

Seeing through transformation: an Indian philosophy of transparency

With ICT-driven transformation posing **unprecedented challenges** to the role, reach and even the relevance of authorities around the world, new approaches to industry regulation are urgently required. As **Sudhir Gupta**, Secretary of the Telecom Regulatory Authority of India, explains in this exclusive opinion piece, **a radical commitment to transparency** might just be the answer.

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► **AT THE** Telecom Regulatory Authority of India (TRAI), we are often asked for our views on the role of regulators in the ICT ecosystem. This is a more complex question than it might first appear, since every regulator has different priorities based on national objectives and the situation on the ground. But our response is always the same – as far as the TRAI is concerned, we see our principal responsibility as supporting the telecoms ecosystem by balancing the interests of two main stakeholders, namely consumers and operators. And in our view, maintaining a level playing field amongst operators and always keeping in mind the interests of consumers, while ensuring what might be seen elsewhere as a remarkable level of transparency, is the best way – and perhaps the only way – to make it happen.

PROTECTING THE CONSUMER

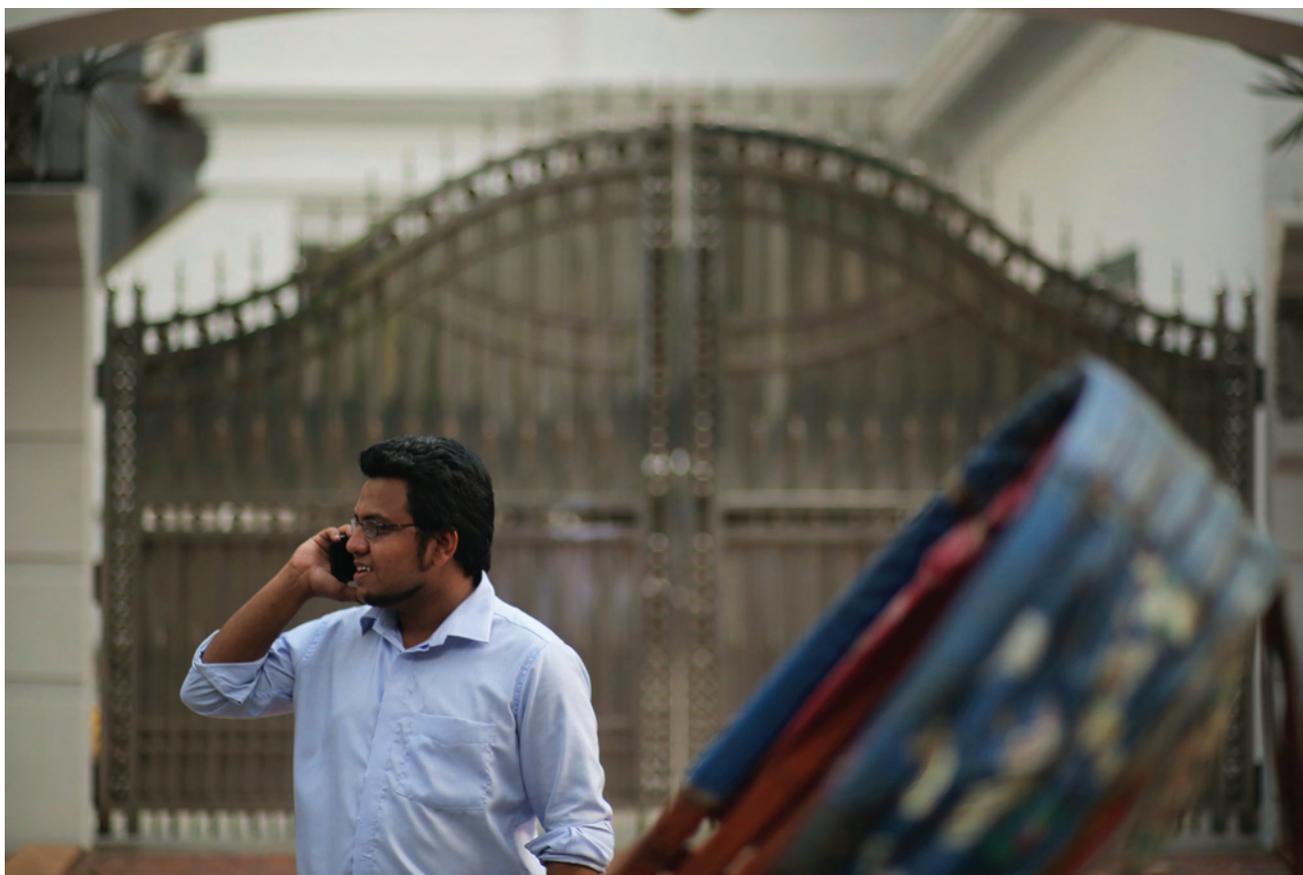
But let's start with the first of our main stakeholders. Consumers are the lifeblood of the telecoms ecosystem in every country, and at the TRAI, we believe regulators have an absolute responsibility to work for their interests. In India, the majority of consumers are still first-time telecoms customers, since the number of connections was very low until affordable mobile phones became available to the masses. It is vital for the long-term future of everyone in

the telecoms business – and naturally an ethical imperative too – that these consumers are not exploited and that their rights are always respected and protected.

This is why the TRAI has dedicated a great deal of effort over the past 10 years to developing robust regulatory frameworks for quality of service and consumer protection. In fact, in certain respects I would say India is now ahead of some of the developed markets in this respect. When I joined the TRAI in 2003, we did not have a quality of service division. This was hardly a unique situation – I remember trying to identify some international best practices in this area that we could consider adopting, and I could barely find anything at all. At that time, most countries still treated mobile as a value-added service, and any quality of service regulations were related to fixed lines. So we had to build an effective quality of service regime for mobile pretty much from scratch. We did this by studying the various parameters that are important from the consumer point of view to ensure good quality of service and user experience, and by holding wide consultations with all stakeholders, before issuing regulations for compliance to the operators.

After quality of service requirements were imposed, networks started getting more effi-





cient and quality of service improved. Consumers are more satisfied, and this has also resulted in investment into the networks. In other words, both consumer and industry have benefited.

When it comes to consumer protection, the TRAI has introduced a number of regulations that we feel have had a positive impact. As well as addressing areas such as tariffs and subscriptions, we have focused on reducing the volume of spam communications that consumers in India receive. Today, there is an effective system in place that has dramatically brought down the number of such calls and messages, and we are currently talking to other regulators who are very interested in replicating this approach. We have also been at the forefront of driving the introduction of mobile number portability, which is particularly important for subscribers in a market like India where switching between operators is relatively common.

We also organize regular open-house meetings around the country where consumers can air their grievances or concerns. These events are sometimes very intense, but with the mobile phone now such an important part of everyday life for so many people in India, we feel it is very important that consumers have an opportunity to express their views. As the regulator for the sector, we need to understand their

grievances and identify areas where more work is required.

A LEVEL PLAYING FIELD FOR OPERATORS

That is how we see the consumer side of the equation. When it comes to operators, we strive to create an ecosystem in which they have the possibility to get an adequate return on their investments. Unless operators make an adequate profit, there will be no further investment in the networks – and if that happens, good quality of service and consumer satisfaction will become rarer commodities.

We go about this by working to ensure a level playing field for everyone. If there are market disparities between the operators, then we act. We believe that if there is a level playing field and fair competition amongst the operators, market forces will usually do the rest. However, creating this platform is not a one-time action, but an ongoing process in which the regulator continuously monitors, balances, and if necessary, intervenes. We want operators to be healthy and capable of making money, but we are always prepared to step in when wider interests are at stake. As a regulator, we are responsible for the ecosystem as a whole, not the balance sheet of any individual operator.

Since the establishment of the TRAI in 1997, we have worked very hard to establish strong relationships based on full transparency and open-

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ness with India's operators. And I think that, by and large, we have been successful in this respect. There is today a mutual respect between the regulator and the operators – even if this is not the same thing as complete agreement on all questions – and I see this as the result of a very clearly defined decision-making process that we have put in place over the course of our existence.

TRANSPARENCY AS A HALLMARK

The decision-making process at the TRAI works as follows. We first produce a consultation paper presenting the issue at hand, together with the international best practices if they are available, and publish it on our website. A press release is issued and we invite operators, industry stakeholders and consumers to respond. After a month or so, we publish a summary of the responses and then, depending on the gravity of the issue, we hold an open-house discussion where we again review the issues identified in the consultation paper and collect more input. Only then do we take a decision or make a recommendation. In the latter case it is sent to the Government, and if the matter is under our jurisdiction then we issue our directions or regulations and put everything on the website within a few hours.

Transparency is, in short, the TRAI's hallmark. In fact, every letter we issue, whether it goes to the Government or somewhere else, is immediately made publicly available.

Compared to some other regulators, this approach is quite radical in its openness and transparency. But it is my firm conviction that such a process not only significantly reduces the likelihood of a regulator taking a wrong decision, but also strengthens the overall ecosystem. In any business environment, there is a need for consistency – if you want someone to invest in a sector, you cannot say one thing today and then something else tomorrow. We had an unfortunate recent example of this happening in India, where certain licenses were issued in 2008, and the Honourable Supreme Court subsequently ordered them to be cancelled. Some operators lost substantial amounts of money and there was prolonged uncertainty throughout the industry as a result.

I believe that the TRAI's focus on transparency has played a key role in rebuilding trust and getting things back on track over the past few years, since operators understand what we are thinking at all times and know that there will be no surprises from the regulator. As a result, we have contributed to making the Indian telecoms sector a less arbitrary and more predictable area to do business.

My opinion is that this approach has enabled the TRAI to be more influential than might perhaps be expected from an Authority in our situation. We have only around 200 staff members,

which is an extremely small number for any regulator, let alone one responsible for a market of 1.27 billion people. We are a statutory body responsible to the Parliament and completely independent from the Government; while this is very important in terms of ensuring impartiality, it also makes our role largely recommendatory. We have full jurisdiction in just three areas – quality of service, interconnection and tariffs – and we have no direct powers of licensing or spectrum allocation. We do not have any powers to penalize operators who fail to follow the rules. And yet, as I have explained, we have managed to play a major role in driving some of the most positive developments in the Indian telecoms ecosystem in recent years, whether they concern consumers or operators.

AN END TO SILOS

Of course, our work is by no means finished. In fact, with both the Indian and global telecoms markets evolving so fast, you could say that it is just getting started.

On a national level, there are some ambitious projects underway which will dramatically increase coverage in rural areas. The TRAI is a key stakeholder in these projects, and is working closely with the other parties involved. Our position is that operators should have more stringent rollout obligations, and we have made several recommendations to this effect.

Perhaps even more significantly, we are also involved in resolving the critical problem of spectrum shortage for commercial operations in the country. Spectrum availability is, of course, a very live issue for regulators in almost every jurisdiction, but it is particularly acute in India for a number of reasons – some are inter-departmental issues, while others relate to the simple fact that India does not have a developed wireline infrastructure, meaning that broadband must nearly always be delivered wirelessly. We have recommended that more spectrum should be made available and that the spectrum bands should be internationally harmonized, and making this happen will be a key focus for the Authority in the coming years.

At the same time, my opinion is that our work and focus as a regulator is changing in a major way. With increased blurring of geographical boundaries as far as ICT is concerned, the solutions to some issues may require us to be in sync with what is being done internationally. This development is not unique to the TRAI, but will encompass regulators in every market. The driving force here is the increasing gap between national regulations and rules on the one hand, and global OTT providers and cross-border data flows on the other. More collaboration, consultation and coordination will be necessary if we are to remain an effective force in the industry, even if responses should still be tailored to local realities. I truly believe that

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rigid regulatory silos make little sense in a virtual world, and it is vital that regulators understand this – when boundaries are blurring, our thinking has to become sharper than ever.

SEEING THROUGH TRANSFORMATION

At the TRAI, we're ready to meet these new challenges. Change is part of our DNA – since 1997 we've gone through at least three distinct phases as a regulator. Between our establishment and 2003 our role was to put a basic regulatory framework in place as the telecoms market was opening up to the private sector. From 2003 to 2009 we focused on increasing mobile penetration, and from 2009 onward the priority has been data growth and ensuring quality of service and availability of spectrum for wireless services.

The next stage in our journey will be about the digital revolution that is increasingly disrupting business and society everywhere, both in India and across the globe. Of course, the TRAI is no better than anyone else at predicting the future. However, whatever direction the industry takes, our clear philosophy as a regulator – embodied in our dual responsibility to consumers and operators, and our steadfast commitment to a level playing field and full, uncompromising transparency – will remain. No matter how fast the ICT landscape changes, some values always endure. ●

ABOUT THE AUTHOR



► **SHRI SUDHIR GUPTA** is Secretary at the Telecom Regulatory Authority of India (TRAI). He currently focuses on issues relating to license conditions of mobile operators and spectrum management for 2G, 3G and LTE, along with broadband wireless access, spectrum refarming and liberalization. Active in the telecoms sector since 1982, Mr. Gupta has also worked as an International Telecommunication Union expert in Sri Lanka and Nepal regarding quality of service and licensing framework issues respectively. Before joining the TRAI, he held various positions in the Department of Telecommunication in the fields of cable construction, installation and maintenance of exchanges, planning and networking.