The myth of the missing DTH subscriber

A change in the way DTH homes are calculated shows that over 18 million homes are missing. Why does this cause so much joy?

MEDIASCOPE

VANITA KOHLI-KHANDEKAR

When there is bad news about traditional media, the reaction from analysts and social media experts is almost predictable. Everything is promptly attributed to "the digital revolution", "cord cutting" and what not.

That is what happened once again, last week. A report in *The Hindu Business Line* on October 2 highlighted that DTH operators lost 20 million homes after the New Tariff Order or NTO was implemented by the Telecom Regulatory Authority of India (Trai) in February this year. The report used Trai data.

This raises three questions.

Question one, why did the number fall? Because the yardstick used to report DTH numbers has changed. For many years Trai used net active subscribers for 120 days as the basis. This is because operators shared it that way. This included subscribers who had been inactive and had not recharged in 120 days though they still owned the DTH box. That is how DTH homes were pegged at 72.44 million in the quarter ending March 2019. However for internal monitoring and calculating payments to broadcasters DTH operators have always used average active subscribers based on four specific days in a month. This builds in recency. After the NTO which pushed for complete transparency the Trai too has used average active subscribers which is 54.36 million homes, a difference of a little over 18 million homes.

Now check the Broadcast Audience Research Council or BARC's overall TV data. India has 197 million TV homes — 105 million on cable, 55 million on DTH, about 25-30 million on DD's Freedish. Rough estimates put the terrestrial homes (the ones that get only Doordarshan) at 8 odd million. Plus there are a few Internet Protocol TV or IPTV homes. So the overall math holds.

The "120 day" versus "active last night" debate is a bit like Total Readership (read a newspaper in the last month) versus Average Issue Readership (read yesterday) in the print industry. Total Readership is usually three-four times more than Average Issue Readership, the standard used by advertisers. The DTH industry should have dropped the net active measure long back.

Question two, If they are missing where are the 18 million? This is where the report is partially correct. The NTO has led to a price increase of anywhere between 40-400 per cent. Therefore some homes may have shifted to free DTH or cable which is cheaper or to OTT or may simply be inactive. Note that many homes take a break during holidays, exams or for other reasons. But it is debatable that most have fallen off the grid or cut the cord as the Twitterati love to say. Think about it — 18 million homes is about 76 million people. Of a total TV audience of 836 million if 76 million people stop watching TV then television viewership should have fallen significantly. However viewership in the first 39 weeks of this year has already crossed total viewership in the same period in 2018 going by BARC data.

If anything, anecdotal data suggests otherwise. The NTO stipulates all kinds of dos and dont's on choosing channels and bouquets. Cable operators, who control the largest chunk of 105 million homes do not have the flexibility or backend to make one channel-at-a-time changes across millions of subscribers. The resulting consumer frustration is leading to a migration to DTH.

Question three, why is there so much uninformed glee about any bad news from TV or newspapers?

India is one of the fastest growing markets in the world for digital but all media is growing simultaneously: Some more some less. Newspapers remain one of the most profitable segments of the media industry though readership growth is now slowing. TV viewership, homes and revenues are all growing in double digits. More than 594 million Indians with broadband connections spend about 50 minutes a day watching online video. It is way below the average 3 hours and 45 minutes (and growing) on TV by 836 million Indians. Note also that films did well at the box office in a year when OTT has taken off. Therefore the growth of online has been supplementary not cannibalistic.

Why then is there this big need to see digital gobble up other industries? And if that excites you as a futuristic thing, think about this. More than three-fourths of the world's digital advertising revenues are controlled by the Google/Facebook duopoly. Is that what the Indian media market should become?

Twitter: @vanitakohlik

CHINESE WHISPERS

Change side, launch attack

The bonhomie between the Samajwadi Party (SP) and Bahujan Samaj Party (BSP) ahead of the 2019 Lok Sabha polls evaporated soon after their alliance in Uttar Pradesh was routed by the Bharatiya Janata Party. Now, in the run-up to the by-elections to 11 UP Assembly seats, some leaders of the erstwhile partner parties have crossed over to the other side, launching attacks on their previous organisation. In a recent move, former BSP state president Dayaram Pal joined the SP in the presence of his new party chief, Akhilesh Yadav, in Lucknow. Pal has since sharpened his attack on BSP supremo Mayawati for her purported authoritarian attitude. He said he was not allowed to give his suggestions when he was in the BSP; now he is free to share his thoughts in the Yadav-led SP.

The 'excellent' rejected

The government of Madhya Pradesh, run by the Congress, seems determined to change the decisions taken by the previous regime. It recently held over the state government's Excellence Awards, instituted by the earlier Bharatiya Janata Party government in 2008. These awards are given to the best-performing bureaucrats and institutions. Why were they held over? The current regime thinks some officers are still close to former chief minister Shivraj Singh Chouhan and a list prepared by them is bound to be biased. So when the first list of probables was presented to Chief Minister Kamal Nath (*pictured*), he rejected it out of hand. Now the government will go through the selection process all over again. It is considering a name change for the awards too.

Private guards for *sarkari* assets

You and I are not the only ones worried about our private properties being encroached upon. It is learnt that the Union Housing and Urban Affairs Ministry is thinking of hiring a private security agency to protect vacant government land, bungalows, and flats from encroachment. The Central Public Works Department has been given the task of deploying private security guards, preferably ex-servicemen, for this. A security agency will be hired for a year and it will deploy such guards on vacant properties round the clock. The agency will be responsible for their conduct.

Sugar's bleak future as fuel

UP's decisions on molasses quota for liquor makers could have a major bearing on the country's green energy production

KUNAL BOSE

Common sense will have it that if the same party is in power at the Centre and in a state, then there will be a uniform approach to policy matters. Surprisingly, while Prime Minister Narendra Modi will be using forums here and abroad — as he did recently in the US to court credit for the strides India is making to produce electricity from biomass and other non-fossil fuel sources such as sunlight and wind — the government in Uttar Pradesh (UP), which is the country's largest producer of sugarcane and sugar, has recently taken some steps that will stand in the way of boosting green energy.

What is important in this context is that of the total electricity of over 5,000 megawatt (MW) that the Indian sugar mill industry gives to the grid after fully meeting its own power requirements, the share of UP is 1,100 MW. The cyclical nature of this agro-based industry, often hit by low sugar prices that are not enough to cover production costs as is the case for some time now, demands that factories realise optimal value from sugarcane by-products bagasse and molasses by building saleable co-generation and ethanol capacities.

The strides the leading sugar groups are taking in downstream capacity building, have reduced their exposure to cyclicality of sugar. Unfortunately, the majority of sugar enterprises owning single factories could not build a business model unlike their illustrious peers. No wonder, then, crushing factories not making optimum use of cane by-products face huge unpaid cane bills whenever the industry run into headwinds.

It is no surprise as the country's oil import dependence was up from 80.6 per cent in 2015-16 to 83.7 per cent in 2018-19 with oil consumption during this period growing from 184.7 million tonnes (mt) to 211.6 mt. New Delhi extended help to sugar producers to lift production of ethanol by giving good prices for the fuel derived from C and B heavy molasses and also straight from cane juice. At the same time, the GST rate for ethanol was brought down to 5 per cent from the earlier 18 per cent. The revised rate for ethanol made from B heavy molasses at ₹52.43 a litre is proving to be a major incentive for UP-based industry leaders such as Dhampur Sugar and Balrampur Chini to invest in green energy capacity building. Based on the current rates and oil marketing companies (OMCs) blending a growing percentage of biofuel with petrol, the stepping up of ethanol production will result in lowering of crude oil import, reduction in greenhouse gas emission and higher revenue for sugar mills allowing them to settle cane bills promptly.

Around the time sugar makers in UP enthused by the prospect of higher price realisations are making new rounds of investment to build distillery capacity for ethanol extraction from B heavy molasses, the state government in its wisdom told them to reserve 16 per cent of C heavy molasses for units engaged in brewing country made liquor (CML) against 12.5 per cent earlier. This has been done on the specious ground that molasses production being down from an earlier anticipated 5.5 mt to 4.7 mt in the 2018-19 season, CML manufacturers in the state need to be compensated by raising their entitlement of the intermediate product.

The state move is highly loaded against cane crushing mills as they will have to provide C-heavy molasses at ₹75 a quintal to CML makers, while its market price ranges from ₹450 to ₹500 a quintal

The state move is highly loaded against cane crushing mills as they will have to provide C heavy molasses at ₹75 a quintal to CML makers, while its market price ranges from ₹450 to ₹500 a quintal, says Abinash Verma, director general of Indian Sugar Mills Association (ISMA).

As the mills will not have enough of their own by-product molasses available for making ethanol, they will have to buy the material from the market and move it to their distilleries incurring an average transportation cost of ₹50 a quintal.

"Not only do we find the price of molasses reserved for CML too low, but liquor producers are in the habit of not lifting their quota in time. This raises our cost of holding stocks of molasses. Often we run out of space to hold the by-product," says an industry official.

The industry still not out of the woods will be wrenched by reduced captive availability of molasses for making ethanol. CML and India made foreign liquor (IMFL) are the two principal sources of excise revenue for the state. It will, therefore, appear that the local government had no compunction in sacrificing the cause of green energy at the altar of revenue.

Is the UP government blissfully unaware that if the country is to achieve 20 per cent blending of ethanol with petrol by 2030 as has been fixed in the national biofuel policy of 2018, then there is no scope for squeezing molasses supply to sugar industry owned distilleries making ethanol? Ethanol supply to OMCs enabled blending of 4.2 per cent in 2017-18 and this rose to 7.2 per cent in 2018-19. For 2018-19, the government estimated that the country, excluding Jammu & Kashmir and the northeast would require 3.3 billion litres (bl) of ethanol against which supply contracts for 2.477 bl were signed. Ethanol blending of 10 per cent in the current year for use in all parts of the country will demand supply of 5.11 bl. Since ethanol blending at growing rates have implications for oil imports, the UP government should reconsider the decision to raise molasses quota for CML makers.

As the Adityanath government is spiriting away 28 per cent more molasses from sugar factories for use by CML producers, the UP Electricity Regulatory Commission too has come down hard on the beleaguered industry by lowering the rate of cogenerated power sold to the grid from ₹4.88 a unit to ₹2.89 a unit. Sugar factories generate clean electricity by burning bagasse, a cane by-product. The Commission has arrived at the lower electricity rate by arbitrarily assuming the cost of bagasse at ₹1,000 a tonne from the earlier ₹1,600 a tonne. The current UP market rate for bagasse is, however, ₹1,800 a tonne. The bigger molasses quota plus a substantial reduction in power tariff will have a major negative impact on the industry's income. This is happening at a time when cane dues of factories in the state are over ₹6,200 crore. Mill owners fail to understand the major cut in the rate of bagasse-based cogenerated electricity when producers of rice husk-based power will get ₹7 a unit.

INSIGHT

Gaps, overlaps, traps and mishaps

Before the next turf dispute emerges among regulatory entities, the Financial Stability and Development Council should think through and address the gaps appropriately

M DAMODARAN

Mere angne main tumhara kya kaam hai... is a question that has been asked in the regulatory space on quite a few occasions. Replace "mere" with "uske" and it will be seen that the recent order of the Securities Appellate Tribunal (SAT), setting aside Securities and Exchange Board of India (Sebi)'s findings in the matter of some entities and some partners of the Price Waterhouse Group, poses exactly this question. SAT has held that the Institute of Chartered Accountants of India (ICAI), and not Sebi, can, and should, regulate the profession of Chartered Accountants and the practice of auditing. Does this render Sebi toothless when it comes to dealing with suspected negligence, or worse, while seeking to ensure that the accounts of regulated entities present a true and fair picture?

Turf battles between regulators are not new. More than a decade ago, and consequent on an announcement in the budget regarding the setting up of Gold Exchange Traded Funds (GETFs), Sebi constituted a committee to give effect to this decision. Objections were raised at the threshold. It was contended on behalf of the Reserve Bank of India (RBI) that gold being a surrogate for currency, the RBI should take the initiative in the setting up of such funds. The Forward Markets Commission (FMC) (since merged with Sebi) expressed the view that gold being a commodity, it should be left to the commodities regulator, namely the FMC, to act on this matter. Sebi's contention was that the announcement was regarding a fund, the units of which will be traded in the market and therefore it was for the securities market regulator to enable the setting up of such funds.

A few years later, there was a standoff between Sebi and the Insurance Regulatory and Development Authority of India (IRDAI) on the regulation of the Unit Linked Scheme. It was Sebi's view that the nature of the activity lent itself to regulation only by the Sebi. On the other hand, the IRDAI held that the entities offering these products were insurance companies, which were regulated by the IRDAI, and hence, by extension, IRDAI should regulate these products. The matter remaining unresolved, the Ministry of Finance (MoF) got into the act and set up the Financial Stability and Development Council (FSDC) to provide inter alia for inter-regulatory coordination.

Outside the public glare, there is the difference of opinion, to put it mildly, between the RBI and Sebi on some matters relating to the regulation of the debt market. Yet another disagreement is on whether institutions that are functioning as exchanges can remain outside the regulatory ambit of Sebi.

If perceived regulatory overlaps were not enough, there has been at least one significant instance of regulatory gap. Between 1996 and 1998, a number of unincorporated bodies raised money from unsuspecting retail investors by promising extraordinary returns. These schemes proliferated since there was no clarity on who would regulate them. This regulatory gap was exploited by several unscrupulous persons and entities, and predictably, many investors came to grief. When it was finally decided in 1998 that such schemes should be treated as collective investment schemes, and should be regulated by Sebi, there were no applicants for registration. From then till now, Sebi is dealing with the pre-1998 cases, and trying to recover the money raised fraudulently by these entities.

Post the coming into force of the Companies Act, 2013, questions arose as to the manner in which inconsistencies between the Statute and Clause 49 (since replaced by Sebi [Listing Obligations and Disclosure Requirements] Regulations [LODR]) should be tackled. The commonsense view, which has stabilised after a few years, is that while the Ministry of Corporate Affairs (MCA) would have jurisdiction over the entire universe of corporate entities, Sebi would be well within its rights to prescribe higher standards of governance for the much smaller universe of listed entities.

The story will be incomplete without referring to the recent measures announced by the Government of India, ostensibly in public interest. Relevant to our purpose is the reported decision of the Government that banks would not classify micro, small and medium enterprises' (MSME) accounts as non-performing assets (NPAs) till March 31, 2020. Ever since the income recognition and asset classification (IRAC) norms were given effect to in the early 1990s, and even before that, it was the central bank that had the responsibility for prescribing when, and on what basis, an account ought to be treated as an NPA. Is the present announcement an aberration and are we likely to see RBI gently reminding the government of the inappropriateness of the announcement? Will Mint Road stand up and be counted or will it sit back and watch?

Underlying these standoffs is one common question. Is it the entity that is proposed to be regulated or is it the function or activity that should be the focus of regulation? For example, in the standoff between Sebi and IRDAI on the Unit-Linked Insurance Plans (ULIPs), would it not have been appropriate to hold that it was the function that was sought to be regulated, and therefore it fell within Sebi's domain, while the entities, namely, the insurance companies, would continue to be regulated by IRDAI in its role as the entity regulator. To put the matter differently, is it the structure that is sought to be regulated, or is it the function? If both of these are to be regulated, can they not be regulated by two regulators, without stepping on each other's toes?

Before the next turf dispute emerges among regulatory entities, the FSDC should think through all possible gaps and overlaps, and address them appropriately. The Sebi-SAT standoff is expected to end up in the Supreme Court. My unsolicited advice is simply this: Let ICAI regulate the profession of Chartered Accountants, and leave it to Sebi to discipline auditors who negligently, or otherwise, aid in the publication of accounts that are neither true nor fair.

(This is an abridged version of a piece that originally appeared on the author's website. The full version of the piece is also available on Business Standard*'s website)*

The author is chairperson, Excellence Enablers. He is a former chairman of SEBI, UTI and IDBI

LETTERS

Time for cleansing

This refers to "Financial sector stability & our cook Lilu-tai" (October 7). While financial intermediaries are sourcing money from those to save, the deployment of those resources must ensure the interest of those who contributed to the resources is safeguarded. Over a period of time, many banks, NBFCs and co-operative banks have deployed the funds imprudently and that resulted in loan-related frauds and bad assets. They have wilfully kept the financial scams under the carpet and cheated investors and depositors.

While these financial intermediaries are the key pillars of the Indian financial system, the non-observance of financial discipline by them have adversely affected the credibility of the financial system and has negatively impacted the sentiments of investors. The oversight of the supervisors and regulators proved ineffective in controlling the banking activities and is proving to be an impediment in the path of economic growth.

It is important to tighten the oversight by the banking regulator, besides making the various audits and inspections purposeful. It is high time the banking regulator directed NBFCs and co-operative banks to undertake asset quality review, besides re-examination of the compliance reports filed in response to the audits and inspections. Thorough cleansing of the books of these entities is crucial to ascertain their health and save the financial system.

VSK Pillai Kottayam

Missing Opposition

As the countdown to the Assembly elections in Maharashtra and Haryana begins, the main Opposition, the Congress party, appears to be in a state of disarray with an exodus of key leaders and the failure of its leadership to inspire confidence among the rank and file to take the Bharatiya Janata Party head-on. There is no palpable evidence yet to suggest that the grand old party of India has learnt its lessons from the humiliating debacle in the 2019 Lok Sabha election. Factors such as its inability in setting the agenda, its lack of willingness to groom and showcase new leaders and over-dependence on the Gandhi dynasty explains why the Congress is struggling to stage a comeback even in its traditional bastions such as Maharashtra and Haryana. A vast and diverse democracy like India needs a strong Opposition to demand accountability from the central government, besides keeping its majoritarian tendencies in check.

M Jeyaram Tamil Nadu

Letters can be mailed, faxed or e-mailed to:
The Editor, Business Standard
Nehru House, 4 Bahadur Shah Zafar Marg
New Delhi 110 002
Fax: (011) 23720201 ·
E-mail: letters@bsmail.in
All letters must have a postal address and telephone number

HAMBONE

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New India's labour market

Govt must extend outreach to labour beyond traditional unions

It has been reported that Union Labour and Employment Minister Santosh Kumar Gangwar has written to industry organisations and trade unions, asking them to join a consultation process on policy changes that would address India's burgeoning job problem as well as increase India's women labour force participation rate. This is a welcome admission that job creation in India needs attention. In spite of some recent figures from the Centre for Monitoring Indian Economy, suggesting September alone saw an increase in jobs by about 7 million, the National Sample Survey data indicated that India had not experienced such high unemployment since the 1970s, and confirmed anecdotal fears that large numbers of women were leaving the labour force. The ministry is in the process of rationalising the existing labour laws into four codes. Unfortunately, this at the moment falls short of real labour law reform, which would allow employers more latitude in hiring and firing workers. It is to be hoped that the ministry's outreach to unions is in part to convince them of the importance of such reform.

However, the ministry must correct errors of the past in its outreach. India's labour laws are structured to please unions and those already engaged in formal employment. This is part of the reason they are overly restrictive, and have retarded the growth of manufacturing. Instead of talking only to insiders, the government must broaden the scope of its consultation to include job-seekers and informal workers, in order to create a constituency in favour of real labour law reform. A broader outreach would not only be useful in creating a counterweight to powerful interest groups, it would also reflect the very real changes that are transforming the Indian economy at the moment. In a moribund investment environment, many new job opportunities are being created in the logistics sector and the gig economy, and by internet platforms. These jobs cannot be seen as being "formal" in the traditional sense, although the employers are frequently large companies that can indeed be regulated. They are analogous in some ways to the contract workers who have begun to fill up the spaces in the formal sector created by companies' unwillingness to hire regular employees under conditions of uncertainty created by the current labour laws. The government must find a way to reach out to such workers. If necessary, they must be encouraged to organise among themselves to have a voice regarding their own welfare. This would help in creating a more accurate picture of the economy, as well as in giving a new and aspirational tone to conversations with labour more in keeping with the current times.

The Indian state's long-term objective of formalising the economy — most recently seen in the stated arguments for demonetisation and the goods and services tax — should not ignore the rise of the gig economy. What is needed is a clearer and more universal approach to benefits, protections, and job creation. It is welcome that the Prime Minister's Office is focused on ensuring that labour code rationalisation also becomes universalised. The Union labour and employment ministry must now get on board.

The network effect

Review rules on audit firms providing non-audit services

The Ministry of Corporate Affairs (MCA) is right to propose amending the Chartered Accountants' Act to build in disciplinary mechanisms to lower "network liability", otherwise known as conflict of interest risks, between audit firms and affiliates offering non-audit services. Under the current law, audit firms are permitted to offer non-audit services, such as consultancy and related services. But recent examples of audit failures involving the collapse of Infrastructure Leasing & Financial Services (IL&FS) subsidiaries offer cautionary tales in hiring audit firms that are affiliates of national or global consultancy networks offering non-audit services. The intent of the MCA's proposal may be focused on the sprawling global networks of the Big Four — Deloitte, KPMG, PwC, and EY. The first two were auditors of imploding IL&FS subsidiaries, and PwC's India wing and a Kolkata-based affiliate audited the books of Global Trust Bank and Satyam Computer. But the risk obtains for many large independent domestic audit firms that look to expand the scope of their business, too.

The question, however, is how far the MCA should go towards containing this risk. Should it impose a blanket ban on providing all related services by audit affiliates or should it stipulate checks and balances in terms of disclosure? In October last year, a committee of experts chaired by Anurag Agarwal, then an official in the ministry of corporate affairs, set out conditions under which audit firm affiliates could provide non-audit services as part of its wider brief of recommending standards for audit firms and their networks. These included capping the fee of the network affiliate if the audit firm is part of an international network (at about 50 per cent of the audit fee) and compulsory disclosures for all such networked firms to the newly created regulator, the National Financial Reporting Authority (NFRA).

The arguments favouring an outright ban, without exceptions, to which Indian law is prone, are more compelling. For one, an unambiguous ban has the virtue of clarity, which is often lacking in corporate legislation. Second, the demonstrably poor track record of transparency in corporate India does not foster confidence that audit firms will readily comply with such requirements. Third, the MCA needs to consider the additional complexity in the regulatory ambit of the audit profession. There are now two regulators governing the audit function, with overlapping roles. One is the Institute of Chartered Accountants of India (ICAI), a largely ineffective, 70-year-old, self-regulating body that will continue to oversee its members (which is to say, most large audit firms), private-limited companies, and firms below a threshold limit. The second is the more recent creation, the NFRA, notified in 2018, which has the mandate to set standards and regulate auditors of all listed companies, unlisted companies above a prescribed net worth or paid-up capital (₹500 crore), or a turnover of ₹1,000 crore, or a company listed outside India. Though both the ICAI and NFRA have defined responsibilities in terms of regulating the audit function, neither has explicit powers to monitor or check network liability.

It is worth noting that the European Union, the United Kingdom, and Australia do not permit audit firms to provide non-audit services. The example of these three relatively well-run jurisdictions would be a good example for India to study.

ILLUSTRATION: BINAY SINHA

Old versus new elite

Putting labels on citizens may be politically expedient but will fail to deliver India's tryst with destiny

SHYAM SARAN

The current Bharatiya Janata Party (BJP) government under Prime Minister Narendra Modi has consistently endeavoured to distinguish itself from its predecessors, including the previous BJP government under Atal Bihari Vajpayee, as a new political elite, representing a more contemporary, authentic and home-grown social and cultural Indian reality. This is reflected in the conscious and deliberate downgrading of English language felicity and education as markers of social and economic advancement.

There is a pervasive suspicion of professional expertise and skills derived from high class education and experience, particularly if this is demonstrated through the instrumentality of the English language. But this is tempered by co-opting the visible successes of India's space and atomic energy programmes, which are the cumulative outcome of the far-sighted investments made by the "old" elite and would have been inconceivable without command over the English language. Institutions, norms and processes, which were put in place by this now despised elite, are sought to be dismantled or transformed so that presumably new organisational structures and norms, aligned with the emergent elite can take their place. But we have no idea so far of what the alternative model will be like. New institutions and norms take time to establish roots.

There is inevitably a phase of ad-hoc improvisation and discretionary decision-making. For example, the constitutional role of the cabinet secretary as the head of the civil services and the chief coordinator of various arms of bureaucracy has been hollowed out. The principal secretary to the prime minister and the national security advisor now enjoy cabinet rank and this makes the cabinet secretary a minor functionary rather than a key, constitutionally empowered authority. In the armed forces, norms which were strictly enforced in the past are being jettisoned. Senior command officers are increasingly appearing at public fora and making public declarations that go beyond functional requirements. We are confronted with a paradoxical situation — a government which prides itself on strong leadership and ability to deliver, is also beset with a lack of coherence. Its strengths lie in tactical nimbleness, deftness in communication and command of the public space. But the resultant weakening of institutions, the impatience with any long-term strategising beyond setting aspirational, and often, unrealistic goals, may exact a heavy price in terms of national interests.

This political dispensation has been remarkably successful in deflecting public anxieties and concerns over a sliding economy and shrinking job opportunities through a high-voltage public relations campaign, which has shifted the target towards an assortment of villainous detractors, including the infamous "Lutyens elite", the "Khan Market gang", the "termites" from across the border who are eating into India's entrails, the minorities who harbour treasonous sympathies with the enemy in the West and the habitual pessimists who cannot bear to acknowledge the successes achieved by this government or take pride in the exceptional status enjoyed by PM Modi on the international stage.

The swift and transformational change in Jammu & Kashmir has brought immediate and tangible political gains for this government. Make no mistake, most of north India applauds the draconian measures imposed on the people of the Kashmir Valley. The constitutional and political jugglery employed to change the status of Jammu & Kashmir has been an object of admiration rather than a matter of serious concern. What is happening to fellow citizens in that unfortunate state is not seen as likely precedents that may be visited upon them, too, in a future bereft of the constitutional and institutional constraints which have been the hallmark of Indian democracy despite infirmities. How long will this strategy of political deflection continue to work? Perhaps for quite a long time but eventually its inherent contradictions may make it unsustainable.

The laudable aim of this government is for India to take its place at the front ranks in the community of nations, a country with power and prestige and its citizens enjoying respect and admiration across the world. Constant recall of past luminescence, however, is no guarantee of future brilliance though it can and should be a source of pride and self-confidence. Under Mao, China may have "stood up" but China's current power is derived from a strategy of learning and borrowing from the most advanced places of learning in the world. Chinese is a most complex and sophisticated linguistic system but tens of thousands of Chinese students and scholars learn English because that is the instrumentality through which they could acquire advanced scientific and technological knowledge. There was pride in what China had achieved in the past and the achievements were many — one only has to read Joseph Needham's classical work on the subject to appreciate them. But we live in a different world today and must acknowledge that we are and will for a considerable period of time, remain adopters and assimilators of knowledge from others even while aspiring to be generators of knowledge ourselves. In this phase of our national endeavour, familiarity with the English language and access to advanced centres of learning, even though confined to a relatively small elite, are significant assets and need to be leveraged intelligently rather than be rejected as alien imposition.

Prime Minister Modi enjoys huge popularity among the Indian diaspora and we witnessed that recently in Houston. But is the successful diaspora in the US, UK or Australia part of the old India elite or the new elite? Would they have achieved what they have by rejecting the English language? And are they not welcome in their countries of adoption precisely because they come from a country with shared political values and institutions?

The debate between the old and new elite is distracting the country from pursuing and achieving its goal of great power status. A government needs to mobilise the talents, skills and energies of all its citizens, the more varied the better, to achieve this goal. Putting labels on citizens, dividing them into pro-nationalist or anti-nationalist, demonising wealth creators but being unable to promote the welfare of ordinary citizens because the pie does not become bigger, these tactics may be politically expedient but will fail to deliver India's tryst with destiny.

The writer is a former foreign secretary and is currently senior fellow, CPR

A new fix for economic decision-making

NEW DELHI DIARY

A K BHATTACHARYA

Well into its sixth year of rule at the Centre, the Narendra Modi-led government's economic policymaking style reveals a trend that is as problematic as it is puzzling. It is problematic because it fails to recognise the inherent weaknesses of its decision-making process and therefore fails to address them to minimise or eliminate their adverse consequences. It is also puzzling because these weaknesses are there for all the government's top political leaders to see and yet nobody as yet seems to have got down to the obvious task of removing the shortcomings.

At the heart of this problem lies the Modi government's inability to put in place an effective economic advisory and policymaking team. Its absence is increasingly being felt as the Indian economy is facing the challenges of a slowdown. Not that the Modi government has no economic advisory council or it does not have the benefit of a chief economic advisor in the finance ministry or the secretaries in its key economic ministries are not up to the mark. The advisory offices do exist and the officials in charge of economic ministries have the necessary experience and competence to oversee economic policy implementation.

But the problem is that these advisors and officials have been rendered largely ineffective. The reason for their ineffectiveness is that the Modi government is not generally inclined to heeding the advice offered by those who are entrusted with the task of monitoring the economy and suggesting economic policy measures. What has complicated the matter more is that the decision-making process has largely remained centralised. Even when top civil servants in important economic ministries are consulted, the environment is not conducive to debating or disagreeing with what has been proposed. Instead, the tendency among senior officials of the line ministries is to endorse whatever has been proposed from above.

Not surprisingly, the government has seen the departure of a few of its economic advisors. Of course, the government cannot be faulted for not replacing those who left it. But the effectiveness of the advisory apparatus at the government's disposal has not seen any improvement. Presumably, the new advisors are aware of the limited role they are expected to play: Simply offer your advice and do not worry about whether that advice is heeded or not. Quite naturally, such a scenario will not attract the best minds to offer economic policy advice to the government. A similar mindset prevails among many senior secretaries in key economic ministries.

Mind you, such a state of affairs with regard to the economic policy making space is in stark contrast to the government's ability to understand its political mandate and implement its political agenda through necessary policies with a dexterity that is almost unmatched in recent years. The manner in which the government went about amending the scope of Article 370 for Jammu & Kashmir and bifurcating the state into two Union territories is an example of the government's advance planning, preparation for containing the fallout and management of the system. You may not agree with the manner in which the whole idea was executed or the system was managed, but the government never lost the central focus of its political mandate. A similar approach can be seen in the way the government is planning the implementation of its other ideas on amending the citizenship law or the introduction of a national register of citizens in other states.

Compare this with the way the government implemented its major economic policies, and you will see the difference. The launch of the goods and services tax (GST) is proving to be a big economic mess as neither can the new taxation system be touted as a "good and simple" tax, nor has it been able to generate higher revenues for the Centre and the states, as was expected. A bigger challenge that arose out of the GST was the compliance burden it imposed on millions of traders and small businesses, which were never used to the idea of recording all their transactions.

More than a reform of the taxation system, the GST was expected to usher in a major behavioural change among the taxpayers. The jump in the compliance level that the GST wanted from Indian traders and small enterprises was too ambitious an expectation. An additional stress factor came from demonetisation, unleashed on them just eight months before the launch of the GST. Looking back, the government's expectation that players in the unorganised sector would switch over to a 100 per cent compliance regime was misplaced. The transition to the GST required a longer time frame, given the poor compliance level that existed among Indian traders and small enterprises.

Even before the economy could stabilise after the GST disruption, the government has indicated its plan to ban the use of single-use plastics. In recent days, the government seems to have reviewed that plan, but the disruption caused to a large number of small enterprises, dependent on producing, supplying and using single-use plastics, is already huge. Thousands of small units in Halol, for instance, are facing uncertainty arising out of the fear that single-use plastics may soon become a prohibited item.

It is not that the government should avoid bringing about major economic policy changes to improve the taxpayers' compliance level or reduce the use of plastics to minimise the damage to environment. These changes are needed and the objectives are equally laudable. But economic policymaking is not just about bold announcements. It also requires sufficient advance planning and consultation among stakeholders, including experts and the government's own advisors and the bureaucracy.

The first step towards that direction would be to reduce the preponderance of centralised decision-making. Encourage the government's advisors and bureaucracy to offer their frank views on proposals even if they differ from what has been suggested from above. Let the line ministries play a more effective role in policymaking, which could then give its feedback to the Cabinet, for it to take a considered view on any economic policy package. With the economy facing the pangs of a slowdown, there is no scope for making mistakes in deciding on the remedies. A more participative decision-making process will reduce, if not eliminate, the chances of such mistakes.

Scrutinising the 'fourth branch'

BOOK REVIEW

RAHUL KHULLAR

Since 1991, there has been a proliferation of independent statutory regulatory institutions in India. Much the same happened, but far earlier, in the developed world. What new challenges have been thrown up by the emergence of this "fourth branch"? Have these regulatory bodies lived up to their supposed promise? If not, what has impeded them? One would presume that there is a large body of scholarly literature on the Indian experience. That presumption is wrong. And that is why this book is important: It is the first major work on regulation and regulatory bodies in India.

The book addresses three sets of issues: The legal and constitutional issues that have arisen (Part II of the book); the genesis and practice of regulation in different domains (Part III); and, how different actors (the judiciary, the executive and the regulators) have responded to the challenges (Part IV).

Regulators have executive, legislative and judicial powers, an apparent breach of the separation of powers doctrine. Further, if they are truly independent, Vivek Reddy asks are they constitutional? People impacted by regulation must have judicial recourse. In practice, the "common law review of administrative action has been eclipsed by constitutional law". The lament is that the Supreme Court has given the go-by to simpler provisions of administrative law — for example, whether the action is reasonable, whether there is bias, was a hearing given to affected parties and so on. (Raeesa Vakil; Farrah Ahmed and Swati Jhaveri). These are tricky legal and constitutional issues, the finer nuances of which are best appreciated by lawyers.

Have these regulatory agencies been "white knights" or "insidious agents of the Government" (or, worse yet, plain ineffective)? By and large, the Securities and Exchange Board of India (Sebi), Telecom Regulatory Authority of India, Trai), and the Competition Commission of India (CCI) appear to have been successful. Since trading is restricted to recognised stock exchanges, and Sebi can bar a trader, the threat of regulatory action is a serious deterrent. That is why self-regulation works (Neel Maitra). In telecom, the Department of Telecom and Trai share regulatory authority. Notwithstanding the diarchy, Trai has done well with the limited powers delegated to it. However, telecom regulation by the government is based on an "anachronistic law" dating to 1885 (Rahul Matthan). The CCI, though relatively new, has also done a decent job. It has displayed "pragmatism" in some decisions, a marker of its appreciation of political economy (Aditya Bhattacharjea).

In contrast, regulation in environment and food safety leaves much to be desired. India has performed poorly on drinking water quality, air quality and other "environmental metrics". The Central Pollution Control Board and the counterpart state institutions have just not delivered (Shibani Ghosh). The Food Safety and Standards Authority of India (FSSAI) has not done well at all. Its performance has been seriously indicted by the Comptroller & Auditor General (Vikramaditya S Khanna). But it is important to bear in mind the enormity of FSSAI's charter and the political economy of enforcing standards in food safety.

The authors identify a number of factors limiting the ability of the regulatory authorities. Common themes are: Incapacity (not enough qualified and technical staff), legislative delegation and design (blurred lines and overlap), lack of transparency, absence of a structured consultative process with stakeholders and a lack of formalised accountability (Umakanth Varottil, Suyash Rai and many others). There is an excellent discussion on big data, an effectively unregulated area, a pointer on how hard it is going to be to fashion regulation even though it is absolutely essential (Ananth Padmanabhan and Anirudh Rastogi).

This is an excellent book. It will become a go-to reference book on a sector's case law and Supreme Court rulings; constitutional and administrative legal issues impacting regulation; the current state-of-play in the regulated sectors, the experience with regulation and the sector-specific problems that need to be fixed. For researchers, it will give them the new starting point. The first essay (by the editors) is the best in the book.

The book is a study in comparative law. Unsurprisingly, contributions from lawyers dominate. I have four regrets. First, there is too little attention to political economy. One gets a glimpse of it in one or two papers (Amit Kapur and Aditya Bhattacharjea) but for the most part, it is missing. Second, regulatory capture is almost ignored. Given how Trai has functioned these past three years and the appalling state of the state electricity regulatory commissions, this issue cried out for attention. Third, the power sector is in crisis and yet the volume inexplicably discusses non-renewable energy. Fourth, and this is a practitioner's perspective, why did the editors not call for papers from some retired chairpersons to provide the other side's story? It would have vastly enriched this superb volume.

This is not light reading. But it is essential reading for lawyers (obviously), academics, regulatory authorities, those in government and the "regulated" parties.

The reviewer is a former chairman of Trai

REGULATION IN INDIA: Design, Capacity And Performance
Devesh Kapur & Madhav Khosla (eds)
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