure services.)

• **Controlling prices** (Given the problems associated with traditional pricing approaches, a number of OECD countries have relaxed intensive price regulation and relied more heavily on competitive disciplines imposed by new market participants.)

• **Controlling quality** (For many OECD countries, expanding the role of competition has changed the role of quality regulation and required a more dynamic, output focused approach.)
A key institution of regulatory policy is the independent regulatory agency. (Independent regulators exist at the interface between policy formulation, which remains the remit of the executive, and the enforcement of the regulations which are delegated to them.)

Defining the respective roles of the regulators and the executive raises a number of political and institutional considerations (Balance the risk of creating “governments in miniature” and how to insure a measure of independence from the political process.)

Regulatory agencies operation at arm’s length from the government encompass a wide range of institutional settings.

Four distinct groups:
1. Ministerial departments
2. Ministerial agencies
3. Independent advisory bodies
4. Independent regulatory bodies
Regulatory Bodies

• Creating independence between the regulator and the government raise a number of practical design issues.
  1. Governance structure of the agency
  2. Transparency of procedures and guarantees for due process
  3. Selection and nomination process
  4. Financing of the agency

Regulatory Processes

• OECD countries have designed a number of regulatory processes in order to better engage stakeholders. (Countries have developed diverse approaches including regulatory impact analysis, formal regulatory hearings, specialist consultative or advisory committees, as well as a range of less formal approaches.)

• A key feature of all modern approaches is transparency. (How to ensure accountability, to provide assurance to stakeholders, and to increase the predictability and perceived fairness of decisions.)
Regulatory Frameworks – General Observations

• High degree of heterogeneity across countries and sectors (A highly complex environment need to be factored into account in the design of the regulatory framework)

• Many sectors make use of competition (common in telecoms and energy-generation, rarer & weaker in water, mostly traditional regulatory structures in public transport and with PPPs having mixed results in OECD practices)

Regulatory Frameworks – General Observations

• A focus on regulatory governance is supplanting regulatory management (Shift follows from the recognition that optimal social outcomes depend on the collaborative actions of private institutions as well as government agencies)

• Importance of communicating benefits of reform is too often overlooked (Need to recognise that reforms with diffuse social benefits will receive little support but will be opposed strongly by interest groups that stand to lose.)
The Relevance of OECD practices for India

• The success of policy depends on how well it is adapted to the particular environment. (To what degree is the experience of OECD countries of relevance to Indian reforms?)

• There are four areas where the implementing environment is considerably different between OECD countries and India. (Do these differences limit the application of OECD lessons and practices pertaining to regulatory reform?)

The Relevance of OECD practices for India

• The Access Priority (The effectiveness of the regulatory framework will have to be tested against the goal of expanding access to services, rather than just improving its quality.)

• Affordability Constraints (Any framework to improve services in India will have to place particular emphasis on affordability concerns.)

• Administrative and Regulatory Capacity (Regulatory state model, especially at state level, may be limited because of institutional capacity constraints.)

• Economic and Regulatory Risk (India institutional and regulatory environment is still developing which may create uncertainty for long-term infrastructure investment.)
Putting OECD Practices to Use

• The India government will need to carefully consider reform experiences in OECD countries before drawing lessons. (Evaluating current framework and assessing what works and what doesn’t; ‘fill gaps’ vs. comprehensive reforms)

• Changing traditional ways of doing things is never easy. (To weather the inevitable resistance to change, the Indian governments will need a strong commitment to improving outcomes for public service delivery.)