Strategies for Implementing a Converged Regulator in Indonesia

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Faculty of Informatics
University of Wollongong (UOW)
<table>
<thead>
<tr>
<th></th>
<th>OUTLINE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>INTRODUCTION</td>
</tr>
<tr>
<td>2</td>
<td>THE CREATION OF CONVERGED REGULATOR</td>
</tr>
<tr>
<td>3</td>
<td>STATE OF PLAY IN INDONESIA</td>
</tr>
<tr>
<td>4</td>
<td>METHODOLOGY</td>
</tr>
<tr>
<td>5</td>
<td>ANALYTICAL FRAMEWORK</td>
</tr>
<tr>
<td>6</td>
<td>FINDINGS</td>
</tr>
<tr>
<td>7</td>
<td>DISCUSSION AND CONCLUSIONS</td>
</tr>
</tbody>
</table>
to provide strategies for the Indonesian government to address the issue of convergence as well as to provide a clearer understanding of the issues that will influence policy-makers in their deliberations.

Convergence refers to a trend in regulation that seeks to define a single regulatory structure for telecommunications, broadcasting and information technology (infoDev & ITU, 2006).

The three selected countries namely Malaysia, The UK, and South Africa has been chosen because they were among the first to restructure their regulatory agencies towards a converged regulator in different ways.

Key members of the MCIT (the Ministry of Communication and Information Technology), the BRTI (the Indonesian Telecommunication Regulatory Body), and the KPI (the Indonesian Broadcasting Commission) provided the possibilities of the creation of converged regulator.
The Creation of Converged Regulator

1. MULTIPLE REGULATORY BODIES
   - regulatory arbitrage, the likelihood of political conflict

2. INCONSISTENCIES IN REGULATION
   - the requirements of two regulators

3. UNCERTAINTY IN THE MARKET
   - a regulatory vacuum

* THE CREATION OF CONVERGED REGULATOR
   - removes overlapping regulatory functions, transactional and administrative costs and improving the efficiency in the regulatory structure
State of Play in Indonesia

- Regulatory and Supervisory Organization
  - MCIT: Ministerial Government Department
    - Policy Maker in Telecommunications and Broadcasting
  - BRTI: With Ministry Oversight
    - Regulator in Telecoms
  - KPI: With Legislative Oversight
    - Regulator in Broadcasting

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to define relevant countries for comparison with current practice in Indonesia with the view to identify areas for improvement
to address the question of Indonesia’s move to a converged regulator with regard to the level of independence and the institutional design approaches to address convergence.
to seek responses about the potential benefits and disadvantages of these different approaches to convergence.
Analytical Framework

1. Level of Independence
   - Structural Independence
   - Financial Independence
   - Functionality

2. Institutional Design
   - Single-Sector Regulator
   - Converged Regulator
   - Multi-Sector Regulators
   - No Specific Regulatory Body
Table 1: Regulatory Organisation in the three countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Regulator</th>
<th>Regulatory Model</th>
</tr>
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<tbody>
<tr>
<td>Malaysia</td>
<td>MCMC</td>
<td>Separate Regulatory Body within the Ministry</td>
</tr>
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<td>The UK</td>
<td>OFCOM</td>
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</tr>
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<td>South Africa</td>
<td>ICASA</td>
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Table 2: Regulatory Organisation in Indonesia

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## Findings – Benchmarking Results

### Table 3: Funding sources and reporting structure of regulators

<table>
<thead>
<tr>
<th>Country</th>
<th>Regulator</th>
<th>Sources</th>
<th>The Approval of the Budget</th>
<th>Reports to</th>
</tr>
</thead>
<tbody>
<tr>
<td>Malaysia</td>
<td>MCMC</td>
<td>Regulatory Fees</td>
<td>The Sector Minister</td>
<td>Ministry</td>
</tr>
<tr>
<td>The UK</td>
<td>OFCOM</td>
<td>Regulatory Fees and appropriations</td>
<td>OFCOM Board</td>
<td>Secretary of State and Legislature</td>
</tr>
<tr>
<td>South Africa</td>
<td>ICASA</td>
<td>Appropriation</td>
<td>The Sector Minister</td>
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</thead>
<tbody>
<tr>
<td>BRTI</td>
<td>Appropriation</td>
<td>The Sector Minister</td>
<td>Ministry</td>
</tr>
<tr>
<td>KPI</td>
<td>Appropriation</td>
<td>The Central Legislature (DPR) for the Central KPI</td>
<td>Legislature</td>
</tr>
</tbody>
</table>
## Findings – Benchmarking Results

### Table 5: Functionality of the regulatory body

<table>
<thead>
<tr>
<th>Country</th>
<th>Regulator</th>
<th>Policy maker</th>
<th>Autonomy of its decision making</th>
<th>Appointed by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Malaysia</td>
<td>MCMC</td>
<td>Ministry of Energy, Communications &amp; Multimedia</td>
<td>Yes</td>
<td>The Minister</td>
</tr>
<tr>
<td>The UK</td>
<td>OFCOM</td>
<td>OFCOM Board*[1]</td>
<td>Yes</td>
<td>The Secretaries of State</td>
</tr>
<tr>
<td>South Africa</td>
<td>ICASA</td>
<td>Ministry of Communications</td>
<td>Yes*</td>
<td>The Minister</td>
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*The Ofcom Board provides strategic direction for Ofcom and ICASA has autonomy in its decision making after amendment to ICASA Act*

### Table 6: Functionality of the regulatory body in Indonesia

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<tr>
<td>BRTI</td>
<td>MCIT</td>
<td>No</td>
<td>The Minister</td>
</tr>
<tr>
<td>KPI</td>
<td>MCIT</td>
<td>Yes</td>
<td>President that is recommended by Central Legislature</td>
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</table>
# Findings – Benchmarking Results

Table 7: Institutional Design of regulator in the three countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Telecommunications</th>
<th>Broadcasting Carriage regulation</th>
<th>Broadcasting Spectrum allocation</th>
<th>Content</th>
<th>IT</th>
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Table 8: Institutional Design of regulator in Indonesia

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<tbody>
<tr>
<td>Indonesia</td>
<td>BRTI</td>
<td>KPI</td>
<td>BRTI</td>
<td>KPI</td>
<td>N/A</td>
</tr>
</tbody>
</table>
**Findings – Interviews Results**

**BRTI-1**

“We have almost the same structure with the MCMC (Malaysia) but the difference is the MCMC has already become a converged regulator whereas the BRTI is still only a telecommunication regulator”

**KPI-1**

- “the combination of Europe (the UK) and the US model could be implemented in Indonesia in case of level of independence”.

**BRTI-2**

- “Malaysian Model is suitable for the Indonesian level of independence case”.
- This respondent went on to state “the model of Separate Regulatory Body within an ICT Ministry is most preferable”.

**MCIT-1**

- “the Malaysian and South African Models would be suitable for Indonesia”. However, “it depends on the best option that fits our economic, social, regulatory, and technological circumstances”.

**Level of Independence**
**Findings – Interviews Results**

- **BRTI-1**
  - “the Malaysian Model is suitable for the Indonesian institutional design of its regulatory authority case”.

- **BRTI-2**
  - “It is necessary to integrate the functions of the broadcasting, telecommunication and multimedia application within the ministry of ICT”

- **KPI-1**
  - the KPI prefers the US model for his choice of institutional design.
  - However, the expert said it is important to have a single regulator that is responsible for ICT sector including IT

- **MCIT-1**
  - “the Malaysian and South African Models would be suitable for Indonesia”. However, “it depends on the best option that fits our economic, social, regulatory, and technological, circumstances”.

*Institutional Design*
## Interviews Results

- Overall there is a significant difference in the way that respondents from existing regulator foresee the development of convergence occurring.

- There is a notable contrast between the BRTI and the KPI in the level of independence to the converged regulator.

- The respondents from the BRTI clearly favour Malaysia’s Model which is similar to their current regulatory structure. On the other hand, the KPI prefers the UK case with even a greater preference for the US model.

- The MCIT stated a preference to Malaysia’s model but acknowledges that the South African model is possible because it is a good middle ground between the BRTI and the KPI.

- The preference for a regulator with responsibility for Information Technology was evident even though there was a degree of flexibility in relation to the timetable in which this should be achieved.
Discussion – Level of Independence

- BRTI
  - BRTI appeared satisfied with Ministerial oversight
    - The Malaysian Case as preferred models
- MCIT
- KPI
  - KPI appeared satisfied with parliamentary oversight
    - The UK Case (the US case) as preferred models
- The South African Model
- Appointment are made by President or Legislature
Multiple regulator Inconsistencies Uncertainty

KPI
Broadcasting matters

BRTI
Telecommunications and Spectrum Sector.

MCIT

A Converged ICT Regulator
- Removes overlapping regulatory function as well as
- Reducing transaction costs
- Administrative costs
- Improving the efficiency in regulatory structure

Central Office
Regional Offices

Three Primary Factors
converged regulator
Discussion

The Current Condition

- MCIT
- BRTI & KPI
- Provincial KPI
- The Telecommunication Act No 36, 1996
- The Broadcasting Act No.32, 2002
- The Electronic Transaction Act No.11, 2008

Challenges

- Multiple Regulatory Bodies
- Inconsistencies in Regulation
- Uncertainty in the Market

Future Regulatory Structure

- MCIT
- Converged ICT Regulator
- With Regional Offices
- ICT CONVERGENCE ACT
- Single Legal Framework & Regulatory Agency
- Horizontal Approach/Market Based

Telecoms. License (BRTI)
Content license (KPI)
Internet license (MCIT+Community)
Broadcasting License (BRTI+KPI+MCIT)
Strategies for Implementing a Converged Regulator

Current Regulatory Structure

- The BRTI with Ministerial Oversight
- The KPI with Legislative Oversight
- Government Appropriation
- Appointed by the Minister (BRTI)
- Appointed by the President (KPI)
- Separate Regulator (Telecoms and Broadcasting)

Possibility for the Future Regulatory Structure

- The Malaysian Model
- The UK (the US) Model
- The South African Model
- Government Appropriation and or Regulatory Fees
- Appointed by the President
- Converged ICT Regulator with Regional Office
### Conclusion

1. This paper has provided an outline of important issues that affect the establishment of a converged regulator in Indonesia.

2. Whether the new converged regulator should include Information Technology

3. Whether new legislation will be required that relates to the level of independence that a converged regulator in Indonesia should be granted.

4. Whether greater independence should be granted to the BRTI or less independence be granted to the KPI

5. The question of whether provincial representation should be considered in the new converged regulator

6. The possibilities of a converged regulator need to consider the political environment that may occur in Indonesia.
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Let’s Work Together for a Better Regulatory Structure

Any Questions
Thank You