

**MARY CLARK WEBSTER**  
**STAKEHOLDERS AND REGULATION**  
**NO SURPRISES STRATEGY**

**ORGANIZATION OF CARIBBEAN UTILITY REGULATORS**  
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**BRIEF BIOGRAPHY OF MARY WEBSTER**



Mary is a former Commissioner of Public Utilities in Massachusetts, USA, a multi-sectoral regulatory agency, where she was responsible for regulation of electricity, natural gas, telecommunications, transportation and water.

Mary is now an independent consultant on regulation and private investment promotion for infrastructure industries. She has provided technical assistance to 25 regulatory agencies in 19 countries, including: Cyprus, Egypt, India, Iraq, Israel, Jamaica, Jordan, Kenya, Mongolia, Nepal, Pakistan, Romania, Russia, South Africa, Turkey, Uganda, Ukraine, Vietnam and the United States. She has taught courses on benchmarking and quality of service in the Caribbean.

She holds Masters Degrees from Boston University in Political Science and Tufts University in Education. She is currently an on-line student for a Certificate in International Business from the Garvin School of Management at Thunderbird University in the USA. She speaks fluent English, French and Russian, and she speaks basic Spanish and Arabic. She lives in the Washington DC USA area. She is the mother of four children.

**ABSTRACT**

The objective of this article is to focus on accelerated stakeholder strategies that promote support and sustainability for regulatory commissions. Why are Regulatory Commissions so unappreciated among many stakeholder groups? Why are they sometimes demonized in the media? Key stakeholders include utility management and staff, consumers, regulators and advocacy groups as well as political decision-makers and the press. What are the ground realities regulators face? How does the regulatory process promote access, investment and affordable services when the public blames regulatory commissions for a range of social problems? A concerted NO SURPRISES Strategy that promotes multi-lateral dialogue will enhance the chances of success in achieving the goals of regulation. communicating performance indicator tracking practices with key stakeholders: including utility management and staff, consumers, regulators and advocacy groups and also political decision-makers. We will touch upon the appropriate way to provide performance information for perspective investors.

## KEY ISSUES: NO SURPRISES

This paper will talk about building a NO SURPRISES Strategy for stakeholder communication. A good strategy will enhance the perceptions about the regulatory process and improve the public image of the regulatory commission. Communicating information about the regulatory process is an absolutely critical step. Are people surprised when there is a rate increase? Is the Government heavily involved in the regulatory process because they anticipate political problems that they can not predict? Communication should be planned for from the beginning. Reporting results about regulation, such as rate cases, restructuring activities, rulemakings or investment solicitations, may closely resemble the corporate planning process that produced the strategic annual operating plan. Issues such as these are key to communicating results from regulation: SWOT Analysis:

- ◆ Strengths
- ◆ Weaknesses
- ◆ Threats
- ◆ Opportunities

Many professionals are now familiar with strategic planning. Yet many commissions still face broad public opposition to realization of their goals. What's to be done. Communicating with stakeholders requires good planning from the beginning. How often have we heard about SWOT Analysis? All too often it has not been made a critical aspect of regulation.

## IF A TREE FALLS ...



Philosophers sometimes debate the question, "If a tree falls in the forest, and nobody hears it, does it make a sound?" We may not be able to answer that question, but we can answer a more pertinent one. "If someone sends a message and nobody receives it, is information transferred?"

Certainly the answer to that question is, "No."

Yet time and time again I come across regulatory commission staff who justifiably complain that the public does not like them. It is not that they are not appreciated; it is that they are often actively disliked. While we do not expect the professional regulator to be on a career path to becoming a national hero, better stakeholder relations are recognized by almost everyone as a vital aspect of successful regulation.

One of the ideas to keep in mind at this stage of the planning process is that there should be No Surprises about the outcomes. Outcomes should be predictable. In other words, when given a set of rules and precedents, and vital communications from the regulatory commission, stakeholders should be reasonably able to predict that a certain outcome is likely to happen. There may be surprises about the data that is collected and aspects of the case that are uncovered, but the regulatory commission should have followed the strategic planning described above; commission management should be comfortable with the scope of an investigation; commission staff should know precisely what rules they are following; preliminary analysis of results should match expectations. So that when it comes to communicating results, there are no remaining arguments about which factors are important.

Then, given that the issues you have selected are important, it is axiomatic that the results these factors produce are important. These results then become the focus of your communications strategy.

## COMMUNICATIONS STRATEGY

### Identification of Stakeholders

First, it is best to identify who are the stakeholders and what are their roles. Questions to ask yourselves when working on identification of stakeholders include:

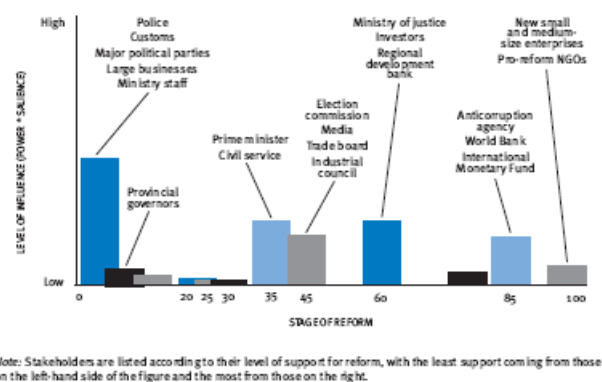
- ◆ Who are your stakeholders
- ◆ What do they want
- ◆ How active will they be
- ◆ Who are their allies
- ◆ How important is their support to you

### Mapping Coalitions

Best practices in Stakeholder Relations suggest the value of mapping coalitions of stakeholders. A recent World Bank study<sup>1</sup> notes the importance of addressing political realities, and states

“Sharper, more robust approaches that tap into cutting-edge political science methods could help guide the design of reforms to optimize stakeholder support - or signal when to jettison programs that are going nowhere politically.”

As part of the strategic planning process, staff of the regulatory commission interview key stakeholders. The results are then input along a continuum to show which stakeholders and which groups of stakeholders will support a given policy initiative and which will not. Staff can identify stakeholders with veto power, those who can block a regulatory initiative from the get-go. With this information available, the commission can construct a strategy that will enable them to create supportive coalitions and move parties closer to the commission’s goals. The Commission can also abandon unsuccessful, time-consuming initiatives that are doomed to failure from the beginning.



The chart at left here is from the PREM article cited above. It shows the levels of influence among key stakeholders in infrastructure reform. The chart demonstrates the range of possible positions on any given issue; this is from a fictitious country concerning a fictitious issue. Nevertheless, it is illustrative of the benefits of knowing in advance where the support and opposition to regulatory initiatives lies. It is a vital part of a successful NO SURPRISES Strategy.

<sup>1</sup> Nunberg, Barbara and Amanda Green, “Operationalizing Political Analysis: The Expected Utility Stakeholder Model and Governance Reforms” PREMNotes, Number 25, World Bank, November, 2004. <http://siteresources.worldbank.org/EXT/DEVELOPMENT/Resources/premnote95.pdf>

An unfortunate recent example of a badly failed regulatory initiative that absorbed enormous time and resources is the US FERC's Standard Market Design that was ultimately abandoned in July 2005 after years of effort.

## Implementing Communications Strategies

When all the stakeholders are identified and assessed, and when the results of the regulatory process have been analyzed, the communications strategy can be implemented. A good communications strategy will consist of more than just displays of pretty bar charts. It will involve reporting on the following:

- ◆ Case results
- ◆ Action items
- ◆ Priorities
- ◆ Implementation Plan
- ◆ Financing and resources
- ◆ Monitoring and evaluation
- ◆ Feedback
- ◆ Replication

Reporting of results should be accurate, transparent and easily understood. Care should be given to the reporting format. Well designed graphic displays will help communicate results. Two different approaches may be called for, depending on the target audience.

The chart at the right is from: Nelson A. Rockefeller Institute of Government<sup>2</sup>, in New York, USA. Here they are looking at different aspects of performance measurement and some different tools that are used to report results.

Notice that performance measurement is just one step; there are many others that are involved in a good communications strategy. And a good communications strategy is one critical step in delivering the performance improvement that is desired from the outset.

*Getting Performance Measures to Measure Up*

Table I Using Performance Information	
<i>Use</i>	<i>Purpose</i>
Performance Measurement	<i>Provides basis for specifying expected performance and assessing managers and results.</i>
Performance Targets	<i>Notifies managers of results they are expected to achieve and establishes basis for appraising performance.</i>
Performance Reports	<i>Compares actual and targeted performance, and provides scorecards to enable citizen/customers to judge the services they receive.</i>
Performance Audits	<i>Assesses independently the reliability and relevance of performance reports.</i>
Performance Benchmarks	<i>Sets performance targets in reference to results achieved by best producers.</i>
Performance Contracts	<i>Creates a formal agreement between the government and providers on output and price.</i>
Performance Budgets	<i>Allocates resources on the basis of expected performance: each increment of resources linked to a specified increment in results.</i>

Regulation produces measurable results. The first point to realize is that once there is public disclosure to anyone outside the company, then the information is public information. It may be used by the media, parliamentarians, customers, advocacy groups and even the regulatory body. So a strategy should be developed before release is made public.

<sup>2</sup> <http://www.rockinst.org/publications/federalism/QuickerBetterCheaperChapter3.pdf>

There should be a press conference at which the information is presented, with press kits, and good information that says what YOU want it to say. This will be information that is seen by everyone. Careful thought should go into the contents of the press kit. There should be good graphic. There should be an accurate summary. Invitations should be sent out to the press and also to interested parties. Invitations to the press conference should also go to advocacy groups. A courtesy phone call to them ahead of time confirming the invitation is appropriate.

### **Special Note on Confidentiality**

If the Regulatory Commission elects to keep any information confidential, then they ought to state so from the beginning of the case. This will protect everyone from the suspicion that the results are being kept confidential because they reveal poor performance. Stating the communications strategy from the beginning will benefit all participants.

At the Massachusetts Public Utilities commission, we presumed that ALL information was public, nothing was confidential. This was our constant default position. We allowed parties to request that information be kept confidential, only if they could demonstrate one of two conditions:

EITHER the information was competitively sensitive;  
OR the information adversely affected the reputation of an individual person.

The burden of proof to show that one of these conditions existed, fell on the petitioning party. If the petitioning party failed to demonstrate the need for confidentiality or if no request for confidentiality was made, then everything was public. The Commission decided each request on the merits and issued prompt decisions during each case. My experience with as many as 25 regulatory commissions around the world suggests that this is an excellent model to follow.

### **Special Note on Investors**

What is the best strategy to follow to disclose information to investors. In the USA and many countries, there are very specific laws relating to publicly traded companies. Any information that is made public is available to investors. Any information that is not made public is not available to them. If it is made available, this is illegal; it is called insider information.

What if there is a government company that is seeking new investors. What is appropriate to disclose? What are the obligations to "due diligence" on the part of the company. Experience shows that the best long term contracts are those based on the most information. If an investor is preparing to make an investment in a company, that investment will be most successful, and therefore most sustainable, if it is based on full information. So serious potential investors ought to have access to all data. There can be confidentiality agreements that require the potential investor to keep any information disclosed during a due diligence investigation fully confidential.

### **Feedback and Responsiveness**

Once the communications strategy has been developed and is implemented, the next step is to prepare for receiving feedback. First, there should be knowledgeable people in the commission prepared to answer questions from stakeholders about the case. Then, the company will want actively to seek comments from stakeholders. Soliciting input from the public involves:

- Customer Focus groups/Round tables
- Customer Surveys: Mail, Telephone, Web, Intercept
- Public Statement Hearings
- Educational Forums
- Via Telephone at consumer initiative or Toll-free Opinion Line at IRC initiative
- Via Web
- Via Letters
- Via Customer complaints to the Commission
- Through Commission Libraries or information centers
- Remember its all about the stakeholders<sup>3</sup>

“The early legal structures adopted for UK utility regulation did have elements of a regulatory contract, but with the growth of competition and social regulation, a different model, that of a network of stakeholders, has largely replaced it.”

## Stakeholder Checklist

While considering development of a communication strategy, it is useful to think about some of the following questions:

- ◆ Think about outcomes
- ◆ How can you make the outcomes large enough to benefit all stakeholders?
- ◆ Most stakeholders?
- ◆ Some stakeholders?

## Networking

Networking with regional and international utilities and professional associations is a very good method of communicating your results and learning about how others are communicating their results. It provides a forum for exchange of ideas, experiences and lessons learned. It also permits professionals to locate other professionals from similar environments for purposes of close comparison. Finding networking organizations is easy; there are many good ones located through the internet. Resources spent on training and networking yield very valuable results.

## CONCLUSION

The results obtained using poor communications strategies can produce severely misleading conclusions. Therefore, following an optimal, comprehensive communications methodology is critical, and communicating this methodology is equally important. A good communications strategy

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<sup>3 3</sup> Tony Prosser, “Regulatory Contracts and Stakeholder Regulation” *Annals of Public & Cooperative Economics*, Volume 76 Issue 1 Page 35 - March 2005. <http://www.blackwell-synergy.com/doi/abs/10.1111/j.1370-4788.2005.00270.x>

that is agreed to by all the stakeholders who are involved will contribute enormously to the success of efforts to bring about change through the regulatory process.

1. Plan for communications of results from the beginning.
2. Develop a communications Action Plan from the beginning, with support and input from all the affected stakeholders.
3. Prepare a good communication package that shows the results in an easily understood format.
4. Map coalitions of stakeholders to display varying levels of support and opposition to regulatory initiatives.
5. Prepare to answer questions from stakeholders.
6. Engage stakeholders in a feedback process so that the communications system can be enhanced and the communications strategy improved for future years.

Best wishes to the participants in the 3<sup>rd</sup> Annual Conference of the Organisation of Caribbean Utility Regulators in implementing effective communications strategies so that their goals for all stakeholders will be realized.

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### **CONTACT INFORMATION FOR MARY CLARK WEBSTER**

600 Cameron Street  
Alexandria, Virginia 22309 USA  
Phone 1.703.340.1641

Web: [www.maryclarkwebster.com](http://www.maryclarkwebster.com)  
Email: [maryclarkwebster@hotmail.com](mailto:maryclarkwebster@hotmail.com)  
Fax: 1.703.340.1642

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