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Aug 25th, 10:55 AM - 11:20 AM

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A Critical Assessment of the ICT Regulatory Transparency Gap in Zimbabwe

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ABSTRACT

Effective ICT regulation is expected to level the playing field for both investors and consumers through regulatory transparency, independence, pro-competitiveness, consistency, competency and accountability. It is necessary to create an effective regulatory environment that fosters sectoral growth and inspires confidence as an impartial institution. This paper assesses the level of regulatory transparency in developing countries using evidence from the Zimbabwean regulatory framework. The study employs a Qualitative methodology, and Heeks'(2002) Design Reality Gap (DRG) under an interpretivist paradigm. Data collection used in-depth interviews with purposively selected stakeholders and analysed using Nvivo (release 1.6.1 (1136)) and thematic analysis shaped by DRG constructs against regulatory transparency. The study makes its contribution by applying the DRG for assessing and evaluating the regulatory transparency gaps in developing countries like Zimbabwe.

The findings show a partial DRG gap in Regulatory transparency i.e. narrow gaps in, Resources Utilisation Transparency, Objectives and Values Transparency while Technological Capacitation, Regulatory Processes, Management and Enforcement Transparency were wide. The sector applauded the extensive consultation conducted during the development of statutory instruments but they felt that their contributions were often marginalised by premeditated decisions. Perceptions of Transparency were polarised by public or private sector divides. This confirmed that the flow of information was distributed selectively.

Keywords

Regulatory Frameworks; Transparency; Telecommunications Regulation, Design Reality Gap

INTRODUCTION

The importance of an effective ICT regulatory environment has been highlighted in many studies (Stern, 1997, Samarajiva, Galpaya and Ratnadiwakara, 2007; Hullah and Sane, 2017; José Antonio Gouvêa and de Souza, 2020; Galhardo, 2020; Walden, and Christou, 2018; Palvia, Baqir and Nemati, 2015; Makoza and Chigona, 2013). This growing body of knowledge is inspired by the need to create a regulatory environment that regulates the rapidly growing ICT sector. Scholars of information systems have found that an unfettered ICT sector can exacerbate inequalities since the digital divide has also been proven to worsen the economic divide (Fuchs and Horak, 2008). This may happen through monopolies that restrict entrance into the sectors by new players, inefficiencies that

emanate from monopolistic tendencies, lack of protection of the consumer by an effective regulator, and conflict of interest by the regulator who may stand to benefit from revenues earned by rent-seeking players in the sectors.

Developing countries that are characterised by weak institutions often have challenges with attracting investment. The institutional environment or framework, provides the rules of the game, affecting and shaping behaviour, while institutional arrangements include the players of the game, or organisations, what Williamson calls Governance Structures (Williamson, 1990). Institutions, including the regulators, are supposed to reduce uncertainty in human exchange "by providing a structure to everyday life" (North, 1990). North(1990) goes further to opine that institutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction. Institutional constraints include both what individuals are prohibited from doing and sometimes, under what conditions some individuals are permitted to undertake certain activities, otherwise in the absence of constraints we exist in a jungle and civilisation is impossible. Moreover, there is a clear demarcation between institutional environment and institutional arrangements, and between formal rules and informal constraints (North, 1990).

In Africa, and most developing countries, and those of a similar socio-political context, the regulators are known to be unpredictable, and also capable of being influenced by corrupt actors, including but not limited to multilateral bodies such as the World Bank, WTO, itinerant experts as well as former colonial masters, sophisticated multinational businesses and political actors(Makoza and Chigona, 2013). This may be at the expense of other stakeholders. The regulators tend to lack the capacity to resist being manipulated by the state, especially in situations where the state, which has been holding a monopoly on the Telecommunications sector, has business interests, as well as the mandate to regulate the sector. This, among other things, has justified the need to privatise the previously state-owned telecommunication giants (Wadwa and Hallur, 2013). Consequently, scholars have called for the establishment of the regulator before privatisation because investors were found to be more willing to invest in countries where regulatory reforms preceded privatization (Wallsten, 2003). This quest for privatisation calls for the transparency of the regulatory environment and the independence of the regulator from state influence.

Against this desperate call for an effective regulatory environment, this paper endeavours to focus on the transparency of the regulator. Transparency is a critical component of the regulatory environment because the attractiveness and effectiveness of a telecommunication sector are dependent on the transparency and effectiveness of the regulatory framework (Hullah and Sane, 2017). This is said to be the case irrespective of the government that is in power at the time.

This study adopted Heeks' (2010) Design Reality Gap (DRG) under a Harbamasian critical stance to assess the gap between the expected level of transparency and the prevailing levels of the regulatory environment. The DRG model suggests that the failure of proposed policy-induced change is due to the disparity or gap that is often found between the designed change and the reality on the ground (Heeks, 2006). This model was chosen because it helps in assessing the gulf between the good intentions and the outcome that obtains as articulated by Gilwald (2005). A critical approach was adopted for its ability to assess gaps e.g. structural inequalities and asymmetries of power in a post-colonial developing country like Zimbabwe.

It is critical to investigate the extent to which the Zimbabwean regulatory environment is transparent. This is important since it will enlighten the policymakers, businesses and regulators about how to improve the regulatory environment. The Zimbabwean case was found relevant for this study because Zimbabwe is a typical developing country that is in the process of honing its regulatory framework in the wake of challenges that are common to other developing countries.

The objective of this study is to investigate the gap between the intended level of transparency and that which is obtaining on the ground. This objective will be achieved by answering a research question which reads: "To what extent does a gap exist between the expected level of transparency and the reality on the ground in Zimbabwe?"

After this introduction the rest of this paper is organised as follows: This introduction section is followed by a review of relevant literature, after which the methodology and discussion sections ensue.

LITERATURE REVIEW

The influence of external forces has been identified as a key reason behind telecommunication regulatory reforms in developing countries. These include multi-lateral bodies such as the World Bank, WTO, itinerant experts as well as former colonial masters (Tobin, 2010; Kunyenje and Chigona, 2017). Technological change and its concomitant convergence motivated the need for regulatory bodies that covered the converged technologies. This study is premised on Williamson's Theory of Institutionalism (1990). He presents 4 levels of social analysis. The top level includes the norms, customs, mores, tradition, and religion, all of which form the informal rules. The second level is the Institutional environment comprising the polity, judiciary and bureaucracy of government, as well as formal rules. The third level is where the institutions of governance, i.e. the regulatory organisations, are located. Transaction cost economics operates at level 3. Level 4, and is concerned with resource allocation and employment (prices and quantities, incentive alignment). Level 3 is the main focus of this study, but it can not be looked at in isolation, as it impacts, and is impacted upon by adjacent levels. This will compel us to investigate the whole framework and its inter-relatedness.

Pro-competitiveness, consistency, competency, accountability, enforcement powers, independence, and transparency are the factors that are synonymous with an effective regulatory framework. At the centre of the regulatory environment, or the over-arching factor is the concept of institutionalism as articulated by (Williamson, 1990). Through this paper, it will be argued that all of these factors can only thrive in the wake of regulatory transparency within the regulatory environment. The implementation of the above regulatory factors is dependent on Institutional capacity. According to scholars of Institutionalism, cultural, normative and cognitive factors are key. They suggest that external institutional pressures shape the organisational structures and practices (Scott, 1992, 95, 2001; Baxter and Chua, 2003). These may take the form of partisan politics. The post-colonial developing country is often bedevilled by weak institutions which lack the capacity to withstand pressures that impede regulatory decisions.

Brown, Stern and Tenenbaum (2013) list transparency as one of the three basic or meta higher-order principles which a system must satisfy for it to be effective. These are credibility legitimacy and transparency. They posit that the meta-principle transparency requires that the regulatory system is expected to operate transparently in order for the investors and consumers to 'know the terms of the deal' (p. 55). They suggest that transparency is particularly important to the consumer. This is because the consumer needs not be suspicious that the regulator is regulating in secret, or is being bribed to favour business (Brown et. al., 2013).

Regulatory transparency becomes a central factor because it is related to other governance factors. For instance, Hullah and Sane (2017) found that high regulatory transparency was accompanied by a high level of political transparency in Malaysia. Transparency was also buttressed by a separation of policy implementation from policy formulation.

These aspects of transparency have serious implications on the political economy of most developing and transitional economies. It also affects the regulatory objective, that is, whether the regulator is just trying to do the right thing (Brownsword, 2008). This is because the need to create a viable sector may be subservient to entrenching other aspects of the political status quo. In the final analysis, political interests could be a sacrosanct issue that impedes both political and regulatory transparency.

There is therefore a discernible link between transparency and the entire regulatory reform continuum. For instance, if lack of political transparency is influenced by retention of political power. Political power is influenced by the need to control resources, hence the need to resist the separation of policy implementation from policy-making as well as privatisation of state-owned resources. While there is evidence of privatised sectors having effective regulatory environments that include high transparency (Wadwa and Hallur, 2013), literature does not, to the best of our knowledge, highlight the relationship between transparency and other factors. There is, therefore, a need to investigate the transparency factor in developing countries, with special reference to the Zimbabwean environment.

This may lead to regulatory failure due to unintended consequences, inefficient regulatory enforcement and rent-seeking behaviour as articulated by The New Zealand Treasury (2013). According to Brown et. al., (2013), the

long-term sustainability of a regulatory system is dependent on transparency. This is because transparency is the first step towards trust as articulated by Fukuyama (1996). Due to the foregoing, it is critical to investigate the gap between the intended and the actual outcome of regulatory transparency in a developing country like Zimbabwe. It will inform policymakers, business and regulators about how to improve the regulatory system.

The Zimbabwean Case

This summary of the Zimbabwean case attempts to assist the reader to understand the background of the case as articulated by Klein & Myers (1999). This contextualisation is meant to be a 'critical reflection of the social and historical background of the research setting,..'p. (72) in order to assist the reader to understand how the Zimbabwean regulatory system emerged' (Klein & Myers, 1999).

At its inception, the Zimbabwean ICT sector was entirely state-owned telecommunications firms until the early 1990s when private firms dominated, and back to a predominantly state-owned sector in 2015. Out of the three main mobile network operators (MNO), two are state-owned while the biggest MNO is privately owned. The IAP situation is skewed towards private ownership that is, 4 (Liquid, Telco, Aquiva, Dandemutande) to 3 (Powertel, Zarnet and Telone). It is important to note that the involvement of private players in the Telecommunications sector was initially resisted but eventually settled through half a decade of court cases and presidential decrees (Velamuri, 2004).

These dynamics took place against a volatile socio-economic environment characterised by unprecedented decline and phenomenal recovery (Richardson, 2013) that left the government extremely specious about the alliance between business and external political players that imposed sanctions on Zimbabwe. A detailed expose of the political background is beyond the scope of this study. The question begged by this background is how has this precarious journey shaped the current regulatory environment its transparency and/or lack of it.

Theoretical Framework

This section introduces the Design Reality Gap (DRG) which sensitises the incumbent research by shaping the conceptual framework and research instrument. It draws from previous works on ICT regulation and policy performance in developing countries (Heeks, 2002, Heeks and 2006, Palvia, Baqir and Nemati, 2015). Palvia, Baqir and Nemati (2015) posit that the lack of theoretical grounding in the development of ICT policy framework is the reason behind their failure.

Heeks'(2002) Design-Actuality Gap (DAG) framework, addresses the gaps between the policy design and the outcome on the ground. The DAG model characterises the failure of policy-induced change as emanating from a disparity between the designed change and the realities on the ground *ex-post* (Heeks, 2006). They argue that the gap between policy design and the outcome as well as the effectiveness of policy implementation emanates from this weakness. Lack of theoretical grounding also brings about the reliance of *ex-post* policy evaluation instead of *ex-ante* (Becher and Kuhlmann, 1995).

They use the ITPOSMO as discussed below. Heeks' (2002) Design Reality Gap uses a numerical scale for measuring the design reality gap. For instance, a gap of zero (0) denotes that there is no gap between the design and the outcome. A scale of 5 represents some difference while 10 stands for a complete or huge difference in the seven dimensions of the ITPOSMO which represent the gap between the design and the reality. This section presents a fuller description of the seven dimensions of the ITPOSMO. That is information, technology, processes, Objectives and values, skills and knowledge, management structures as well as other resources.

Information: The information dimension refers to both information and data. Where data is the precursor to information or that which will be processed to become decision-supporting information

Technology: This dimension refers to the information and communication technologies that are used for communicating, storing and also processing the data into information as discussed above. Bass and Heeks(2011) propose that this should not just be restricted to ICTs but it must include all other relevant information.

Processes: These are the methods used in implementing the task. It includes the wider business processes and individual tasks (Heeks, 2008) that are conducted in the generation, capturing, presenting, analysing, as well as usage of data.

Objectives and values: The objectives include the formal and informal strategies as well as self-interest and politics. The values, however, refer to the culture that is what the stakeholder considers to be the right and wrong ways of getting along with business.

Skills and Knowledge: This component covers both qualitative and quantitative features of competencies that are necessary for conducting the data-related processes

Management systems and structures: This component refers to the wider management systems that are required for organising within and between networks and organisations. It also includes the way the said systems are formally and informally structured.

Other Resources: This refers to time and money in the original ITPOSMO presentation. In the ITPOSMO version of the DRG, the indicator 'other resources' is replaced by the Milleu component which refers to the external factors like political, economic, socio-cultural, technological and legal environment (Bass and Heeks, 2011).

Critiquing the DRG in the regulatory environment of developing countries

A critical perspective of the interpretivist epistemology (Myers and Klein, 2011) was deemed appropriate for analysing the gaps between ITPOSMO and the situation on the ground. This Habermasian stance is ideal for its ability to question the positions that are taken for granted such as those is the post-colonial developing countries like Zimbabwe.

Habermasian Critical Discourse Analysis(CDA) perspective views discourse as happening under an Ideal speech situation. An Ideal Speech situation refers to a situation where discourse is free from coercive and hegemonic powers. Communicators are therefore free to make assertions and assess the assertions made by others without the influence of either conscious or unconscious hegemonic powers (Cukier et al., 2009; Habermas, 1984).

It identifies the veracity of communication through violation of four key validity claims i.e. 1) the communication's *comprehensibility*, which refers to the technical clarity of the language used; 2) its *truthfulness*, i.e. the propositional aspects of the communication as depicted by the completeness of the arguments and unbiased assertions and 3) the legitimacy, which refers to the balance in representing the opposite sides of the argument and 4) the speaker's sincerity which is the correspondence between what the communicator says and what she means (Cukier et al.,2009, Wall, Stahl, and Salam, 2015)

METHODOLOGY

This study adopted a case study research strategy under an interpretivist paradigm. A case study strategy was found to be ideal for conducting a study on Zimbabwe's ICT regulatory system with a view to using the Zimbabwean evidence for developing insights that would be useful to developing countries that have contextual similarities with Zimbabwe. A qualitative research methodology was chosen because it is people-centred and it aims to interrogate how they view the phenomena under investigation (Brooks, Bee and Rogers, 2019). This was preferred for the investigation of the way the regulatory framework was being understood by the players in the Zimbabwean ICT sector. It uses deductive logical reasoning for applying DRG for sensitising the study i.e. developing a research instrument using IPTISMO constructs.

In their discussion on how to conduct field studies under an interpretivist paradigm, Klein and Myers (1999) posit that case studies can be generalised when used for developing theories that are applicable in other jurisdictions than the case under investigation. They posit that 'unique instances can be related to ideas and concepts that apply to multiple situations p.75.' This is similar to the case of regulatory models that is being considered in this study. While the uniqueness of socio-economic and socio-political issues will be encountered during the interpretive research,

relating them to concepts that are applicable in other developing countries is the key endeavour of this project. It is however important to highlight that the extent and nature of generalisation achieved through interpretivist case studies is different from that which is achieved using a positivist case study (Klein and Myres, 1999).

Evidence was gathered from twelve key stakeholders/opinion leaders in the sector using in-depth interviews. These include directors from the parent ministry, the regulatory body, MNOs, TELCOs, and professional bodies. The informants were purposively selected according to their sectoral knowledge and extent of involvement with the Zimbabwean regulatory system. Both private and public sector aligned participants were selected in order to balance the evidence. The analysis used Nvivo (release 1.6.1 (1136)) as a Computer Aided Data Analysis Software that enabled a thematic analysis which was conducted in line with the constructs of Heeks'(2002) DRG.

Ethical clearance for this study was acquired from Women's University in Africa's Ethics committee. This required that the participant's consent and confidentiality be protected. The study was carried out at different sites such as the government and private offices, with regulators, industry and other sectoral actors. While the participants' choices were honoured, the primary researcher preferred to conduct the interviews in their office settings and during working hours. This was meant to enable the primary researcher to gain deeper insights into the research setting. Participants were required to consent freely and were advised that they could withdraw at any point in time during the interview.

The personal identification of participants was private and confidential and their identities were kept anonymous in keeping with WUA research ethics. They were assured that any shared information was solely for the purpose of the incumbent study and it was not to be disclosed to third parties without the prior written consent of the original participant. The responses and data provided were aggregated with that of the other participants and were not traceable to a particular informant in the final report.

FINDINGS AND DISCUSSION

This section presents the findings of the investigation on the gaps between the regulator's expected performance and the outcome on the ground. The use of numbers to represent gaps and proportions represents prevalence and not quantification of qualitative evidence. This use of numbers in an illustrative rather than definitive way was also used by Heeks and Gomez(2016) as well Ayoung and Abbott (2021).

In answer to the objective of this paper which meant to assess the transparency gap in the Zimbabwean regulatory system, the overall findings show that many of the participants (81%) believe that the transparency gap stands between partial transparency (5) and non -transparency(10). That was estimated to be a gap of about 6. That is higher than partial transparency and better than a total lack of transparency. This gap is high since it is close to 10 which denotes a total lack of transparency.

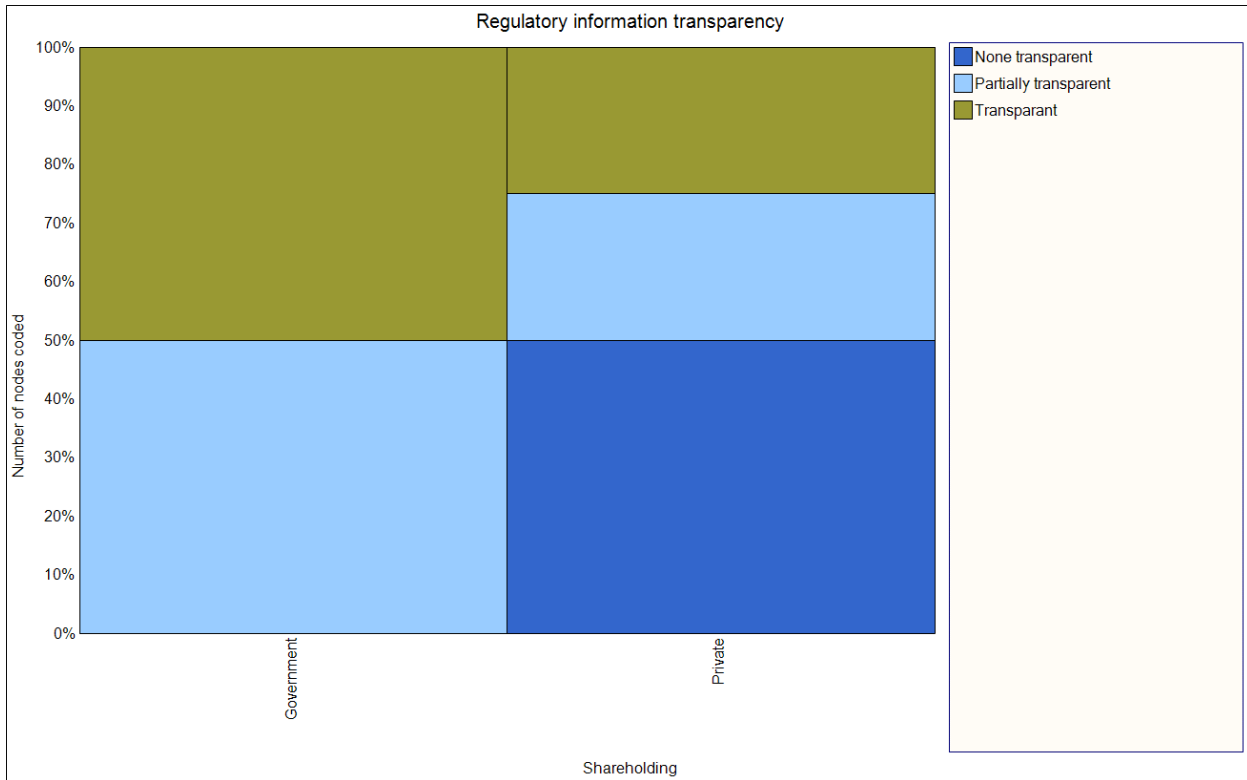


Figure 1. stakeholders’ perception of transparency categorised by shareholding

Figure 1 above presents a breakdown of the participants by the shareholding of the organisations that they were affiliated to. These are the government and the private sector. Almost half of the state-owned enterprises suggested that the regulator was transparent while the other half thought it was not transparent. On the other hand, half of the private sector affiliated participants felt that the regulatory environment was not transparent. The remaining half of the private sector players were evenly split between participants that thought that the that environment was partially transparent and non-transparency.

The following section presents the gaps using Heeks(2002) Design Reality Gap. For instance, a gap of zero (0) denotes that there is no gap between the design and the outcome. A scale of 5 represents some difference while 10 stands for a complete or huge difference in the seven dimensions of the ITPOSMO. These are 1)Regulatory information transparency, 2)Technological Capacitation Transparency, 3)Resources utilisation Transparency, 4)Regulatory Processes Transparency, 5)Enforcement Processes Transparency, 6)Objectives and Values Transparency, 7)Skills and Knowledge Competence(Transparency), and 8) Management Transparency

The research findings show a regulatory environment that strives to be transparency but fails to meet expectations. Information about the performance of the sector is widely disseminated in mainstream media. And consultations about statutory instruments are conducted to the satisfaction of most of the research participants. The transparency disparities that the participants view as structural inequalities are configured by the beholder's standpoint. That is, state-owned enterprises are satisfied while private organisations consider it unequal. This calls for a need to critically investigate the causes of the symptoms that are problematic using a Habarmasian(1987) lens.

The findings of this study must be read against a contextual setting of the African post-colonial state that is highly watchful about its socio-economic and socio-political environment. For instance, **the regulatory information transparency dimension** of the IPTISMO, the dissemination of regulatory information e.g. SI consultation were viewed in completely opposite ways by participants across the public-private divide. This begs the question regarding what causes these different view points. One also wonders what information private players felt was being hidden if the publicity of regulatory information on what to adhere to was being presented as transparency.

Considering dissemination of SI information may be an unconvincing proxy for transparency since the regulations are inevitably meant to be public if the regulator should be functional. The publication of quarterly statistics, however, represents a willingness to disseminate sectoral performance to the nation at large.

As participant P100 said, *'I think to a certain extent it's not widely known or widely publicized. I know it's publicized, but maybe not widely enough. We are in the ICT industry; we would expect it to be more (publicized) I think or even on the various platforms.'*

While alleging that some progress had been made, we found allegations that the expected levels had not yet been achieved according to participant P80; *'information has always remained at a level of secrecy. A lot of things have been happening and personal information held by some institutions. But the level at which that information is shared has been a secret. One of the things I am beginning to warm up on is that we are now bringing some control and transmission of that information. It is something that we are not there yet.'*

This was echoed by participant G10, who said; *'I would say everything is written in black and white for people to adhere to and this information is publicised. The regulator[name anonymized] actually produces quarterly reports where you get all the statistics and performance of each and every telecoms operator in the country. So, in that regard, I will consider it to be very transparent.'*

Given the above analysis, level of regulatory information transparency was deemed to be a gap of 5 between the expected/ designed and the outcome on the ground

On the **Technological Capacitation Transparency component** was viewed in terms of the regulator's willingness to capacitate the regulated operators and fairness in doing so. Just like it was on information transparency, there was a divide between the perception of state-owned enterprises operatives and those from private firms. The state-aligned participants thought that the provision of 5G spectrum to all players was a testimony of fairness.

A private MNO complained about lack of fairness in the allocation process. They highlighted the unfair preference for dominant players and state-owned enterprises. In terms of the dimension of technological capacitation, there was a suggestion that there was a relatively narrow gap of 4 since the regulator was said to have tried as participation P50 said *'In general, I think the regulator (anonymised) in this instance they have tried so much.'*

Participant G50 *'We are about to launch our 5g and the process is very clear. we need to be given frequencies and these need to be tested first before mass production. I want to say we are now in that phase in which we have worked with the regulator, she has given us a frequency valid for twelve months after which if successful they go and issue the appropriate frequencies. So, there is in fact knowledge in most of the areas that relate to ICTs in Zimbabwe.'*

This positive picture was contradicted by Participant P100: *'...we had some frequencies allocated to us but there came a time when they wanted that frequency. But the only reason why this was because [Private MNO name anonymised] wanted it for the roll-out of the 5G, and the regulator became biased because of that. There was no balanced provision. We had challenges at one stage again with [state-owned MNO anonymised], again the government come out on the side of [state-owned MNO anonymised], so to some extent, there were times when they would show bias and no balance at all.'*

The preference for one stakeholder over another muddies the waters of regulatory justice. The Habermasian townhouse required an *alto ego* scenario where every participant's voice had the same weight. The veracity of regulatory transparency is questioned.

A partial transparency gap of 4 was found on **Resources Utilisation Transparency**. This is because the participants felt that the regulator was not being accountable to the sector as expected by the act of parliament. We understood the participant to be referring to institutional challenges that emanate from the context in which the regulator operates. The fact that Universal Services Fund had been borrowed by another national institution reveals national priorities exerting undue weight on the regulator. This must be seen through the spectacles of Klein and Myres'(1999) contextualism because the regulator does not operate in a vacuum. In terms of resources utilisation, there was no issue with the resources the regulator needs for them to perform their work. There were issues

concerning the financial resources that they distributed in form of the USF. Participant P70, voiced displeasure with the way the USF was being used, in his own words he said:

....talking about the implementation, because while the guidelines are saying we need them to be audited, I can go and ask, that is where we are not getting that transparency there. You know that, we contributed to USF which was supposed to do a lot in terms of infrastructure development and not much has been shown about where that money went.

This represents a gap of 4 since the participants suggest that there is a scope for improvement.

Our findings on **Regulatory Processes Transparency** suggest that the way statutory instruments are produced is transparent to the sector. There is agreement on both sides that consultations are conducted. The regulated are also pleased with the clarity of the regulations that affect the terms of reference that govern their licenses and hence operations. There is, however, some misgivings with the outcome of consultations. Many political processes in developing countries will tick boxes such as consultations but fail to deliver the sector's will because of political priorities. The higher priorities to address pressing challenges in basic needs sectors like health and food security have often compelled the so-called 'guided democracy in developing countries.

Considering the regulatory process on the development of statutory instruments by the regulator, the participants were happy that they were being consulted on every Statutory Instrument as Participant P80 said; *'all the draft SIs we actually had an opportunity to contribute and comment on them. Obviously, when you are making a contribution you always expect that most of your comments are carried through.'* This is echoed by participant G30 who suggests that the regulator is perceived to be transparent because they conduct consultations on statutory instruments. *I think if we are talking of transparency, it is highly transparent. I say so because everything that the regulator does in terms of regulatory issues is a result of consultation.*

Participant P70 contradicts this by saying *'....consultation, I would say, I have a concern about the consultation on policy because what seems to be happening is that there are conclusions that would have already been arrived at without consultation. Whatever is called consultation is just a process of authenticating what they want.'*

Apart from misgivings about consultation, participant P70, expressed satisfaction with clarity of regulations as follows: *'My understanding when we talk about transparency, it has to do with 'are there clear guidelines in terms of regulation? and my answer is yes the guidelines are clear.'*

While all participants applauded the regulator for consulting them before making decisions that affect the sector or developing statutory instruments, some questioned the genuineness of the process or its ability to influence the final outcome. The feeling that their input doesn't matter may result in apathy and the regulator may not be as informed about the industry. This will inadvertently affect the regulator's competency. This dimension, therefore, earns a high gap of 7.

The parameter, **'Enforcement Processes Transparency,'** was deemed to be a partial gap of 4. This is found to be due to the fact that there were instances that left some players in the sector wondering if the regulations were being followed as expected. Such situations are common in situations where developing countries institutions get marginalised by short-term priorities.

Participant, P70 questioned the partiality that is allegedly seen in the implementation of enforceable regulations. He suggests that the guidelines are in place but the implementation is not as transparent as they expect. In his own words, P70 opines as follows: *'Now the point that arises is this; are we always seeing transparency in terms of enforcing? are we always seeing transparency in terms of how the regulations are implemented? I am not sure if it is part of your question or not. Because there are two parts. I see one being the parameters within which we operate and the next part is the implementation.'*

He went further saying; *'The next one is, what about the implementation of the rules. Do we believe there is transparency? for me that is where I do have questions, ...because some of the measures that have been taken in the past leave you thinking, hang on a minute, but I thought we have clear guideline of what to and not to do?'*

This is an unhealthy situation because a perceived lack of implementation renders the well-intended regulations worthless. The investor who wishes to invest in the country will no longer be attracted by plausible regulations that they read on paper. The same applies to the customer who will no longer feel protected by the statutes as expected in a functional regulatory system.

The **Objectives and Values Transparency parameter** was found to constitute a narrow gap of 3. This is because the sector is fully aware of the 'DOs' and 'DON'Ts' as stated in the regulatory framework. The objectives are positive although their implementation may be questionable. This again points to weak institutions whose guiding parameters are better on paper than they are in practice.

Judging by the official documentation, it is clear that the regulatory framework is built on good intentions. The regulator's objectives are clearly positive as contained in the Act of parliament that founded the regulator. *'The question is what kind of framework do we use in terms of running the operation the answer is that we have a very clear license guideline which tells us the DOs and the DON'Ts from the regulatory point of view. So, if you look at transparency in terms of knowing what it is that have to do, definitely yes, we have very clear guidelines.'*

The participant however suggests that the enforcement is not transparent. *'Now the point that arises is this; are we always seeing transparency in terms of enforcing? are we always seeing transparency in terms of the way regulations are implemented? No!'*

Some of the criticism regarding the gaps that concern the stakeholders are discernibly due to their independence from their parent ministry and limitations in the ACT as we discuss elsewhere. For instance, participant G20 alleged that the regulator is fully transparent to the ministry but not to other stakeholders like parliament and players in the sector.

'So, this regulator reports to the ministry of ICT, but as I said established by an act of Parliament, which means, therefore, it is to report to the Parliament as well. In the transparency aspect, is the question of saying whatever it does, who should receive or assess the outputs from the regulator. And you notice that the ministry is the one which is very close to the regulator and the regulator. In terms of the ministry, transparency is there. The regulator as it then relates to other arms, then is now a question of what type of information would they require. Obviously, the transparency becomes questionable, but otherwise, the regulator is transparent to the ministry 100%' This implies that the regulatory opaqueness towards parliament and other stakeholders than the ministry may be due to ministerial dictates and weakness of the legislative body.

In terms of **'Skills and Knowledge Competence'** Zimbabwe was found to suffer a skills shortage in areas some that require technical competence. As participant G60 put it, *'I think they are effective and knowledgeable. In the recent past, they have been recruiting from the operators. They have been biffing up their knowledge base. They have quite some access to continuous education. So, they are adequately resourced in so far as human capital is concerned.'*

This was contradicted by participant G50, *'They are not capacitated in some areas, especially in the new emerging technologies. There is a huge gap there. In that we are fully aware, I will give an example, we receive a lot of grey traffic and it has its own disadvantages. If one looks at SI 6 of the telecommunication act, it stipulates the amount that has to be paid for traffic that is terminating into Zimbabwe. That alone on its own causes issues in that people will always want to find the least cost-effective route, thereby creating what we call grey route. So, the ability to identify that traffic and the ability to get it managed and filtered. It requires skills. This is where I will say they are not properly capacitated.'*

According to G50 there is, *'What we may comment is around skills. I think we are fully aware that Zimbabwe has a skills flight issue where people leave the country going for greener pastures. Also, to do with other related issues around sanctions. You find that skilling and keeping abreast has been an issue in Zimbabwe as a whole.'*

The brain drain problem has also affected the regulator who according to a G50 no longer possesses the skills they used to have.

Participant G50 went on to say ‘*I am not so sure if we have requisite skills. So, when other big players are coming on like Facebook, Google, and even these mask outfit, you kind of feel that the regulator has no capacity to match these areas. I think there is a need for them to look out for skills.*’ On the skills from there is a partial gap of 6 since the participants suggest they have limitations in emerging areas of a quickly evolving sector like ICT. The fact that they have access to continuous training also suggests that they have the capacity to keep chasing a moving target of skills and knowledge competence in the illusive telecoms sector.

Lastly in the ‘**Management Transparency**’ construct, some participants expressed doubt about the way decisions are made. While there are laid down rules, their implementation was said to lack transparency. Participant P70, put it, ‘*Implementation, this is where I was talking about the implementation, because while the guidelines are saying we need them to be audited, I can go and ask, that is where we are not getting that transparency there.*’

This is an unhealthy situation because a perceived lack of implementation renders the well-crafted regulations worthless. The investor who wishes to invest in the country will no longer be attracted by plausible regulations that they read on paper as articulated by Gilward (2005). The same applies to the customer who will no longer feel protected by the statutes as expected in a functional regulatory system.

All participants applauded the regulator for consulting them before making decisions that affect the sector or developing statutory instruments. They, however, question the genuineness of the process or its ability to influence the final outcome. The feeling that their input doesn't matter may result in apathy and the regulator may not be as informed about the industry. This will inadvertently affect the regulator's competency. This dimension, therefore, earns a high gap of 7.

The Zimbabwean regulatory environment seems to falls short of the Habermasian Ideal Speech Situation. This is because it is bedevilled by inequalities of exposure to regulatory information since some (i.e. state-owned enterprises) get full transparency while others (private institutions) did not.

Figure 1 shows that participants from state-owned institutions see the environment as transparent. Half suggests its fully transparent i.e. a design reality gap of 0 while the other half suggests partial transparency i.e. Heeks(2002) DRG of 5 or less. Participant G20 suggests that the degree of transparency is high towards the ministry. The other half from the same shareholding suggests partial transparency suggesting that they are aware of the existence of a gap. Their reactance to the state may be seen in terms of the institutional allegiance and hegemonic powers associated with an imperfect public sphere.

This suggests that assessing transparency in isolation may be ill-advised. While it is a key factor that spells out the effectiveness of a regulator and hence the regulatory environment, it is also determined by other factors. Future research must go beyond the effect of each parameter by investigating the relationship between the parameters of a regulatory framework

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