

# Regulatory Frameworks for Urban Services

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# This Session:

- Frameworks and concepts
- Current OECD practices in public service delivery and regulatory frameworks
  - Urban waste services, water supply and public transport
- Some Issues for China
- Conclusions

# Contentions

- General rules for urban services regulatory design are few and far between
- Competitive tendering offers advantages
- Independent regulators have enabled a new source of power and accountability for citizens
- How countries review, learn, revise and improve their regulatory systems is still an open question
- The Government's dual role as a regulator and developer is crucial

# 1 Frameworks for Understanding Regulation

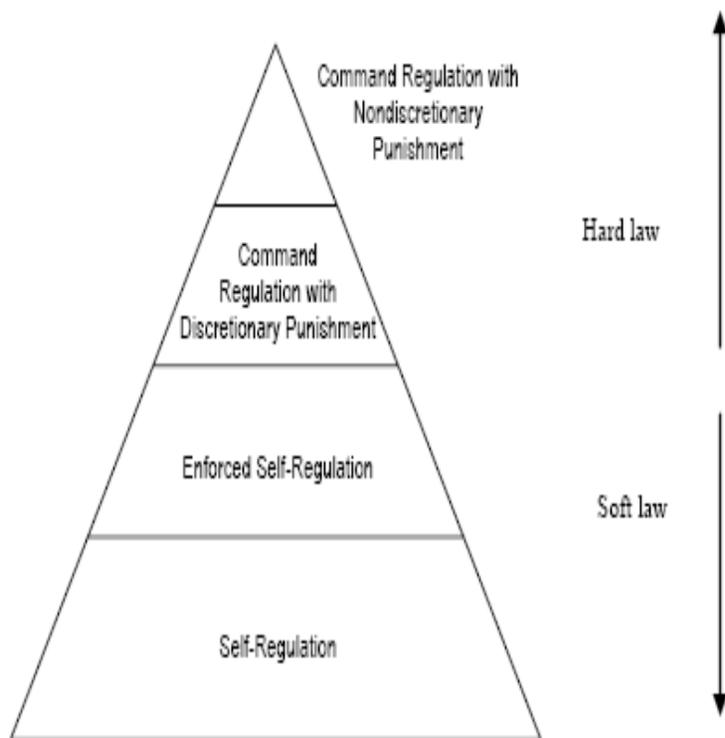


Figure 1 Example of Ayres and Braithwaite's (1992) Enforcement Pyramid

'...the sustained and focused attempt to alter the behaviour of others according to defined standards or purposes with the intention of producing a broadly identified outcome or outcomes...' *Black (2002)*

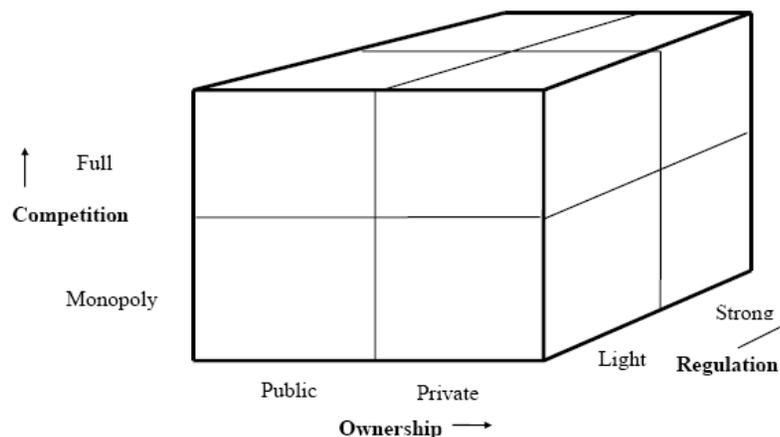


Figure 2 Ownership, Competition and Regulation Cube  
(Source: Hodge 2000, 244. Adapted from Hartley and Parker 1991.)

# 1 Frameworks for Understanding Regulation

Regulatory Tools				
Economic Actor	Party	Facilitator	Information Provider	Legislator

Table 1: Regulatory Tools of Government (Source: Freiberg, 2006)

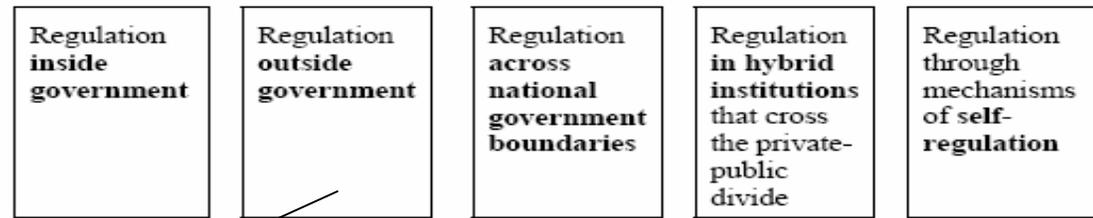


Figure 4: New Regulatory Practices in Today's 'Regulatory State'  
(Source: adapted from Minogue, 2006, 69)

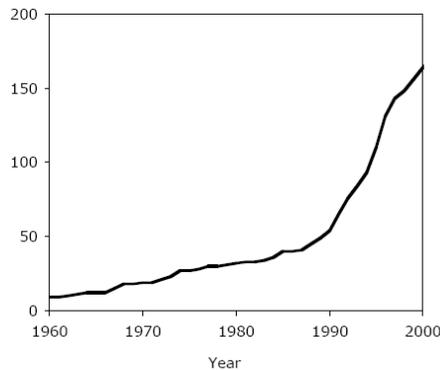


Figure 3 The diffusion of regulatory agencies in 36 countries and 7 sectors  
(Source: Gilardi, Jordana and Levi-Faur, 2006, 130)



## 2a Waste Management Practice in the UK

- Regulating urban waste services carried out by Environment Agency
- *Local Government Act* 1998 and 1992 (UK) required compulsory competitive tendering (CCT)
- Tenderers chosen on basis of 'Best Value'
- Secretary of State has power to act against local authority where CCT rules breached
- No regulation as to ownership of tenderers, be it domestic or otherwise

# 2a Current Practice in the USA

- Local governments responsible for refuse collection...
- Restrictions on tendering process (i.e. min no bidders)
- Trend towards 'block grants', where local authority has control over expenditure
- Vast majority of states (47 of 50) don't regulate refuse collection prices
- Case study of Phoenix;
  - Area broken into 6 sectors for refuse collection
  - One or more areas comes up for tender every year
  - Tendering process in place since 1978
  - Financial penalties for missing households
  - Average number of private bidders in Phoenix is 4

## 2a Current Practice in Australia

- Followed UK with Compulsory Competitive Tendering (CCT)
- A range of approaches were taken;
  - Victoria – CCT for all gov't services (Kennett era)
  - '50%' target reached by most departments in 1998
- CTC (Competitive Tendering and Contracting) forced agencies to review current practices
- Estimate of \$13billion of urban services in mid 1990s were contracted out

# 2a Effectiveness of Waste Management Regulatory Systems

- Historically – governments played a part in refuse collection
- More recent studies:
  - Bel and Miralles (2003), Dijkgraaf and Gradus (2003) & Ohlsson (2003) recent C-O studies
  - Cooke and Chapple (2000) – documented the licensing arrangements under Control of Pollution Act (+ UKs waste handling/storage/treatment)
  - Antonioli and Filippini (2002) – Italy favoured a franchised monopoly
- Meta-analysis (of ~100 global evaluations with ~ 6 045 data points) shows ‘20% savings’ more accurately averaged 6%
- Overall:
  - a widespread use of Competitive Tendering, various licensing regimes, and mixed ownership options within the OECD.
  - Incentives for competitive tendering were ‘weak’
  - Competition widespread for industrial and commercial waste, not household waste
  - Effectiveness of competitive tendering for waste management confirmed

## 2b Current Practices in Regulating *Urban Water Supply Services*

### ■ Overview:

- Primary consumers in OECD; households (5%), industry (65%) and agriculture (30%)
- Gradual move from engineering basis of governance to an economic one
- Sensitive politics - appropriate water supply regulation is crucial

# 2b Range of Institutional and Ownership Options for Water

Option	Ownership	Financing	Operations
Service contract	Public	Public	Public then some private
Management contract	Public	Public	Private
Lease contract	Public	Public	Private
Concession	Public	Private	Private
BOT (build-operate-transfer) contract	Private then public	Private	Private
BOOT (build-own-operate-transfer) contract	Private then public	Private	Private
Reverse BOOT	Public then private	Public	Private
Joint ownership	Private and public	Private and public	Private and public
Sale	Private	Private	Private

Table 2: Institutional Options for Water Supply  
(Source: Ringskog, 1998)

## 2b Current Practice in the UK

- Water Supply Companies date back to 1581  
(London Bridge Water Works) private / public / private path
- *Water Act 1989* (UK) privatised 10 regional water authorities
- Office of Water Services (OFWOT) now principal regulator
- Water licensing allowed transparent regulation
- Privatised Water Supply seemingly unpopular in the UK

## 2b Effectiveness of **UK** Regulatory Systems

- Ballance and Taylor (2005) – concluded that since privatisation, performance *‘improved substantially’*
- Finger and Allouche (2002) – UK regulatory framework *‘beneficial’*
- Saal and Parker (2000) – econometric analysis concluded *less efficient* since privatising

## 2b Current Practice in France

- Characteristics of French Water Supply system:
  - 80% of France receives privately distributed water
  - Substantial financial strength of French water companies
- By law water supply Co's must meet certain obligations
- French model based on concept of competition for the market (Ballance and Taylor 2005), *but*;
- Access to French water supply information is limited however, which poses questions of accountability
- France does not have 'one' single regulator
- French water supply follows a rich history of successful partnerships
- French regulation of water supply has been labelled with *weak transparency, collusion, low consumer representation and corruption*

## 2c Current Practice in Regulating *Urban Public Transport*

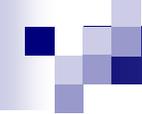
- Urban transport is crucial to cities/towns
- Integral part of the urban economy
- Natural monopoly worthy of close regulation
- Vast array of both structural and regulatory arrangements between public and privately owned public transport systems

# 2c Current Practice in the UK

- Urban Bus Transport
  - Deregulated bus services
  - Creation of territorial monopolies – historic approach
  - Major cost savings realised from deregulation (Nash 1993)
- Urban Train Transport
  - Privatised train operations
  - Public sector agencies as regulators
  - Mixed reports on effectiveness of train reforms
- Overall, mixed effectiveness, with some reforms paying off, whilst others did not.

## 2c Current Practice in the EU

- UK reforms taken further than elsewhere
- Sweden – competitive tendering leading to subsidy savings, most public transport services competitively tendered
- Norway – public-private ratio of around 50/50
- Scandinavia – competitive tendering also resulted in subsidy savings
- Denmark – publicly served routes open to tenders

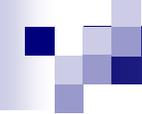


## 2c Assessing Urban Public Transport Regulatory Performance

- UK's ownership and regulatory reforms are outliers to the rest of Europe
- Bus deregulation yielded mixed results as to its success, whilst the train system was privatised, then partially re-instated to public regulation
- EU seems to show a reluctance to deregulate, although competitive tendering is considerable

# 2d Observations of OECD Arrangements

- Moving from an 'engineering logic' towards a 'regulatory state' logic
- Competitive tendering is prominent for waste services
- Water services are regulated through public utilities
- Urban transport is regulated through planned public regulatory systems
- Competitive tendering seems successful, but PPPs remain controversial
- NB: The state as the primary developer



## 2d **Observations** of OECD Arrangements cont.

- Both historical ‘home-grown’ and (recent) adopted regulatory ideas have flourished
- Technical/economic regulatory needs and national policy & governance needs crucial
- Caution and learning needed in articulating regulatory reforms, rather than simplistic advocated reform models

# 3 Key Issues for China

- Our understanding of the 'Regulatory State' is currently modest in the west
- Development function of the State is both essential and primary
- Regulatory state model may have limited direct relevance to China(?)
- Notion of 'independence' needs debate
- Our own regulatory systems have not been comprehensively evaluated, which poses real issues to transferability

# 3 Key Issues for China cont.

- Should China take on greater experimental roles in adopting regulatory systems?
- Evaluating current models and assessing what works and what doesn't, in order to 'fill gaps'
- Balance needed between home country's social and historical context and regulatory regimes from western economic ideas
- Regulatory behaviours in China may be changed as much through transparency reforms as through formal regulatory 'black letter' reforms

# 4 Conclusions

- General rules for regulatory design were few and far between (essential urban services are regulated across all levels of govt & through multiple models)
- Many systems make use of competition (common in waste, rarer & weaker in water, mostly traditional regulatory structures in public transport and with PPPs as an outlier OECD practice)
- Increased use of independent regulators - has enabled a new source of distributed power to be harnessed for citizens
- Our challenge is understanding how countries review, learn and revise regulatory practices
- Most governments around the world have used the state as the primary development mechanism.
- 'Home grown options' for regulatory reform may need to be trialled based on public ownership...