

# Regulators and other disasters

India's short history  
with a new governance structure

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# India's infrastructure journey

- India has a huge shortage of infrastructure, but ...
- 1990s: Dabhol Power Company power at Rs 5-6 per unit; project counter-guaranteed by Government of India; even then it didn't work
- 2006: Lanco, a relatively unknown company bids Rs 1.2 per unit of power; no counter-guarantees; limited 'open access' is the source of comfort this time around
- Over a fourth of port traffic in 'minor' ports controlled by private firms; most major ports have at least one private terminal
- India adds 5-6 million new mobile users each month, mainly in the private sector

## So what's the deal?

- Clearly the huge GDP growth which makes financing and customer payments easier
- Huge change in governance structure ... moved away from pure government-regulated to regulator-centric policies, from no competition to full-blown competition (in telecom it's happened, in power the promise of 'open access' is driving things)

## This is like Dr Jekyll and Mr Hyde

- Regulation has meant more transparency, written orders can be challenged in appellate tribunals, in courts
- In the case of telecom, it has meant interconnection has happened, it has meant subsidies reduced, basically a level playing field
- It has also meant serious regulatory capture ... in telecom, in electricity, in ports, everywhere. Regulators helped Reliance Telecom's backdoor entry, ensured no open access in power, give 40-50 per cent returns in ports
- In enough cases, it's the old show-me-the-man-and-I'll-show-you-the-rule. 49% FDI rule mostly breached but no action; 10% rule in Hutch-Vodaone/ADAG to be breached again

## The model is faulty

- Cost-plus along with bidding and revenue share which is often allowed as an expense ... so a lot of projects will simply go bust, land up in court, or will get re-negotiated (in ports, it is already happening ... PSA-Sical in Tuticorin has been in court since 2002 when TAMP reduced tariffs)
- Most regulators are former bureaucrats ... the one exception seems to have been the DG NCAER
- Oil regulator can be dismissed overnight
- In ports, the regulations themselves provide the loopholes; in other cases, the government gives 'directions' to TAMP which agrees (Chennai case)

## Making the system work

- As users challenge it, the system will get better
- In telecom, BSNL/MTNL routinely denied points of interconnection; companies went to court; in telecom, much of the success was a result of serious court battles
- In power, the first instance of open access was when Indal threatened to walk out of Kerala ... it was scuttled finally but that's a different story
- Countervailing power

**Thank You!**