Executive summary

The "governance of infrastructure" is the processes, tools, and norms of interaction, decision making and monitoring used by government organisations and their counterparts to make infrastructure services available to the public and the public sector. Governments are often involved in the delivery of infrastructure services, from hospitals to utilities such as energy, water, communications and transport.

Economic regulators regulate both publicly and privately owned and operated infrastructure. They generally regulate natural monopoly infrastructure, where one firm can meet demand at lowest cost, but would have an incentive to levy tariffs in excess of costs. Economic regulators are responsible for setting tariffs and ensuring access to natural monopoly infrastructure. The decisions that economic regulators make also influence the overall investment environment. Economic regulators need to provide a stable investment environment to encourage efficient investment while ensuring that regulated firms provide services efficiently. However, economic regulation is not static, and regulators need to deliver stability in a context of change (technological change, disruptive technology, increasing stakeholder expectations).

Thirty-four economic regulators from 24 countries responded to an OECD survey of 77 sectors (e.g. energy, communications, transport, and water) and subsectors (e.g. electricity distribution, transmission and generation) providing information on their role and current challenges, infrastructure needs and funding, and the infrastructure lifecycle.

The survey found:

- The most common functions of the economic regulators surveyed were setting tariffs, requiring infrastructure operators to provide access to their infrastructure to third parties, monitoring, dispute resolution, and setting standards.
- The most common modalities for infrastructure delivery subject to economic regulation were privately owned operators and state owned enterprises (82 percent of delivery modalities).
- Economic regulators are well aware of the investment needs of the sectors they regulate. Over the last five years the most cited investment needs were increasing capacity to meet demand and the replacement or renewal of assets. Upgrading to new technologies and maintaining or improving service quality are also important drivers of investment.
- Most economic regulators are not directly involved in the discrete decision making that occurs in each stage of the infrastructure lifecycle — this is left to the infrastructure operator to manage. Instead, they seek to achieve the efficient delivery of infrastructure services indirectly by influencing the behaviour of the infrastructure operator.
- Economic regulators rely on data to deliver their mandate — particularly in the determination of tariffs. Around half of respondents reported collecting data on current and future investment needs. Similarly, roughly half collected information on the efficiency of infrastructure operators. Around 70% collected information on the quality of services delivered by infrastructure operators.
- Economic regulators have experienced a substantial amount of change recently, with 63% reporting that they experience a change in their role over the last five years. Generally, this change occurred when they gained additional regulatory responsibilities (e.g. regulating a new sector), or where their regulatory role changed due to technological change (e.g. in communications).
- Almost all economic regulators are involved in the policy development process and provide their views on policy. However, some noted a tension between government policy objectives and economic regulatory objectives that may have impeded the efficient delivery of infrastructure services.

- Economic regulators experienced a number of common challenges, both in promoting efficient outcomes through tariff setting (encouraging efficient investment, obtaining the right data from infrastructure operators, designing incentive mechanisms, and setting tariffs in the context of declining demand), and in operating as effective organisations (adapting to technological change, governance, co-ordination, engagement).

- The three most common challenges were encouraging efficient investment, obtaining the necessary data to perform their role and functions, and the impact of their governance arrangements on their ability to fulfil their mandate.

These findings have a number of implications for the governance of infrastructure — particularly that subject to economic regulation.

- **Given that economic regulators face such similar challenges, there seems to be scope for them to work together to address them.** A starting point for those economic regulators who faced governance challenges would be to draw on the principles of good governance for economic regulators developed by the OECD Network of Economic Regulators.

- **Flexibility can help economic regulators adapt to change.** An important part of their role is providing a stable investment environment; however, they have needed to do this in a time of substantial change, driven largely by technological change. Economic regulators need sufficient flexibility within their regulatory frameworks to account for the impact of technological change on the sectors they regulate, and therefore on their approach to regulation. A lack of flexibility could affect new business models and emerging markets.

- **The knowledge and experience of economic regulators should be used to develop and refine legislative frameworks for the regulation of infrastructure.** Economic regulators have experience in administering their regulatory frameworks over time, and also have access to sector-specific expertise. Furthermore, where there is tension between economic regulatory and policy objectives, economic regulators are well placed to ensure that policy makers have complete information about the implications of specific policy choices regarding infrastructure for market structures, competition (including the desirability of using competition as a mechanism for encouraging the efficient delivery of infrastructure services) and the need for economic regulation.

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