



# **Regulation in the Water & Sanitation Sector**

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# INTRODUCTION

## □ Facts & Figures

### ❖ Worldwide

- > 1 billion people with no access to safe drinking water
- > 2.6 billion people with no access to improved sanitation
- Millennium Development Goals : reduce by half those figures by 2015

### ❖ China

- 310 million rural residents with no access to safe water
- 60% of total population is not connected to sewerage systems
- Gap between urban/rural areas:
  - Water: 93% vs. 67% (2004)
  - Sanitation: 69% vs. 28% (2004)

# INTRODUCTION

- WATSAN : **catalyst** for social & economic progress
- Demographic, urban & industrial **challenges**
- Millennium Development Goals require:
  - Financial means
  - Institutional settings
  - Legal measures
- **PPP** : obvious policy option to extend networks
- Today PPP < 10% of WATSAN sector
- Need for appropriate **regulatory frameworks** ...
- ...integrating **local specificities** (home-grown solutions)

# OUTLINE

## **1. Why is regulation key in WATSAN?**

- Competition ahead of regulation
- Characteristics of the Water & Sanitation Sector
- Rationale for regulation

## **2. How to regulate? OECD Experience & Evidence**

- Regulatory frameworks
- Some examples among OECD countries
- Observations

## **3. Challenges for a “good” regulation**

- Support for good regulation
- Institutional framework

# 1. *Why and What to regulate?*

## □ Competition ahead of regulation

- **Rationale**

- Deliver efficiencies
- Empower customers
- Guarantee profitability to service providers

- **Regulation is necessary when**

- Competitive markets are weak
- Market forces are non-existent and
- Cost-benefit analysis justifies intervention

## □ Characteristics of the Water and Sanitation Sector

- Natural monopolies (uneconomic to duplicate etc.)
- Inelasticity of water demand to customers
- Technological needs and expertise
- High distribution and transportation costs
- Economies of scale
- Network infrastructure & large sunk investments
- Local scale of service delivery
- General interest (equity considerations)
- Health & environmental externalities
- Water resources scarcity
- Groundwater contamination

⇒ *Low degree of competition*

⇒ *Few international players*

⇒ *Risks of abuse of dominant position*

- Need for a “strong” Regulator to:
  - Balance interest of all parties and prevent opportunistic behaviours
  - Protect customers from private sector abuses
  - Protect private sector from politically driven decisions
  - Enable public sector to carry out long term policy objectives
  - Guarantee sufficient flexibility in contracts, regulations and standards to adapt the form of service delivery
  - Seek outcomes consistent with those from competitive market

## 2. How to regulate? OECD Experience & Evidence

### □ Regulatory Frameworks

PPPs can only be effective if based upon clear, solid and strong regulatory framework, i.e.:

- **Rules** that fix:
  - Governing tariffs and tariff adjustment
  - Service standards
  - Penalties for non compliance
- **Instruments** that distinguish regulation & management
  - Laws and decrees
  - Contracts & Licenses
- **Institutions** that gather agencies in charge of:
  - Enforcing rules
  - Update them as needed

## □ OECD Experience and Evidence

- OECD (2004) *Competition & Regulation in the Water*
- 29 OECD Countries surveyed
- Institutional arrangements in the water sector
  - Public supply (municipal, regional, inter-municipal)
  - Ownership (public, private, both)
  - Management (public, private, both)
  - Economic regulator (municipal, regional, central Gov)
  - Environmental regulator

## □ Some Examples

COUNTRY	Public Supply	Ownership	Management	Economic Regulator	Environment Regulator
AUSTRALIA	Reg / Municip	Both	Both	Reg/indep.	Prov. Gvts
CANADA	Regional	Public	Public	Prov. Gvts	Prov. Gvts
DENMARK	Municipal	Public	Public	Municipal	Central Gov Municipalities
FRANCE	Municipal	Public	Both	Municipal	Central Govt
ITALY	Municipal	Public	Public	Central & regional Gvts	Central and regional gvts
JAPAN	Municipal	Public	Public	Central Gov	Central Gov
KOREA	National / Reg	Public	Public	Central & Reg. Gov	Central Gov
SWEDEN	Municipal	Public	Public	Municipal	Regional
TURKEY	Municipal	Public	Public	Central Gov	Central & Reg Gvts
UK	Regional	Private	Private	Independent	Independent
USA	Municipal	Both	Both	Independent	Independent

## □ Observations :

- Authority/ability to regulate depend on **the legal framework** for water resources & its approach for ownership and allocation of water
- Different options are possible:
  - Separate Water Law (China 1988, 2002)
  - Provisions in different laws
  - Administrative/Executive decrees & regulations
  - Customary or traditional law
  - Court decisions
- ⇒ Increasing **explicit references** in State Constitutions to clarify responsibilities for multilevel governance
- 4 cases of independent regulators (Hungary, Spain, UK, US) out of 29 countries surveyed

### 3. Challenges for “good” regulation?

#### □ Good Regulation is supported by:

- Separating *Government* from *service provider*
- Establishing a separate *independent regulator* to:
  - Encourage decisions according to national interest
  - Minimise political interference
  - Strengthen the regulator’s credibility
  - Seek independence and transparency
- Allocation of roles :
  - **Government** sets broad policy objectives
  - **Operator** provides services efficiently
  - **Regulator** regulates prices, monitors services, issues directives, administers licenses etc.

## □ Institutional framework

- Which “structure” for the regulator?
  - Headed by one person? A commission?
  - Who appoints them? (President? Parliament? Both? )
  - Multi-sector or industry-based regulator?
- Some challenges
  - Regulators need to be accountable (despite separation)
  - Regulators must provide annual reports
  - Risks of *political* and *economic* capture
- Features for “good regulation”
  - Regulators must have power to consult (not just communicate)
  - Regulators must act independently from policy makers
  - Privilege public process (opportunities for all to input)
  - Build confidence
  - Articulate roles, responsibilities & objectives clearly
  - Minimise scope for regulatory discretion
  - Take a long term view (beyond regulatory period)



# Thank you for your attention

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