

# Closing time? Regulatory agencies and consumer engagement in economic regulation

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regulation (Averch Johnson effect). But it is widely accused of having become a cumbersome process that encourages second guessing and gaming among regulators and regulated industries alike without any evident superior outcomes,

inform negotiations (see μ : , & 6 R We h WICS 2012), whereas Ofwat decided to play a more detached role to encourage a decentralised μ G L V F S U R E H V V ¶ given also the highly diverse nature of different water companies under its jurisdiction.

In the end, WICS did accept the agreement between customer representatives and company, while Ofwat mostly revised the various customer agreements, usually leading to μ W R X s o t t e h e n t ¶ on companies. Whereas participants in the Scottish process, with the exception of consumer organisations, praised their experience (Customer Forum 2015), enthusiasm for consumer engagement in the other parts of Britain was dampened by the experience of the intervention by Ofwat after companies had extensively engaged with their customer challenge groups (cf. CC Water 2015). Although many water companies and challenge groups in the English and Welsh context found this engagement process beneficial and rewarding in their direct interactions with each other, their perception of its overall value was significantly hampered by the seeming lack of respect for these processes on the part of the regulator.

What do these contrasting experiences tell us about the future of regulatory agencies?

It offers one insight into the changing role of the consumer in regulatory processes. Whereas most recent attention has been placed on behavioural impact-influenced interventions to supposedly enhance the quality of consumer choice, the process of customer engagement moves consumer representation away from existing consumer protection bodies or from regulatory agencies themselves to the level of the firm. At first sight, this seems to usher in a new era of regulation, putting the relationship between firms and consumers at its heart, at the expense of the previously prominent role of regulatory agencies. However, at second sight, agencies have not lost their central role despite the increased prominence of consumer engagement. The experience in the Scottish water domain suggests that the efficient secret of the process was the fancy footwork performed backstage by WICS. This could have been by providing information to the customer representatives or by shepherding the various parties along during the process ± while needing to persuade its own members that this process did not represent an abdication of regulatory competencies. In other words, regulatory agencies remain central in this process rather than being sidelined by emerging alternative decision making arenas.

However, it might still be argued that customer engagement leads to different kinds of outcomes. This argument has

the company will strive more seriously to meet the regulatory demands of the last price review because of its ownership of these demands, having itself negotiated them with the customer body. The Scottish process also established a different kind of customer research in an area where customer preferences are rarely ever fully formed. Again, however, it might be questioned whether the same can be said about the English and Welsh experience (gain)

Finally, as Vibert (2015) suggests, regulatory agencies were once seen as a persuasive institutional arrangement to address μ E D G W U X F W X U H G ¶ Moran (2003) similarly noted that the era of the regulatory state gained attraction exactly because of its promise to establish synoptic and consistent control that would move beyond the informalities of the earlier era of regulation via μ F O X E J R Y H U Q A P H O W ¶ towards consumer representation and negotiated settlements might be seen as a different answer to the challenge of the μ E D G W U X F W X U H G ¶ Instead of a reliance on disciplined econocrats doing methodologically informed 0 0 1 162.86 647.86 Tm [ complex calculations to rein in arbitrary << 154.8645D 164>> B[(jud <</MCID 1 0 0 1 190.46 692.86

and they are also well placed to argue their case. In other words, even if regulatory agencies may have lost the glamour of hyper-modernity, they most certainly are not ready to be consigned to the dustbin of history.

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