

**THE SEARCH FOR OPTIMAL INSTITUTIONAL DESIGN FOR UTILITIES
REGULATION: Is the Multi-Sector Model Still Viable?**

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Abstract

A scan of administrative type agencies across the region and across the globe will confirm that there is still considerable variation on institutional forms and delineation of regulatory responsibilities. This means that countries still in the nascent stages of liberalization do not face a cut and dried question in choosing an appropriate institutional design and in the allocation of responsibilities. Moreover, even countries with mature liberalized markets and settled regulatory traditions are finding it necessary to revisit their regulatory arrangements for utilities.

Among the more important issues that arise in the debate on institutional form are: single sector v multi sector regulation, commission v single person regulators, and the employment of general competition law v specific sector legislation for regulating utilities. This paper seeks to offer a perspective on one aspect of this debate using the experience of Jamaica's Office of Utilities Regulation to examine the case for multi-sector regulation. This is done against the background of recent proposal to alter the utilities regulation arrangements in Jamaica.

The paper notes that while there is no emerging consensus on a single model, the Jamaican experience with a multi-sector model should prove persuasive for countries with similar size, concerns about resources (human and economic) and political arrangement. It also underscores the point that the difficulties encountered by the OUR in carrying out its regulatory agenda are by and large unrelated to its institutional design

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1.0 Introduction

Both the practitioner and the academic literature are agreed there is a diversity of factors impinging on the design, and composition of regulatory agencies. These run the gamut from considerations about efficiency, capture, politics and administration to such non-autonomous issues as geography and demography. Additionally it can, and has been argued that legacy arrangements such as existing institutional endowment and history as well as limits on national resources also exert major influences.¹

The range of institutional forms that dots the global regulatory landscape is perhaps a testimony to the extent to which these factors exert varying levels of influence on institutional design. These differ in terms of the extent of their remit (sector specific versus multi-sector responsibility and merged competition and utilities regulator versus pure utilities regulator), their organizational structure (commission type versus single person regulator), their relationship with the political directorates (independent regulator versus government administrative arm) and their functions (purely administrative versus quasi-judicial tribunals).

The upshot of this is that states seeking to establish new regulatory agencies face somewhat of a confusing array of choices in terms of what exists and what is possible. Additionally, survey of recently established or reformed regulatory institutions gives no indication of an emerging consensus on an optimal design. Some recent examples regional and extra-regional are illustrative of this point.

All the Organisation of Eastern Caribbean State (OECS) countries that have recently established regulatory agencies have opted for single sector regulators in the form of National Telecommunications Regulatory Agencies. This has also been the case for Surinam and the Cayman Islands. By contrast, Barbados had earlier opted not only for a multi-sector regulator but has also placed regulation of utilities and general competition and consumer protection responsibilities within the same agency. Similarly, the Bahamas, Guyana, and most recently, Anguilla have opted to set up multi-sector regulators while Trinidad and Tobago with the most recent formation of the Telecommunications Authority has moved out telecommunications from under the multi-sector Regulated Industries Commission to a single sector regulator model.

Further a field, the UK has recently established a converged regulator for communications (OFCOM) taking in the disparate functions previously performed by OFTEL, the Broadcasting Standards Commission, the Independent Television Commission and the Radio and Radio-communications Authority. Notable, though far less recent, was the merger between the then energy regulator

¹ See Levy and Spillers (1996) and Stirton and Lodge (2002)

(OFGAS) and the then electricity regulator (OFFER), to form OFGEM in the latter part of the 1990s.

This paper provides an overview of some of the major factors that should be given primacy in the design of regulatory agencies and the different arguments posited in support of two of the more common approaches, single sector and multi-sector regulation. It then assesses these arguments in the light of the Office of Utilities Regulation's experience as a multi-sector regulator operating in Jamaica since 1997 and current proposal to alter this model as it relates to telecommunications. It concludes by offering an opinion on why one form may be more appropriate and in particular, why the multi-sector model may be more desirable for countries such as Jamaica.

2.0 Desirable Features in the Design of Regulatory Institutions

There is wide spread consensus in the regulatory literature on what constitute desirable objectives in the design of regulation and regulatory institutions (Baldwin & Cave, 1999; Green, 1999; Smith, 1997). This section of the paper focus on four desirable features of good regulation (legitimacy, efficiency, effectiveness and certainty) that should be given consideration when designing regulatory institutions.² It is shown that each of these features comprises different elements that address different sub-issues, which are critical to the four objectives identified. It should be noted as well that the features are not discrete but are very much interrelated. Implicit in this, is the observation that while it is difficult to rank the major features in order of importance it may still be possible to identify which design enhances the most of these features in the particular context of a country and consequently what is optimal for that country.

➤ Legitimacy

It is submitted that one of the first consideration in designing regulatory institution should be to ensure legitimacy. Legitimacy is used here in the legal sense, 'conforming to law or statute' but also in its wider commonly accepted sense of 'being logically acceptable and enjoying widespread acceptance'. The first part of this is achieved by ensuring that the way the institution is structured conforms to both the general provisions of the law and the specific enabling statute. For example, it should not be possible to challenge decisions taken by the institutions on the basis that its internal structure is inconsistent with its mandate or that it does not allow for due process and observations of the principles of natural justice.³

² Note that Baldwin and Cave (ibid. identifies five with different terms and emphasis. Additionally, although independence is often discussed as a critical feature I have subsumed it under the legitimacy and certainty headings.

³ It is note worthy in this regard that a part of the argument that the Jamaica Stock Exchange posed in its successful appeal against the Fair Trading Commission in Jamaica Stock Exchange and Fair Trading Commission, was to the effect that the Commission's internal arrangement and its exercise of statutory authority allow for breaches of the principles of natural justice.

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The second element in legitimacy, although enhanced by the first is more an issue of public perception. Regulatory institutions should be designed so that their various 'publics' (politicians, regulated sectors, consumer groups, other administrative bodies, etc) readily accept their role and their right to make decisions. There are several components to this. Politicians who are in fact ceding power to regulatory institutions will perhaps do so more readily if they enjoy some assurance that these institutions rest on sound legal bases and are structured to allow for accountability. At the same time, the public will have greater confidence in institutions that are structured to minimize the potential for manipulation by politicians or the regulated industries. By the same token, regulatory institutions that are designed to reduce the potential for capture will have greater acceptability from the regulated sector especially, new entrants and smaller players. An obvious conclusion that flows from all of this is that an institutional design that enhances independence (actual and perceived) is vital to the objective of securing legitimacy. Overtime, legitimacy is also enhanced by demonstration of expertise and competence but these are more personnel than institutional design factors.

➤ **Efficiency**

As noted by Baldwin and Cave (ibid.), efficiency as it relates to regulation is somewhat of a thorny issue since it is largely an economic concept whereas the regulator is often forced to have regard to social and political consideration in carrying out its mandate. In the context of a discussion on institutional design, however, the concept is largely about how resources are best allocated and least cost ways of achieving the mandate. In this regard, an efficient design would be one that facilitates quick and easy decision-making, shared scarce resources and maximization of the use of fixed resources. To the extent that a regulatory design reduces duplication and ensure optimal use of resources, it would be considered efficient.

➤ **Effectiveness**

This feature touches on a number of areas viz., getting the job done, compliance with decision, permanence of decision and results. An effective regulator is arguably one that makes well informed decisions relatively quickly, is relatively assured of compliance with its decision, does not see its decisions being frequently overturned by the courts or other administrative bodies and sees results measured in such terms as, outputs, investments, market expansion, prices, service diversification and quality of service.

Any feature in the design of regulatory institutions that slows decision-making is likely to be regarded as undesirable. Such features could include lack of focus, overstretched resources and multi-tiered decision-making process. By the same token attributes such as the ability to transfer experiences quickly, to leverage demonstrated success in one area to secure respect in another are important to enhancing effectiveness and reducing the prospects for appeals and reversals on appeals. At the same time, it is important that the regulatory body is vested with

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sufficient legal authority and enjoys such respect from regulated entities, political directorate, other administrative bodies and the courts as to constrain the tendency to resort to appeal.

➤ **Certainty**

There are two general considerations about certainty. The first relates to the permanence of the regulator and the regulatory process while the second relates to the behaviour of the regulator. The permanence of the regulatory will be based on such factors as its legislative foundation, the methods of appointment for key functionaries, its funding, its insulation from capture and what Stirton and Lodge (ibid.) describe as “its *embeddedness* in regulatory space”.

The last three features are perhaps the ones most impacted by regulatory design. Guaranteed source of funding for the regulator is critical to assuring public confidence in its continued operation and ability to fulfil its mandate. The extent to which this poses a problem for the regulator is dependent on such issues as diversity of sources in the case of funding from regulatory fees, the number of ministries exercising oversight and exerting influence in the case of funding from the public purse and the legal and administrative arrangements for budget approval and receipt of payment.

Insulation against capture can be determined by the extent to which the design of a regulatory agency concentrates or diversify decision-making and points of reporting for accountability. It is possible to argue for example that an agency that reports to one ministry and is dependent on that ministry for budgetary scrutiny and approval is more susceptible to political capture. By the same token, a regulatory body with one main source of funding for its budget whether from a sector or a major sector player is also more susceptible to private capture. Here again it is important to note that insulation against capture is regarded as a linchpin of regulatory independence.

With regard to the behaviour of the regulator, certainty is enhanced when decisions are consistent over time and where there is commitment to an open and transparent process. An institutional design that allow for collegial decision-making and for the possibility of cross sector monitoring for consistency has a greater claim to certainty.

The concept of embeddendness is a take off from Hancher and Moran's (1989) notion of regulatory space. Essentially, it suggests that a regulatory institution that is part of, or interdependent on, a network of other related institutions enjoys greater permanence and stability. Thus, it can be argued that linkages between a regulator and providers, consumers, other sectors, other state agencies and extra-national agencies can serve to ensure greater permanence and assure more certainty.

3.0 Multi-sector Versus Single Sector Regulator, the Pros and Cons.

This section examines a number of the theoretical, empirical and practical arguments that are often posited in support of either the multi-sector or the single sector approach to regulation. It also attempts to locate these arguments, as they relate to either form, within the ambit of the four desirable features of good regulation expounded on above and underscores the extent to which there are crossovers.

➤ Multi-sector Regulation

Supporters of multi-sector regulation often cite the efficiency arguments as a prime reason for adopting this approach to regulation. A major plank in this argument is that multi-sector regulation reduces duplication of a range of costs (staffing, administrative, technology, machinery, furnishing, office building, etc) and as a consequence reduces the per unit cost of regulation. It is therefore posited that small developing states with small populations and limited resources can substantially reduce their fiscal expenses or requirements for regulatory fees by sticking with this approach.

Closely akin to the elimination of duplication of costs argument is the contention that the range of skills needed for utilities regulation is special and relatively scarce. In the multi-sector model these skills are easily transferable across sectors. Also joined to this point is the observation that multi-sector regulation allows for cross training and multi-application of experiences. In small countries, where the numbers of players in the sectors are themselves, few but usually in a position to hire the best skills available, the regulatory agency is invariably hard pressed to counter the resources (in terms of skills and financial). The multi sector arrangement therefore has an appeal in such instances as it provide the regulator with the opportunity to cross train and develop skills that can be utilised across the sectors to best and most efficient effect.

Still another bow in the quiver of those arguing for multi-sector regulation is the claim that while technology is different across sectors, the major economic issues in utilities regulation are similar (cost of capital, access to networks, marginal costing, price caps, etc.). In this regard, a multi-sector regulator will find it advantageous to utilise experiences gained from one sector in another. Moreover, generic training funded by donors to one sector can be utilised in others.

Notably, most of the arguments used to support the view that multi-sector regulation is efficient can be used to support the effectiveness argument. The claim here is that if the structure supports efficiency, by the same logic it supports effectiveness in respect of getting the job done and in the shortest time.

The avoidance of regulatory capture is fundamental especially in the context of the claim to independent regulation. Besides as noted above, elimination or reduction of the potential for capture enhances both legitimacy and certainty. The

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claim that multi-sector regulation reduces the scope for capture at the levels of the political operative, the internal bureaucracy and from the regulated sectors perhaps makes the strongest case.

At the political level, a credible case can be made that a number of ministers maintaining watching brief over a multi-sector regulator (from the perspective of their respective portfolio interests) makes it less likely that the agency will become captive to the influence of a single one. This is especially important, as it is common in the liberalization process for ministers to be under severe lobbying pressure from players in a particular industry. Having an independent regulator (i.e. independent of the line ministry) can often assist ministers to deflect some of this pressure. A similar point can be made with regard to the funding of the multi-sector regulator where it is taken directly from the public purse. Oversight by more than one minister lessens the possibility that the budget approval process can be utilised by a minister to exert undue influence on the operations of the regulator.

At the level of the sector, it is argued that the fewer the numbers of industry players, that a regulator answers to, the greater is the possibility of capture. By contrast the larger the number of players within and across sectors to which it relates, the less likely it is that the regulator will succumb to the influence of one. This is especially the case because the agency will be obliged to demonstrate consistency in its decision across sectors. Also interfacing with a wider range of sectors lessens the possibility for too cosy a relationship with any one sector. Moreover, where a regulator is funded directly from regulatory fees the multi-sector regulator enjoys an advantage in that its survival is not dependent on the fortunes or willingness to pay of any one firm or for that matter, set of sector firms.

A final point to be made in favour of multi-sector regulation is that relating to the concept of '*embeddedness*' cited above. A multi-sector regulator is embedded within a framework of institutional, legislative, and enforcement arrangements that span different sector. It is therefore possible to argue that altering their modus operandi or removing them is far more difficult than would be the case for a single sector regulator since one would be forced to consider *inter alia*, the effects on all the sectors, other administrative agencies and relevant sector legislations. Hence, it can be argued that multi-sector regulation provides greater certainty for all parties having an interest in the regulatory process.

➤ **Single Sector Regulation**

As with multi-sector regulation, there are a number of arguments that can be made for choosing a single sector regulatory model and a number of states have had a long tradition of this approach. One prominent example is the UK, which opted for the single sector model in all its major utilities post deregulation in the 1980s. Significantly, as well, Canada and the USA have for a long time used the

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single sector approach at the federal level although most importantly at the state level, the US employs largely the multi-sector approach.

Among the arguments usually cited is that single sector regulation is more focused. The claim here is that regulating a single sector allow professional to become more specialise and to hone their skills in specific areas. This contributes to efficiency and the development of more sector specific expertise over time leads to greater legitimacy.

It is also argued that the single sector approach allows the agency to concentrate it resources on one sector ensuring greater effectiveness. Moreover, it is more efficient from the perspective of individual sectors as it eliminates the possibility of using resources from sector to fund the regulation of another.

Still another argument is that single sector regulators are likely to be subject to greater scrutiny by the regulated entities, as they do not hold out the same incentive for free riding in terms of monitoring as obtains with multi-sector regulation. Thus, it is expected that a sector regulator will be watched more closely by the regulated sector, as there is no possibility that other sectors will do the monitoring or share the cost of inefficiencies. Such regulators are therefore forced to constantly justify their existence.

While it is argued that multi-sector regulators are more embedded and are therefore difficult to change, an opposite argument can be made in support of single sector regulation. The argument is that single sector regulation allows for greater flexibility with regard to regulatory policy changes in the short term since the effect of alternations are limited to a specific sector. This it can be argued enhances efficiency and effectiveness. At the same time, however, this must be balanced against the possible adverse effects on legitimacy and certainty.

It is also argued that single sector regulation contains the adverse effects of regulatory failure to a specific sector. Thus if the regulatory approach in telecommunications is bad there is no possibility that the same approach will be transferred to electricity whereas with multi-sector regulation this is always a possibility.

A final point that finds resonance among supporters of single sector regulation comes out of emerging trends in telecommunications, broadcasting and information technology, the so-called convergence phenomenon. The argument here is that technological changes have blurred the boundaries between broadcasting, telecommunications and other communications technology related areas that were previously regulated separately and so there is a need to bring all of these activities under one regulatory umbrella. In this regard, it is argued that where telecommunications exist as part of a multi-sector regulator it should be hived off and combined with these activities to form a single freestanding convergence regulator and countries setting up new agencies should eschew the

multi-sector model with regard to telecommunications and establish converged regulator for that sector.

4.0 The OUR's Experience with Multi-Sector Regulation

The Office of Utilities Regulation which is a multi-sector regulatory agency having responsibility for water and sewerage, electricity, telecommunications, and transportation by road, land, and ferry became operational in 1997. It is understood that prior to setting up the OUR in its current format consideration was given to at least two other existing formats notably, sector specific regulation, and general competition regulation. In the end however, it was decided that a multi-sector approach was the most cost effective and appropriate option given, the size of the country, the resource constraints and the other existing institutional arrangements. It also emerged out of the Telecommunications Policy of 1998 that the intention was to eventually include the management and allocation of spectrum resources which then resided with the Post & Telegraph Department would be brought within the purview of the OUR but by the time the new Telecommunications Act was passed there was an apparent policy change.

Since 2002 however, there has been some discussions about moving to a single sector regulator for telecommunications. In view of this, it is perhaps instructive to examine the extent to which the experience of the OUR since its establishment in 1997 supports or deny the arguments set out in favour of the multi-sector approach to utilities regulation.

It is fair to say that the experience of the OUR since opening its doors in 1997 bears out a number of the claims that have been made about the advantages of multi-sector regulation. The most obvious example of this is the claim to greater efficiency in respect of the non-duplication of various costs relating to office space, machinery, furniture, and administrative and technical staff. Notably these costs would have to be duplicated for each separate office that is established.

The scope for cross training and cross sector allocation of staff has also been a boon for the Office. Since not all the entities that are regulated by the Office requires the same amount of attention at the same time, the Office while allowing staff specialisation in respect of a particular sector retains the freedom to deploy staff according to work requirement in other sectors. The advantage of this is that while it has to ensure that there is a large enough staff to treat with peak load regulatory requirement it does not have to be concerned that a lull in regulatory activities in one sector will lead to under utilisation of staff.

It has also been the Office's experience that its multi-sector structure is often beneficial in making the best use of training opportunities. A number of the training courses offered to regulators (PURC, IP3, NARUC, TRMC) cuts across the various regulated utilities. Invariably, sector specific utilities regulators

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attending such courses will experience some downtime, however, a multi-sector regulator such as the OUR is able to take advantage of all sessions.

The OUR has also found it particularly advantageous to leverage its experience and reputation in one sector to other regulated sectors. For example, much of the experience gained in telecommunications has been applied in the regulation of the other sectors. For example, the experience gained from the development of incentive-based regulation in telecommunications proved particularly useful in the development of similar mechanisms for electricity. The same approach was applied in the derivation of cost of capital. The Office employed consultants to derive cost of capital for the telecommunications sector. The principles and methodologies developed in carrying out this exercise were then extrapolated to derive cost of capital for the electricity sector. Similarly, the ability to employ one methodology across sectors has proven to be advantageous as exemplified in the relative common consultation process the Office applies across the regulated sectors.

The advantage of having diversity in funding is also an area in which the Office has seen the benefit of being a multi-sector regulator. At various points in its seven-year history, regulated entities have attempted to hold the Office to ransom by withholding the payment of regulatory fees. In the long-term, such actions are hardly a problem as the Office can resort either to court actions to recover its costs or in the extreme to make recommendations for licence cancellation. The problem, however, is that in the short terms such tactics can hinder the work of the agency and threaten regulatory certainty. The reality however was that although these represented significant challenges, the Office was still able to carry on its work using payments from other regulated entities.

One can also make an educated guess that in recent times the Office has benefited with regard to the preservation of its current structure from its so called '*embeddedness*' and the fact that its answers to more than one minister. It is no secret that since 2002 the current minister with responsibility for telecommunications has been expressing the desire to see a converged regulator for communications outside of the remit of the OUR. To date this has not taken place, and there is some inkling that the lack of progress is due in part to at least two factors. Firstly, considerations about the implications of the changes for the existing institutional arrangement (statutes, other regulatory institutions and the regulated entities) and secondly difference of opinion among relevant sector ministries that would be affected by the change. To the extent that these claims are true they bear out the point that multi-sector regulators are more difficult to remove or to alter.

5.0 Some Observations

While it is true that regulatory arrangements are quite diverse and recent experiences do not indicate a solid trend in favour of a particular form, the OUR's

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experience confirms the observations that there has been significant gains from the multi-sector approach.

Notably, the call to move to a single sector model in Jamaica has been made only in respect of telecommunications and the explanation is that this is an imperative of convergence. What is not clearly articulated however is why considerations about size and unwieldy bureaucracy aside, convergence cannot be dealt with within the structure of a multi-sector regulator. In this regard, it is worth noting that at least one of the principles behind convergence regulation namely; making use of synergy between similar activities can also be prayed in support of multi-sector regulation.

A related consideration is that the notion of multi-sector regulation not only fits well with the logic of consolidation that is emerging in communications but is also consistent with changes in other fields of regulation. The financial sector where choices often have to be made between establishing single activities regulator as compared with sector wide regulation by a single agency provides an illustration of this. Notable in this regard is that the UK as part of a series of reform in the late 1990s opted to establish a single regulator for its entire financial sector. Jamaica also adopted a similar policy with the rationalisation and consolidation of the regulation of its financial sector under two agencies. Australia provides another prominent example of this approach to financial regulation.

It should also be noted that even in the UK where the tradition of single sector regulation is well entrenched, the logic of economies and synergy led to a merger between the then electricity regulator (Offer) and the then gas regulator (Ofgas) in the latter half of the 1990s to form OFGEN. Moreover, it is also possible to view the recent changes in the area of communications combining the regulation of telecommunications, broadcasting, independent television and radio as an attempt to secure economies by reducing the number of freestanding regulatory agencies.

An even more instructive observation is that relating to the case of the British dependency, Anguilla. As part of a recent series of policy initiatives to reform its telecommunications sector, Anguilla has placed the regulation of telecommunications, broadcasting (non-content) and spectrum management within a multi-sector regulatory framework.

The Anguillian example is particularly telling because of the fact that it is a British dependent territory and would therefore, have been exposed to the well-established tradition of sector specific regulation common to that country. The choice of the multi-sector model must therefore, be regarded as significant and it is notable that the policy document setting out the new regulatory framework for telecommunications underscored the limitation on resources available to the

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country to undertake regulatory activities.⁴ Also of significance is the decision to place convergence regulation within the multi-sector regulatory framework. This move runs counter to the suggestion that what is needed is a freestanding convergence regulator to deal with the issues thrown up by that phenomenon.

In Canada and the US, the regulation of broadcasting and telecommunications has traditionally been done by a single agency, the CRTC in the case of Canada; and FCC in the US. In looking at the experience in Canada and the US however, it is also important to note that the Federal structure of governments of those countries is probably a major factor behind these approaches. In this regard, it is notable that at the federal level, the agencies responsible for energy regulation are also industry specific - Federal Energy Regulatory Commission (FERC) in the USA and National Energy Board (NEB) in Canada. By contrast, for the US, at the state and provincial levels, regulation is done by multi-sector regulators and usually combines, telecommunications, water & sewerage, gas, transport, electricity, taxis, etc. Indeed, it is often pointed out by advocates of multi-sector regulation that California, which has the fifth largest economy in the world, has a multi-sector regulator for telecommunications, electricity, water, gas and transport.

Still another important relevant observation here is that in recent years there has been a suggestion that market liberalisation and changes in technology have both spawned and increased the potential for multi-sector utility providers.⁵ A notable example of this is the possibility for using power line infrastructure to provide telecommunications and subscriber television services. Clearly, the prospect for utilities to use common facilities to supply different services is an indication that convergence may not be entirely limited to communications services. To the extent that this potential is exploited and multi-utility providers become common, the multi-sector regulator will be ideally structured for regulating such hybrids.

Notwithstanding the OUR's positive experience with multi-sector regulation it is important to indicate that there are a number of credible complaints about its performance over its seven years of operation. One such criticism is that its processes including consultations are too bureaucratic leading to slow decision-making and prolonged delays particularly with respect to the telecommunications sector. Secondly, it is claimed that the Office's involvement in other regulatory activities reduces the attention that the technical staff is able to give to any one sector. Still a third criticism that is made is that the Office has failed to put in the rules that are required by statute for it to engage in *ex ante* regulation.

While the above criticisms are merited in various degrees only one can be directly related to the structure of the OUR. This pertains to the claim of lack of

⁴ See a New Telecommunications Regulatory Framework for Anguilla, http://www.tax-news.com/asp/res/ang_tel_policy.html

⁵ See Sommer, D. (2001)

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focus on specific sector. It is important to note however, that this is a concern that can still be addressed within the context of a multi-sector regulator. One obvious solution to this is to create divisions within the agency that focuses on specific sectors. This would allow the agency to reap some of the benefits of specialisation while at the same time not foregoing the gains from sharing overheads and administrative costs.

Conclusion

The evidence suggests that there is no convergence in the making on a common or ideal design for regulatory institutions. Countries establishing new regulatory institutions or seeking to reform existing arrangements will therefore have to do their own analysis of what best suits their circumstances and objectives. To the extent that the choice is narrowed down to selecting between the multi-sector and the single-sector approaches this presentation suggest that the choice should turn on which of the approaches best achieves the objectives of efficiency, effectiveness, legitimacy and certainty.

It is further submitted that the OUR's experience to date bears out a number of the claims that have been made concerning the benefit of multi-sector regulation. It is also suggested that to the extent that is possible to generalise from this experience, countries sharing similar resource constraints, population size and uncertainties in respect of the potential for capture may want to adopt this model.

Notably, the discussion also treat with some of the perceived shortcomings of the OUR but makes the point that these are largely unrelated to the structure of the institution. Moreover, even in instances in which there is a relationship with structure it is submitted that the problem can be solved by internal reorganisation and management changes

It is also suggested that on the face of it, the decision taken by Anguilla, a British dependency, to establish a multi-sector regulator, which also has responsibility for regulating convergence, is instructive in two respects. Firstly, because it goes against the British tradition of single sector regulation and therefore suggests that this is an instance in which considerations of scale, economies and pragmatism might have been regarded as more important than regulatory tradition. Secondly, it lends support to the view that the regulation of convergence can still take place within a multi-sector regulatory structure.

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