

*The Search for Optimal Institutional Design  
for Utilities Regulation: Is the Multi-Sector  
Model Still Viable*

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# Overview

- Existing institutional Forms evidenced lack of consensus
- Principal considerations in the design of regulatory institutions
- Desirable Features
- The case for Multi-sector regulation
- The case for Single-sector regulation
- Squaring the Jamaican experience

# *Existing Forms*

Quite a mix:

- Remit - Sector specific v Multi-sector
- Jurisdiction - Merged regulation and competition responsibilities v Pure competition regulation
- Institutional structure – single person v commission type
- Autonomy – Independent regulator v Government department
- Functions – administrative and advisory v quasi-judicial

# *Most Recent Developments Show No Emerging Consensus*

- OECS – all opted for single sector regulation
- So has Surinam and Cayman
- Barbados – multi-sector with competition and consumer protection
- Bahamas, Guyana, and Anguilla – Multi-sector
- T&T – Telecoms removed from Single Sector to multi sector
- UK – From single sector telecom regulation to converged communication regulation
- Less recent but also noteworthy – earlier merger of electricity and gas to form converged energy regulator

# *Factors Influencing Forms*

- Efficiency Considerations
- Legacy Arrangement – structure of government, history, culture, etc
- Fit with existing Institutions – endowment issues
- Resource Constraint
- International assistance
- Concerns about capture
- Geography and demography

# *Forms Vary but Desirable Features are Pretty Standard*

Four Important and interrelated Features

- Legitimacy
- Efficiency
- Effectiveness
- Certainty

These can be further subdivided into  
supporting features

# *Legitimacy*

“Conforming to law or statute” or Logically acceptable and enjoying widespread approval”

- The first relates to the statutory basis
  - Clear – unambiguous and internally coherent
  - Fair – natural justice provisions, due process, consistent with constitution, etc.
  - Enforceable – practical, clear sanctions

## *Legitimacy (contd.)*

The second to perception

- Acceptance by various publics: politicians, utilities, consumers, other administrative bodies
- Independence from stake holders
- Demonstrated expertise and competence
- Track record of success



# *Efficiency*

“A design consistent with achieving the mandate at least cost”

- Quick and easy decisions
- Shared resources
- Maximization of the use of fixed resources

# *Effectiveness*

“Getting the job done and achieving desired results”

- Clear decisions
- Decision that sticks – no frequent reversals
- Creating a stable regulatory environment
- Presiding over a dynamic sector – competitive prices, growing markets, increased investments, service diversification and improve service quality

# *Certainty*

“Pertains to permanence of the regulator and predictability in its conduct”

- Permanence is determined by
  - Legal foundation
  - Appointment of functionaries
  - Funding
  - Insulation from capture
  - “Embeddedness”
- Consistency in decision
- Open transparent process
- Collegial decision making

# *Multi-sector Regulation - the case for*

- Efficiency – non-duplication, resource sharing
- Transferability of limited resources
- Facilitate cross training
- Commonality of issues
- Minimises potential for capture
- Diversification of source of funding
- Greater “embeddedness”
- Diversified supervision

# *Single Sector Regulation – the case for*

- Sector specific expertise and greater focus
- Eliminates cross subsidies
- Exposed to better scrutiny since there can be no free loading on monitoring cost
- More flexible in dynamic environment
- Limits effects of regulatory failures
- The convergence argument in communications

# *OUR's Experience with Multi-Sector Regulation*

- Changed has been mooted to 1995 multi-sector model
- Experience confirms some of claimed benefits
  - Non-duplication and spreading of costs
  - Cross training & maximized results from multi-sector training
  - Deployment of staff to meet peak loads across sectors
  - Leveraging of experience and methodologies
  - Benefits of Diversified funding
  - Hedge against single ministerial agenda
  - “Embeddedness” against sudden change

# *OUR's Experience with Multi-Sector Regulation*

But not all positive

- Complaint of bureaucratic procedures
- Slow decision making in telecommunications
- Lack of focus given multi-tasking of staff
- Failure to successfully conclude telecommunications sector rules
- Cross subsidisation of regulatory activities across sectors

# *Concluding observations*

- Recent global changes do not suggest agreement on a common design
- Proposed changes said to be informed by convergence but Multi-sector model is not necessarily in conflict with convergence - Anguilla
- What of convergence spanning other sector (e.g., power)?
- Even with convergence emphasis should be consolidation
- What lessons from US differing approaches at Federal and State level
- Criticisms of the OUR are largely unrelated to structure
- OUR's experience suggest that multi-sector model has worked well for a small developing country