Chaire MIR Management des Industries de Réseau
CHAIR, MANAGEMENT OF NETWORK INDUSTRIES

CPOGG workshop

regulating regulation

Structure of the workshop

- Purpose of the workshop: how to regulate regulation? Matthias Finger (5')
- The emerging regulations and regulatory institutions: Matthias Finger (15')
- The case of the global water sector: Jeremy Allouche (15')
- How to regulate regulation: Matthias Finger (10')
- Discussion with the participants

Purpose of the workshop

- Highlight the new trends towards regulation
- Illustrate by the water sector
- Identify the new challenges resulting from such regulation
- Discussion of solutions

Presentation by Matthias Finger

- Liberalization as the trigger of regulation
- New regulatory functions
- The national approach
- The regulatory state
- The evolution

Liberalization of the network industries and the need for re-regulation

Economically and technically integrated industries (cooperation, public monopolies, etc).

Public policy objectives

Production

Transport

Distribution

Attribution of scarce resources

Assurance of system's integrity

Regulating the (limited) market

Ensuring public service provision

Ensuring the learning of the industry / sector

Integration → Unbundling & Competition → Regulation

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Regulation as public policy

Public policy objectives:
- **Economic efficiency**
- **Public service provision (sector)**
- **Other public policy objectives**

Implementation of public policy objectives as a responsibility of the Government by means of:
- **Government**
- **Central administration**
- **Ownership**
- **Regulators**

Regulation of the operators:
- **Competition**
- **System's integrity & learning**
- **Public service**
- **Usage of scarce resources**

Public policy outcomes:
- **Economic efficiency**
- **Public service provision (sector)**
- **Other public policy outcomes**

Formulation of public policy objectives → Implementation → Impact → Outcome

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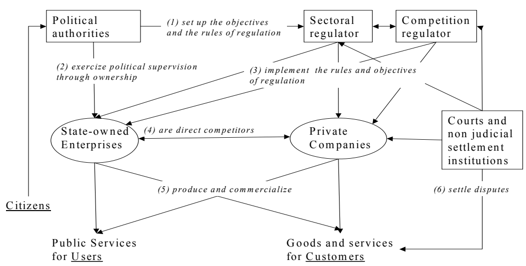
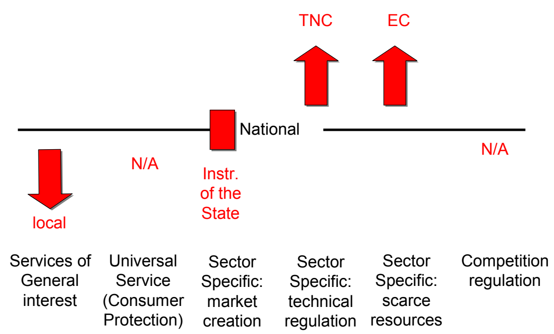
The regulatory State



Where regulatory functions do move towards in reality



The necessary convergence of network industries in the EU and across the world?

Questioning the following steps for the water supply and sanitation sectors

Jeremy ALLOUCHE

Structure of the Presentation

- **1st part**: Questioning Network Industry specificities
- **2nd part**: Model and Models for Network industries
- **3rd part**: Possible evolution of the WSS sector
- **4th part**: Limits of these models for the WSS sectors

1st part: Questioning Network industries Specificities (1)

- The typical feature of network industries is the heavy fixed cost of the infrastructure. No competition before because of market failures (namely natural monopoly & positive externalities).
- But called into question
  - **Financial** (Higher environmental standards and maintenance costs, Tighter budgetary discipline, Need to further develop the network (developing countries)
  - **Ideological** (Putting into question the role of the State/public sector as an operator (neo-liberalism)
  - **Economic** (Putting into question the natural monopoly as a result of new economic thinking (unbundling); and TNCs lobby)

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1st part: Questioning Network industries Specificities (2)

- The impetus for the liberalisation of network industries in Europe came under 3 points:
  - Growth and competitiveness of European industries;
  - The creation of the single market;
  - The European consumer's living standards.
- However, although the objectives were explicit in EU policy, the outcome of the liberalisation process was not really described and/or imagined. Indeed, where is this liberalisation process leading to?

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1st part: Questioning Network industries Specificities (3)

- A converging model for network industries across Europe:

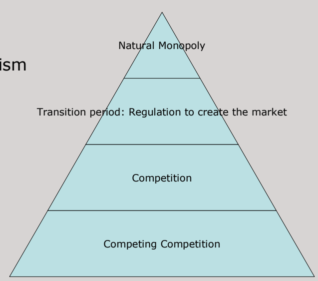
*Even though the degree of liberalisation varies depending on the industries and the Member States, Europe has **common models for organising and regulating network industries**. These models involve opening up services previously operated by government monopolies to competition, the arrival of new entrants on the market, the separation in fact or in law of infrastructure ownership from the provision of services, partial and total privatisation of public corporations or establishment, creation of independent regulatory authorities, consideration of general interest objectives to varying degrees* (Christian Stoffaës, president of the initiative for Public Utility Services in Europe)

2nd part: Model/Models or Visions for Network industries (1)

From natural monopoly to regulated agencies to competition authorities

Ideas:

-Neo-liberalism

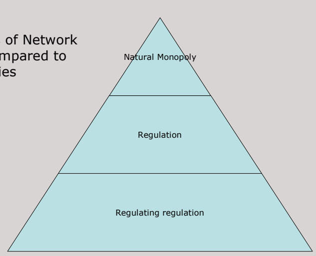


2nd part: Model/Models or Visions for Network industry (2)

From natural monopoly to regulated agencies

Ideas:

- Specificities of Network Industries compared to other industries



2nd part: Model/Models or Visions for Network industry (3)

Distinction between a competition policy & a regulatory policy

	Competition	Regulation
Sector	Multi sectoral	Sector specific
Objectives	Competition	Services of general interest
Intervention	Sporadic	Continuous
Control	Anti-competitive behaviours (cartelisation, ..)	Price, quality of services

3rd part: Possible evolution of the WSS sector (1)

- Both schools of thoughts do not under-consider the differences between the different network industries but both of them believe that the liberalization process will lead to their expected outcome.
- Water supply & sanitation (WSS) have usually been depicted as one of the last remaining network to transform completely and is seen as being in a premature stage.
- But will WSS really follow one of these models?

3rd part: Possible evolution of the WSS sector (2)

- 3 main trends:
  - The modernization of the management of the network and its professionalisation;
  - The legal specificities of the sector compared to other sectors;
  - The desire by some actors to go from *de facto* competition to *de jure* competition.

3rd part: Possible evolution of the WSS sector (3)

– The modernization of the management of the network and its professionalisation;

- strong growth of inter-municipal structures (e.g.: Belgium, France, Germany, Italy) or of new regional structures (e.g.: Netherlands, Spain, Portugal, England & Wales).
- more *autonomy* esp. in large urban areas. The high degree of technicality, the need for professionalisation of these sectors nowadays, and methods of new public management may offer a possible explanation of this trend.
- Push for more transparency (esp. consumer association, EU)

3rd part: Possible evolution of the WSS sector (4)

- The impact of the liberalisation of other network industries and relates to the reinforcement of the ***specificities of the water sector compared to other network industries***.
  - The liberalisation of other network industries (esp. electricity & gas) is clearly a major trend across Europe that has an impact on water supply. However, this impact went in the opposite direction that experts had expected. Indeed, it seems to have reinforced the specificity of the water supply sector compared to other industries.
  - Furthermore, although it is very difficult to quantify, it seems that there is a majority of the population are very opposed to any forms of liberalisation of the water supply sector. Of course, with the volatility of opinion, this perception may change but the public information campaign of several NGOs in this field seems to have considerably influenced this opinion

3rd part: Possible evolution of the WSS sector (5)

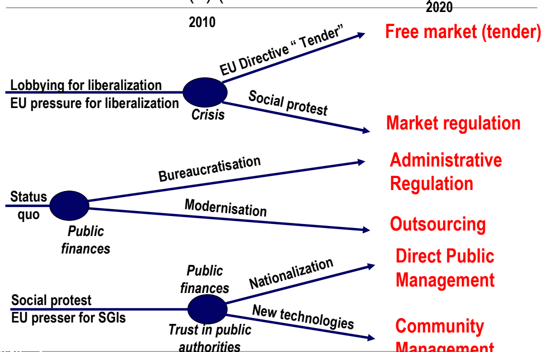
- *de facto* and *de jure* liberalisation.
  - The lack of public financing. The *high capital needs for wastewater treatment plants* are currently leading to more open gates for private financing (i.e.: Austria, Belgium, Ireland, Netherlands, & Scotland). In this case, PSP is not the result of a deliberate liberalisation policy but the result is the same.
  - The end of EU Cohesion Funds in certain European countries (esp. for most of southern European countries & Ireland) could well increase this trend for higher capital needs, whether in WS or S.
  - More competition in the network pressed by a number of actors including large private operators, some DGs within the Commission and the World Trade Organization. Unlike the second trend which really calls for the recognition of water as a specific industry, the idea of introducing more competition is highly linked to this idea of similarity of network industries in general.

3rd part: Possible evolution of the WSS sector (6)

	Modernization	Specificities	Competition
Belgium	R, A		L
England & Wales		PO	L, C, MA
France		PO	
Germany	M	LNI	F
Italy	R		MA, F
Netherlands	R	PO	F
Spain		PO	MA, F
Switzerland	R, A	PO, LNI	F

Modernization (Modernization (M); Autonimsation; Regionalisation (R)
Specificities (Public Opinion (PO); Liberalisation Other Network Industries (LNI)
Competition (Lobbying of new Operators (L), Fiancial pressure (F), More Competition (C), Mergers & Acquisitions (MA)

3rd part: Possible evolution of the WSS sector (7) (Water sector scenarios)



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3rd part: Possible evolution of the WSS sector (8) (Water sector scenarios)

- Two first scenarios correspond to the two models identified in the beginning.
- Scenario 3, 4, 5 & 6 correspond to two of the three trends identified above, namely modernization of the management methods and specificity of water compared to other network industries .
- According to the scenarios identified above, many aspects seem to indicate that water supply and sanitation are not following the same paths as other network industries.

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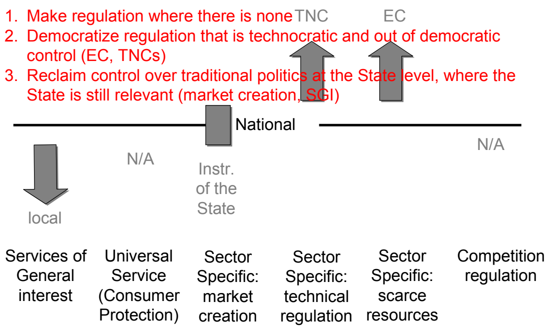
4th part: Limits of these models for the WSS sectors & Conclusion

- Limits:
  - limits of introducing competition in this sector
  - the lack of major technological innovations like in the other sectors

WATER, A SPECIFIC NETWORK INDUSTRY? OR THE LAST REMAINING ONE?

Regulating regulation?

1. Make regulation where there is none
2. Democratize regulation that is technocratic and out of democratic control (EC, TNCs)
3. Reclaim control over traditional politics at the State level, where the State is still relevant (market creation, SGI)



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