RULES OF ATTRACTION

Governments that have set clear rules for the private sector have benefited from infrastructure investment. Francis Yeoh, Managing Director of YTL – one of Malaysia's largest companies – argues that others would do well to follow suit

Francis Yeoh has grown Malaysia's YTL Corporation from a family-owned construction company founded by his father in the 1950s into one of the world's leading utilities companies. Here he argues that companies operate best in an environment where governments provide a clear, stable, and predictable regulatory framework. In other words, it is not so much a light touch as the right touch where regulation is concerned.

As a pragmatic business owner, rather than an economist, my experience has convinced me that there is an alternative to traditional tax-and-spend policies of governments in order to meet the pressing need for new infrastructure, both in the developed and fast-growing economies. In many places in the world, an investment shortfall has been restraining growth. The solution, I believe, is to fully embrace the private sector in order to build, operate, and maintain infrastructure. And for this to work most effectively, it is essential for companies to have a reliable regulatory framework under which they can make rational investment choices.

The core business of our company, YTL, is utilities. Our businesses include ElectraNet in Australia (power distribution), Wessex Water in the UK, Jawa Power in Indonesia and PowerSeraya in Singapore. We also have large mobile internet and public transport projects.

Why did we choose these markets for our most significant investments? They were all tremendous business opportunities, of course, but just as important was that these countries offered *a transparent and coherent regulatory framework*. Such a framework gives both local and foreign companies an equal chance at owning and operating key businesses transparently, and it fosters long-term and sustainable transformation for industry and community, especially in Asia where supply of these strategic utilities and other infrastructure is low compared to developed economies.

In the UK, Wessex Water is a good example of such a system at work. We bought the company from Enron in May 2002 and made the investments needed to make it the country's top water and sewerage treatment operator – and that's not just us saying it: Wessex has consistently topped the performance rankings from The Water Services Regulation Authority (known as Ofwat).

This was made possible by Ofwat's clear structure, which mandates it to set price limits, protect customer interests, encourage competition and investment, and administer and enforce the licensing regime for water and sewerage. Companies must provide an "efficient and economical system of water supply" or face penalties. Ofwat's five-yearly reviews aim not only to keep prices for customers down, but also to permit water companies to make an adequate return on capital (thus, encouraging investment in infrastructure) by including in its evaluation each company's business plan.

The water industry in any country is an issue of national security and it is natural that it should be regulated. Thus, a company must take a long view when drawing up plans to run such utilities. When YTL first bid for Wessex Water, we planned on the basis of having stewardship over the asset in perpetuity and considered its role in the community as well as profitability. What ultimately convinced us to invest was the UK's transparent regulatory framework, assuring investors that there will be a stable regime under future governments.

YTL's UK experience mirrors our other investments. In Singapore, for example, the government divested its power industry in 2007 to three foreign operators – Tuas Power to SinoSing Power (a unit of China Huaneng Group), Senoko Power to Lion Power (a Japanese consortium), and PowerSeraya to YTL. The government said that divestment was part of a plan for a "competitive yet stable power generation market" that would also encourage private sector investment.

Should other governments, especially in developing countries, follow suit and be willing to introduce transparent coherent regulatory frameworks for a privatized market? If more did, I believe economies would change for the better and the evidence

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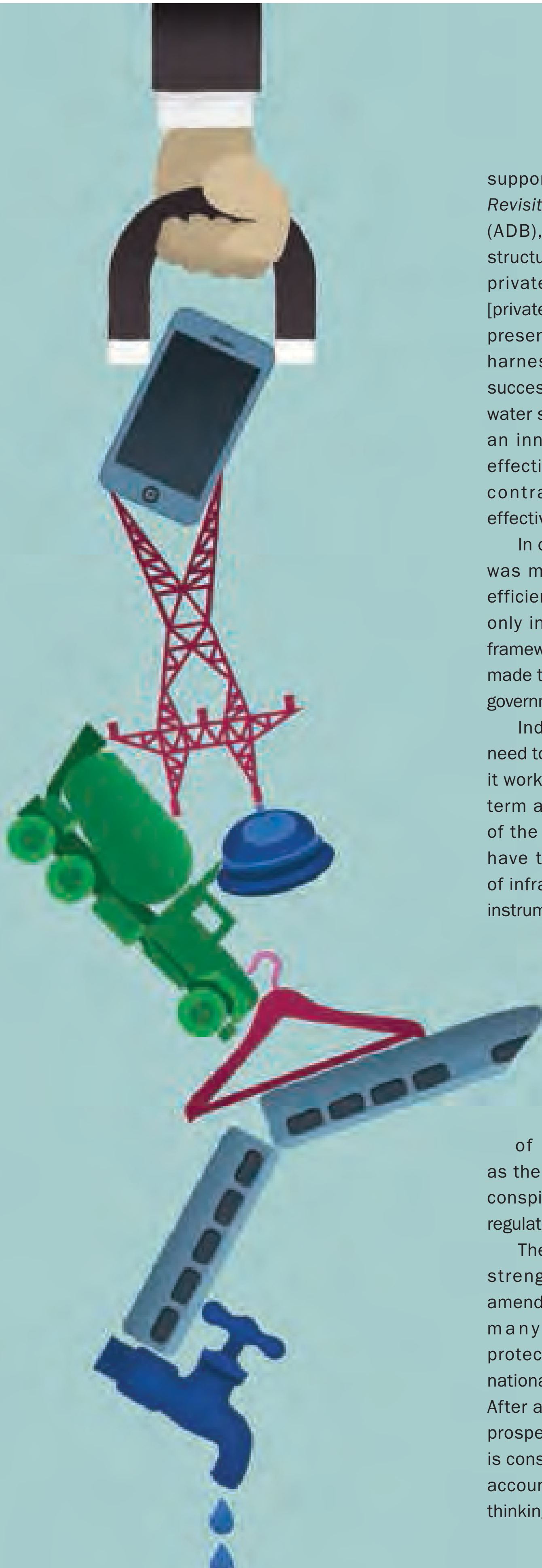

supports this. A 2008 study (*Privatization Revisited*) by the Asian Development Bank (ADB), concluded that "a change in the structure of ownership (from government- to private-owned) is not sufficient to make [private sector participation] work; rather the presence of an enabling environment that harnesses competition is necessary for success. Conditions under which the private water supplier can be more efficient include an innovative approach to competition, effective regulation, good governance and contract enforcement, and sufficient effective demand."

In other words, the case for privatization was mixed – it brought improvements in efficiency and environmental sustainability only in situations where the institutional framework was in place to ensure companies made the necessary investment (also, where governments supported the broader economy).

Indeed, it's not just governments that need to think about what is required to make it work: businesses also need to plan long-term and resist the short-term pressures of the market. Capital markets, also, will have to cater for the longer-term nature of infrastructure investment, perhaps with instruments such as 50-year bonds. Investors seem keen for options other than merely short-term equity markets that have proved to be capricious and unstable. There is no shortage of liquidity in Asian economies, where entrenched saving habits provide ample ammunition for long-term funding of key strategic infrastructure. But as the ADB report noted, the region has a conspicuous lack of transparent, coherent regulatory frameworks.

Therefore, governments should seek to strengthen their legal instruments and amend their existing economic regulations, many of them subject to hidden protectionism – or what I call "regulatory nationalism" – either by design or by default. After all, what could be better for business prospects than a regulatory framework that is consistent with the rule of law, steeped in accountability, and which honors long-term thinking and responsible stewardship?

FRANCIS YEOH

Francis Yeoh is Managing Director of YTL, one of Malaysia's largest companies. A civil engineer, he took charge of the group in 1988. He founded the Malaysian Business Council and Capital Markets Advisory Council and serves on the Nature Conservancy's Asia Pacific Council. Yeoh also sits on the advisory council of London Business School, Wharton School and INSEAD. Ranked as one of "Asia's 25 Most Powerful and Influential Business Personalities" by *Fortune* magazine and *Business Week*, Yeoh was awarded Commander of the British Empire, for philanthropy, in 2006.

YTL GROUP

YTL Group has a market capitalization of about 31bn Malaysian ringgit ($10bn) and assets of 52bn ringgit (March 2013). The group's core business is ownership and management of regulated utilities and infrastructure assets, serving 12m customers on three continents.