CHAPTER SIX
INSTITUTIONAL AND LEGAL ENVIRONMENTS

GENERAL EFFECT

The incorporation of PMB is to make postal service more efficiency driven, strong governance, market driven cost structure, growth oriented, financially driven, strong accountability, free employment structure, commercial leadership, market place innovation and semi deregulated, than the old government structure Postal Service Department. To stay relevance and competitive and earn above average return, PMB like any other business organizations should not only responsive but proactive to the fast changing environments generated by the forces. However, institutional and legal environments sometimes become the de-motivating factors that constrained PMB ability to proactively enhance business performance and reengineer strategic capability to address the emergences issues and challenges effectively. Figure 6.1 illustrates PMB institutional and legal environments, which indicate that the entity is still quiet highly regulated.

INSTITUTIONAL

Institutional setup here defined as the structure of ownership, power and control. As mentioned in chapter three PMB is currently 40% owned by the Ministry of Finance Inc and 60% owned by the National Equity Corporation (Permodalan Nasional Bhd. - PNB).. This creates a 100% Government control company. Explicitly the entity has the power and business operation freedom status as provided the by the Company Act 1965, Memorandum and Articles of Associations PMB. However, the control has far reaching implications that actually create some de-motivational factors in the running of the business entity

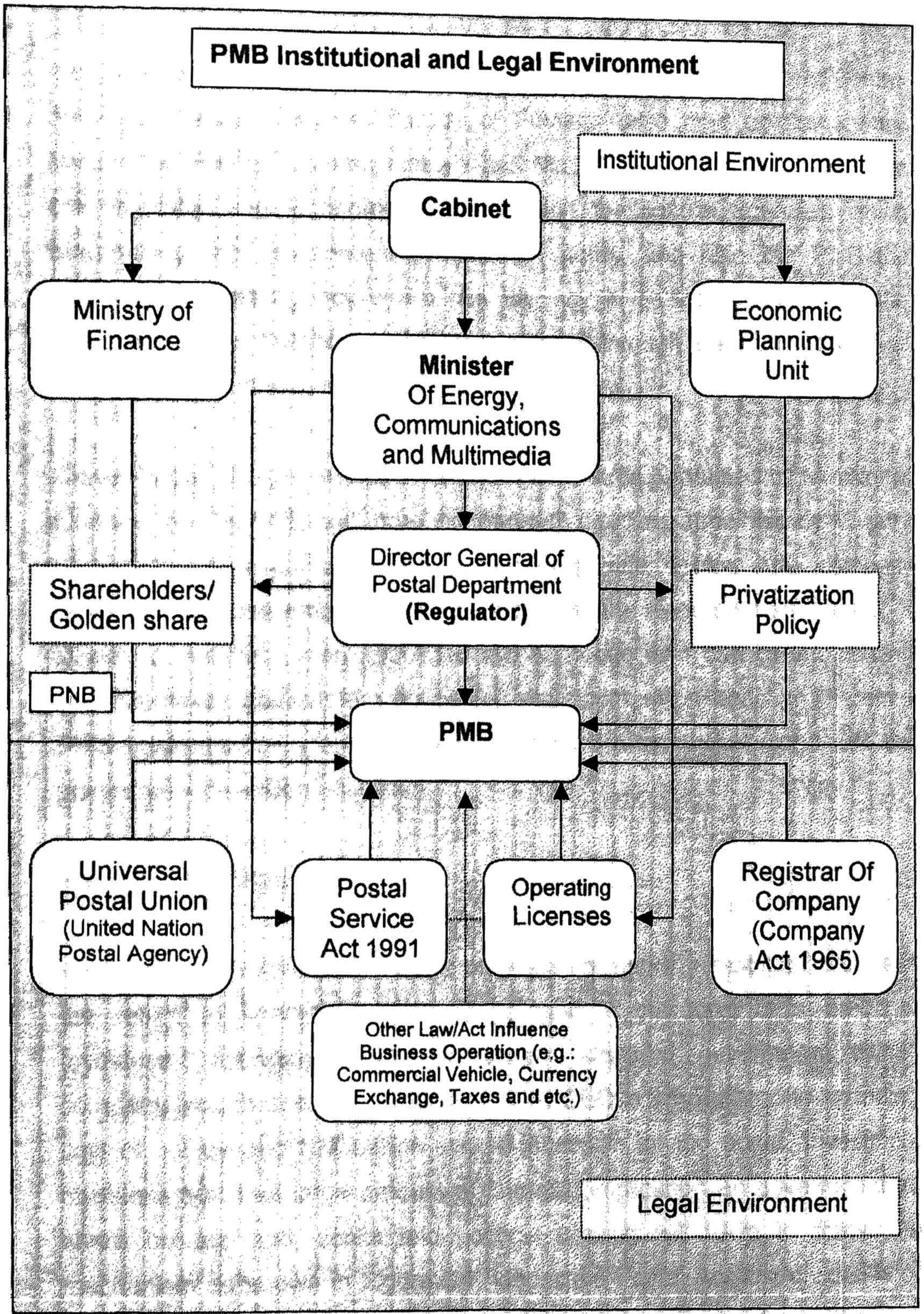

Figure 6.1: PMB Institutional and Legal Environment

Government Influences

As illustrated in Figure 6.1 government has very strong influence or control on PMB through Cabinet, Ministry of Finance (also hold golden share), Ministry of Energy, Communications and Multimedia, Postal Department as the regulator and Economic Planning Unit the central agencies which streamlined the government privatization policy, and also the PNB the government trust agency which has the say in setting directions of the postal company. The control further enhanced through the appointments of board and company leadership.

Currently out of eight members on the board, three appointed by Ministry of Finance, two by PNB and three independent directors appointed by Ministry of Finance to represent the interests of private sector. The company leadership is government appointed. Normally the leadership and Board of Directors that had been appointed are someone who can contribute and can internalize government policy and development philosophy. Therefore PMB business policy and corporate strategy are somewhat blend with the government development vision.

Profit and Investment

Profit made is retained within the business for future investment after less the return to shareholders, which is paid in the form of a dividend. Investment spending subject to certain standard government owned company limit to spending discretion. The CEO is empowered to spending limit of not exceed RM5million and RM50million for the board. Investment decisions that has large amount of financial implication on government as share holders and, social and political bearing will have to follow the mechanism as shown in Figure 6.1. Under the Postal Act any dividends or other sums received by the corporation in right of, or on the disposal of, any securities or rights acquired by virtue of section 4 and 5 respectively shall be paid into the consolidated Fund.

Bureaucracy Perfectionism

Under the existing institutional set up bureaucracy perfectionism, the decision-making ideals that try to accommodate social, political and business factors could not be disregarded. The culture to certain extent dictate PMB operating environments and limit it strategic choices, which sometimes merely buffers it from or responds to changes in that environment. A political and social consideration sometimes outweighs the business need for efficiency and effectiveness.

For example the apparent lack of interest in discussing with local courier operators where there are potential for synergy with PMB current networks, delivery capability and skills to compete with the multinational operators reflecting a cautions approach on PMB (KPMG 2000). The move is good to protect the shareholders interest. However, the wait and see strategy would left the government control business entity loss it competitive grips.

Although PMB had developed and introduced various new products such as Pos Takaful, Pos Ekpress, Data pos, Post 2020, Pilgrim Baggage Service and Admail most of them do not bring much return on investment and some in the process of closure. Product development and investment criteria approach still governmental. The need to offer an intearated solution to the customers and customer focused marketing function has not been given priority. The EPF computer-purchasing scheme managed by PMB through Joint Venture Company does not seem to take the two factors into account.

LEGAL

The legal framework refers to existing law, rule and regulation and license conditions that govern postal service and postal operator establishment and business operation. Among the critical elements that concerned PMB are the tariffs, USO, exclusive agreements for international services and standard of performance with respect to customer services.

Tariffs

Tariff is one of mail critical success factors. The higher the tariff the higher return to PMB. Under Sections 16 (1) and 49 (1) of the Postal Services Act 1991 the Minister is given the power to make rules in respect of tariffs for each type of product with the consent of Cabinet. Section 6 (1) (g) of the Act mentioned the Director General of Post is charged with regulating the fixing of rates of postage. But the Act does not state clearly that the Director General has the power to fix the rates. As such the Director General would forward the application to the Minister. Therefore PMB cannot simply increase the tariff without the government approval, which in turn would look into the social implications of such increase.

The actual level of tariffs has remained the same since 1992, despite several applications for increase in tariffs from PMB, which already twenty percent fall in real term. This contrasted with telecom and electricity where tariffs have been allowed to increase since privatization. In fact TNB for example has applied for an increase of electricity tariffs further. Hence, without compatible tariffs PMB unable to increase level of investment in the network service, and improve service standard. The Act also does not provide any clear principles in deriving the tariffs. The term affordability of tariffs is not defined in the Act and whether the tariffs imposed are affordable purely subjective and left to the Director of Post to determine it to promote the interests of user in respect of price.

Social Obligations

The corporatization of postal service through the creation of PMB in 1991 however, could not be detached off the social universal service obligation that was undertaken by Postal Service Department, from the legal provisions that govern PMB business operation.

The competing forces require PMB to reevaluate it future social role in order to ensure the organizational effectiveness. But the challenges ahead is how to reduce it social commitment that had been set by political, institutional and legal requirement at the expense of it business profitability and at the same time to enhance commercial performance to stay profitable and earn above average return to meet stakeholders' need and objectives. The biggest challenges are to sustain and enhance profitability, service quality, cost effectiveness, efficiency, innovation, employee commitment, leadership without reducing the social commitment and responsibility.

While other sectors of the communication industry have been deregulated, the postal sector is still laggard and left behind to find it own course. The deregulation and liberalization of communication industry through the repealing of the Telecommunications Act 1950 and the Broadcasting Act 1988 and the legislation of Communication and Multimedia Act 1999 only limited to the network aspects of the communication industry. It converge the broadcasting and telecommunications sectors of the communication industry. However the physical elements of communication industry such as mail and parcel delivery system not covered by the Act.

Thus, it creates structural imbalance between the sectors in the industry. While business entities in the communication and multimedia sector is equip with more effective mean to proactively response to the accelerating changes and competitions, the postal sectors is being govern by institutional and legal rigidity. Thus this has developed performance gap between sectors of the communication industry.

The need to give highest priority to business profitability as opposed to social responsibility is critical to ensure future business survival and continuous flow of social benefits generated by the business activities. It must have enough profit to be reinvested into the economy or it will loose the strengths, fade away and die. The social benefits not only limited to the United Nation slogan of "the right to communicate" but, more important is the bigger impact on the population such as employment, income and economic activities generated by the industry.

Whatever the view of corporate social responsibility, management has its priority the need to ensure the survival and effective performance of the organization (Mullins 1999). The first responsibility to society is to operate at a profit, and only slightly less important is the necessity for organ of our society. Management must maintain its wealth-producing growth. The business is the wealth-creating and wealth-producing resources intact by making adequate profits to offset the risk of economic activity. And it must besides increase the wealth-creating and wealth-producing capacity of these resources and with them the wealth of society (Drucker 1989).

The success of Singapore Postal Services to improve it service quality and at the same time makes substantial profit, which become the foundation of their future effectiveness, is based on the principle that there should be no cross subsidy. According to them cross-subsidy is a common feature in postal services, with international mail subsidizing local mail, business users subsidizing the residents and the city areas covering the deficit from the rural areas. To ensure viability, there should no cross-subsidy among services. Every product and services must be viable on its own. There must be sufficient profit margin to enable the enterprise to invest in the business to provide better service and to compete for market share. Subsidy will lead to inefficiency in the subsidized services and uncompetitive prices for the services providing the subsidies. The government or regulatory body will have to decide how best to eliminate or minimize cross-subsidy (Lee 1998).