


ORGANISATION OF CARIBBEAN UTILITY REGULATORS

2ND ANNUAL CONFERENCE

**INDEPENDENT AND TRANSPARENT UTILITY REGULATION IN
THE
CARIBBEAN**

“Fundamentals Of An Independent And Transparent Regulator”



“It is important to recognize that the regulator – whether an individual or a board – has legitimacy from only two sources: first is the statute which confers powers and duties on the regulator; and second is the professionalism, openness and fairness with which the regulator discharges those duties and exercises these powers.”

Callum Mc Carthy
Ofgem 2003

Independent, adj.

- ...“free from outside control; not subject to another authority” ? (of a country self governing”
- ...“not depending on a another for livelihood or subsistence”
- ...“not connected with another; separate”.

Concise Oxford Dictionary

Independent

- Freedom to implement policy without undue interference from politicians or industry lobbyists.
- It implies freedom to acquire specialised skills, to manage without interference
- and the availability of adequate, reliable funding



LEGALLY INDEPENDENT

Separate Legal Existence :

“the regulator that is a department of a government ministry ..will not enjoy the degree of independence and latitude afforded to the regulator who has a distinct statutory and whose existence is enshrined in statute”

- Enforcement Powers
- The nature of policy directives and the requirement that they be in writing



Identified Source of Funding

“Adequately funded from reliable and predictable revenue sources”

Security of Tenure:

“Sufficient legal tenure to enable decisions to be taken without fear of immediate consequences”

- Appointment process
- Revocation of tenure

Adequate Staffing:

“No agency can be truly effective if constrained by the lack of resources”

- Ability to appoint and remunerate qualified staff
- Ability to engage or access outside expertise - consultants



FUNCTIONALLY INDEPENDENT

Transparent

-“openness of and fairness in the process of exercising regulatory power” (*definition in the context of regulation*)

Transparency requires:

- Consultation with stakeholders to receive their;
- Clear hearing procedures;
- Rules governing the decision making process that allow the public to hold the regulator accountable for its actions;

Transparency

- Decisions of the regulator being subject to scrutiny by review or appellate processes (by a higher body);
- Proposals and decisions being published in a timely manner and distributed openly to the public;

Transparency

- A code of ethics that governs the behavior of the regulators;
 - Disclosure of financial interests to avoid conflict of interest
 - Limits on the value of gifts a regulator or its staff can receive

Closing thought – Opening remark

“ It is also very important that the Commission has and maintains an arms length relationship from consumers, regulated firms, business and the government. In a small society this is difficult to do but it is something that we must attempt to do

....

The operations of the Commission must be transparent and it has to have fair accessible and open procedures....”