

HERTFORD SEMINARS IN REGULATION

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Is There an End Game for Regulation with Competitive Markets?

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Outline

- Direction of Government regulatory reforms
- Where is the market going?
- Does the regulatory vision match the needs of the market?
- How do innovation and competition sit alongside the new obligations designed to protect consumer interests?
- Is there an end game for regulation with Competitive markets?



Government Regulatory Reforms

Labour Party Manifesto 1997

“In the utility industries we will promote competition wherever possible. Where competition is not an effective discipline we will pursue tough, efficient regulation in the interests of customers..... We recognise the need for open and predictable regulation which is fair both to consumers and shareholders and at the same time provides incentives for managers to innovate and improve efficiency”



1998 Green Paper - Framework

- Role of Ministers and Regulators
 - Government determines objectives/framework
 - Regulators fulfil duties within framework

- Economic regulation
 - Correct balance between competition & regulation
 - Fair balance between consumers & shareholders

- Social and Environmental objectives
 - Government guidance to set policy
 - Regulators duty bound to have regard to guidance

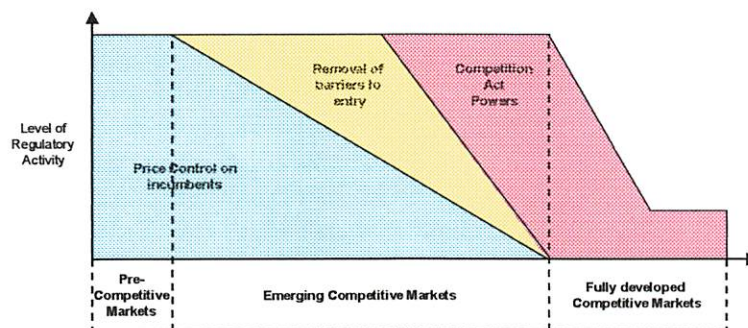


Key Themes Emerging

- Protection of consumers by:
 - Competition wherever possible
 - Regulation only where necessary
- Economic regulation overlaid by:
 - Social agenda (to ensure all consumers benefit)
 - Environmental agenda (to meet Government targets)
- Regulation to be:
 - Predictable, open, accountable
- Management incentives to:
 - Innovate
 - Improve efficiency



Phases of Market Development




Shift from Regulatory Led to Market Led

- Remove structural barriers => Open structure, permits horizontal players
- Promote competition => Self sustaining competition
- Customer awareness => Informed consumer choice
- Price controls => Competition Law
- Fixed Standards of Service => A range of levels of service
- Sectoral licensing => General consumer law
- Imposed regulation => Self regulation



Where is the Market Going?

- Gas & electricity  Energy with dual fuel offers
- Energy linking with telecoms, water, other (financial) products
- Competitive elements: measure/bill/collect money/service
- Monopoly elements: infrastructure/networks/(production?)
- Sectoral regulation concentrate on monopoly elements
- Competition Act concentrate on competitive elements



Where is the Market Going continued/.....

Regulatory Vision

What is the regulatory vision and does it provide a bridge between the Government's aspirations and the direction and pace of market change?

Regulatory Goals

Broadly common goals across regulatory offices
i.e. to protect and advance consumer interests and
ensure the consumer gets the best deal in terms of :-

- Quality
- Choice
- Value for money

But the means of getting there are different



Regulatory Vision - Oftel

- Stakeholder document sets out clear regulatory objectives and strategy for next 4/5 years
- Phases in changing regulatory role:
 - Protecting consumers - caps on dominant operator
 - Encourage competition by removing structural barriers
 - Develop competitive market & co-regulation/self-regulation
 - Rely on Competition Act powers
- But trying to act as if in Phases 3 and 4 when Phase 2 structural barriers have not been fully addressed
- So vision fine, but execution flawed and hindering competition as a result



Regulatory Vision - Ofgem

- Key themes in first 2000/01 Plan :
 - Social and Environmental Action
 - Competition in Wholesale Markets
 - Price Controls
 - Competition and Industrial Structure
 - Convergence of gas and electricity
 - Key philosophy - unbundle - remove structural barriers - allow innovation - let competition develop to maximum extent possible in all parts of the market
- Competition is developing rapidly but is there a medium term vision - what are the priorities?

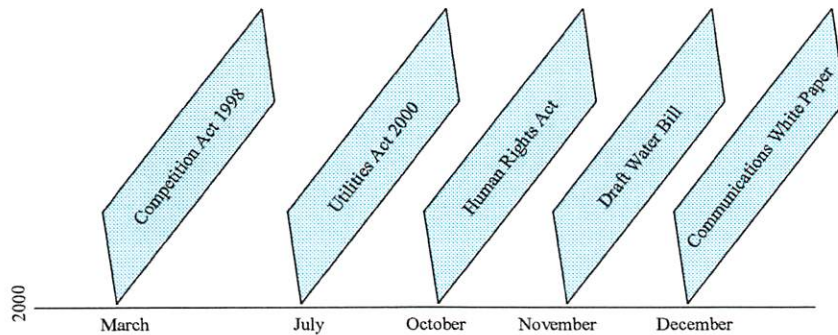


Regulatory Vision - Ofwat

- Priority has been on continuing regulation and “competitive” benchmarking
- No philosophy on structure or timing of competition
 - Limited Inset approach (now at 100 MI threshold)
 - Competition Act introduction used as lever to encourage access to networks/common carriage
 - Key concerns on water quality, public health and environment
- Current powers encourage “facilitation” rather than “promotion” of competition.



New Legislative Framework - Year 2000



British Gas 

Competition vs New Obligations

Can innovation and competition in supply flourish alongside the new obligations being built in to new utility legislation - both designed to protect consumer interests?

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Regulatory Role Going Forward General

- Clarify the vision (competition versus regulation) :
 - Within utility sector
 - Across utility sectors
 - In relation to the EU
- Assess the priority “big wins” - driving real customer benefits - stand back from the detail
- Rely on competition powers
- Reduce regulatory burdens on industry
- Place “distortions” in the monopoly sectors. Allow the market to deliver



Regulatory Role Going Forward Within Sector

- Recognise that Competition Act powers are supplemented by new sectoral licence obligations
- Seek to reduce regulation in supply, to surveillance of a core group of disadvantaged consumers
- Reduce barriers to entry
- Review need for continuing licence conditions and remove as appropriate
- Give clear guidance to the market on economic vs social & environmental vs competition objectives



Regulatory Role Going Forward Across Sector

- Recognise where the market in utility supply is going
- Address inconsistencies in approach by different regulatory offices :
 - In the regulatory vision/philosophy
 - Assessing priorities
 - Timescales for convergence
- Jointly plan for :
 - Further merging of regulatory offices, and/or
 - Removing sector specific regulators from supply competition for multi-utility services and rely on the OFT and consumer legislation



Is there an End game for Regulation with Competitive Markets?

- **There is an end game**
- Rely on competition to protect consumers backed up by general consumer legislation and competition law powers
- Withdraw from utility act/licensing constraints wherever possible
- Protect the disadvantaged by using the expertise of the competitive market to innovate, given the correct economic support from the "monopoly" regulated sectors
- Markets are ahead of legislators/regulators - they must adapt to prevent multi-utility market distortions
- Sector regulators eventually replaced by OFT
- **So the jury is out - but we are optimistic!**

