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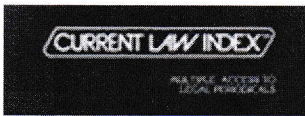
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Telecommunications Licensing Regime: A New Method of State Control After Privatisation of Telecommunications

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Abstract: Telecommunications is one sector historically subject to state monopolies in both developed and developing countries for many reasons. The Indonesian legislation stipulates that the telecommunications sector is of national strategic importance and must therefore be controlled by the state. Not surprisingly, the Indonesian government has tended to read the term “state control” as state or government ownership. Since the late 1980s, there has been a radical policy reversal whereby governments have progressively reduced their ownership and involvement in this sector by increasing private sector participation. One of the most important consequences of this is that privatization has led governments no longer being able to play traditional tripartite roles of owner, operator and regulator of telecommunications. More specifically it raises a critical question; in what ways might the government maintain its control over the sector when privatization reduces state ownership in SOEs? This paper argues that licensing is a legal tool to maintain state control after privatization of telecommunications. It can be used as a tool to implement important national priorities, be it opening the markets for equipment, services, and networks to immediate or gradual competition, or to preserve a monopoly for the time being so as to permit investors to recoup their expenditures or to continue a source of revenue for the government.

1. Introduction

A telecommunications license authorises an entity to provide telecommunications services or operate telecommunications facilities. Licenses do not have the same importance in all countries. In a few countries where monopoly telecommunications operators have long been privately owned, notably Canada and the US, there have traditionally not been telecommunications licenses. Instead, regulatory terms and conditions were imposed through decisions, orders or traffic-approval processes of a government regulatory authority. In some other countries, including Latin American countries, privately operated telecommunications carriers were traditionally granted concessions or a franchise.

This paper examines the concept of the license particularly its relevance with state control after privatisation. The paper begins by providing a brief discussion on the privatisation of telecommunications and more specifically on the methods of state control after privatisation. Subsequently, the paper reviews the concept of a license including its objectives and type of licensing regime. To obtain an empirical understanding, the application of the licensing system in Malaysia and the UK are subject to special scrutiny. Finally, the paper examines the present Indonesian licensing regime and this is followed by an analysis of the relation between a license and state control, and also suggestions are considered for the future Indonesian licensing regime.

2. Privatisation of Telecommunications

Privatisation and telecommunications industry have been interacting since the 1980s and state control in the sense of government involvement in the sector has been a central issue. Telecommunications is one sector historically subject to state monopolies in both developed and developing countries for many reasons. The Indonesian legislation stipulates that the telecommunications sector is of national strategic