Test of the mediating effects of regulatory decision tools in the communications regulator

Kuo-Tai Cheng*

Department of Environmental and Cultural Resources, National Hsin-Chu University of Education, No. 521, Nan-Da Road, Hsin-chu 300, Taiwan

A R T I C L E   I N F O

A B S T R A C T

Research shows consistent relationships between governance mechanisms and regulations. In this study, the authors developed and tested a model of regulation for examining the mediating effects of regulatory decision tools on the relationships between governance mechanisms and regulations in the communications regulator ($N=164$). Covariance structural analyses revealed regulatory decision tool variables to be influential mechanisms through which governance mechanisms affect regulation. Specifically, regulatory instruments and delegated powers mediate the effects of independence and participation on regulation. Although accountability was related to delegated powers, neither accountability nor personnel was related to enhanced regulations. The importance of the proposed regulatory decision tool model is discussed.

© 2015 Elsevier Ltd. All rights reserved.

1. Introduction

Research related to regulatory governance has recently clarified the utility of using governance mechanisms (GMs) for enhancing regulation (Reg). Such research (Cheng & Hebenton, 2008; Gutierrez & Berg, 2000; Minogue, 2002; Stern & Holder, 1999; Xia, 2012a) has demonstrated that GMs are indeed associated with regulations, with some GMs such as independence-enhancing regulations are administered across countries while other GMs are correlated with specific sectors or countries. For example, Stern and Holder used six GMs—namely, clarity or roles and objectives, autonomy, participation, accountability, transparency, and predictability–to assess 13 Asian developing countries for the Asian Development Bank (ADB) (Stern & Holder, 1999). Case studies by international organizations (such as the World Bank and ADB) offer interesting narrative views, but cannot allow statistically robust effects of the relationship and mediation from the development of an independent regulatory agency.

Relatively little literature exists on measuring GMs, regulations, and regulation decision-making tools, where privatization, liberalization, and regulatory agencies started (Minogue, 2002). Furthermore, very little research has examined the mechanisms through which GMs influence regulations (Vining & Weimer, 1999). According to Cheng (2015), Results showed that relevant GMs and Reg predict both individual and organizational capture. Further, Reg partially mediates the relationship between GMs and regulatory capture in the regulatory space (Carpenter & Moss, 2014). The mechanism of Accountability was found to play a critical role in the prediction of regulatory captures, as it had direct effects to individual capture and indirect effects to individual and organizational capture through its relationship to Reg. Further, Participation

was found to play a critical role in the prediction of organizational capture, and its effect was primarily direct rather than indirect.

Currently, little empirical research exists on GMs and Reg by the mediating effects of regulatory decision tools (RDTs). To the best of our knowledge, the study of Correa, Pereira, Mueller, and Melo (2006) as the only one that incorporated RDTs in studying regulatory governance and their effects. However, no empirical study has examined the relationship among GMs, Reg and RDTs in the only context of Taiwanese Communications Regulator. The complex relationship between GMs, good regulation, and RDTs are linked by modeling in the regulatory decision-making process. As Majone argued, the international diffusion of Reg as a distinct type of policymaking seems to be particularly important in explaining the current renaissance of regulatory analysis (Majone, 1999, p. 309). Furthermore, no attempt has been made to explain the relationship in the extent of regulatory problems and practice. Are regulations, GMs, and RDTs linked to the communications regulator and the instruments deployed by the regulator? The purpose of the present study is to build on these findings and increase our understanding of GMs by assessing the regulatory decision tools that mediate relationships between GMs and Reg.

The purpose of this paper is to discuss the main issues arising from some recent theoretical literature and its implications for regulatory practice, which will provide the basis for producing the hypotheses. The need exists to explore relevant research linking GMs, Reg, and RDTs in order to discuss research pertaining to Reg and GMs as well as formulate expectations for the relationship between these constructs. Thus, we describe our study designed to test our hypotheses. Section 2 summarizes the argument about GMs and Reg and discusses some of the underlying issues affecting the relationship among GMs, Reg, and RDTs. Section 3 discusses the research method and scales. Section 4 presents the research analysis and results. The paper ends with a few concluding discussions.

2. Literature review

2.1. Regulation and governance mechanisms

"Like many other political concepts, regulation is hard to define, not least because it means different things to different people" (Levi-Faur, 2012, p. 3). In the OECD (1997b, p. 6) report, Reg refers to the diverse set of policy instruments by which governments set up requirements on enterprises and citizens. Regulations include laws, formal and informal orders, and subordinate rules issued by all levels of governments and rules issued by non-government or self-regulatory bodies to whom governments have delegated regulatory powers. Reg, in general, explains the idea of the imposition of controls, restraints, and the application of rules (Foster, 1992; Koppel, 1999). However, Reg is hard to define as it relies on different explanatory ways. Reg is "both a technical fix to a problem and a source of problems itself and […] inherently a site where different political and economic forces come into contest" (Baldwin, Cave, & Lodge, 2010, p. 4).

As Black argues, "regulation is the sustained and focused attempt to alter the behavior of others according to defined standards or purposes with the intention of producing a broadly identifies outcome or outcomes, which may involve mechanisms of standard-setting, information-gathering and behaviour-modification" (Black, 2002, p. 26). As Black argued that definitions of Reg implicit in the term regulatory state seem even more narrow (Black, 2002, p. 11). In this study, Reg is defined as a type of legal instrument and process, and is the control of service providing public utilities as well (Bauer, 2005; Cook & Minogue, 2002; Florio & Fecher, 2002; OECD, 1997a, 2002). Regulations for public utilities are controlling, governing, directing, altering, adjusting with reference to some standard or purpose. Therefore, regulators can have incentives for regulatory failures, and there should be clear GMs that limit or curb potential misbehavior.

Furthermore, Levy and Spiller (1994) defined the governance structure as "the mechanisms that societies use to constrain regulatory discretion and to resolve conflicts that arise in relation to these constraints" (p. 205). Ashworth, Boyne and Walker (2002) argued that, according to the evidence in Wales, regulatory misbehavior and performance ambiguity are the most noticeable problems and are more prevailing in local than in national services. "Apart from the problem of 'capture', too much discretion by regulators also increases the 'regulatory risk' faced by regulated firms, with potentially adverse effects on regulatory outcomes" (Gonenc, Maher, & Nicoletti, 2000, p. 44). In practice, it is of significance for regulatory agencies to avoid interpretation of their objectives as well as avoid discretion. Therefore, regulatory governance—firmly grounded in the wider theme of "good governance" (Cheng & Hebenton, 2008; Chou & Liu, 2006; Napoli, 2015; Stern & Holder, 1999; Xia, 2012b)—also refers to the complexity of the interplay of policy actors in the process of regulation. This suggests the need for regulatory design incorporating GMs; thus, regulatory governance mechanisms should be designed to limit regulatory failures.

"Regulatory mechanisms should thus be designed to limit regulatory risk. For example, statutory or legal requirements upon regulators to ensure that firms can finance their regulated activities can reduce the risk of regulatory expropriation and avoid a possible source of investment distortions, thereby increasing social welfare" (Gonenc et al., 2000, p. 45). Moreover, tensions between different level of regulatory governance appear in practice, indicating the need for a combined regulatory governance of the effects of the different governance mechanism on regulatory performance (Isopi, Nosenzo, & Starmer, 2014; May & Winter, 1999; Verhoest, Peters, Bouckaert, & Verschuere, 2004). As such, it can be argued that strong and effective governance features (including sound decision-making processes) are essential as the only way discovered thus far for offering boundaries and accountability on regulatory decisions.