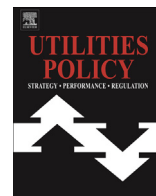




Contents lists available at ScienceDirect

Utilities Policy

journal homepage: www.elsevier.com/locate/jup

British utility regulation: Consolidation, existential angst, or fiasco?☆

Martin Lodge^{a,*}, Jon Stern^b^a Department of Government, Centre for Analysis of Risk and Regulation, London School of Economics and Political Science, Houghton Street London WC2A 2AE, United Kingdom^b Centre for Competition and Regulatory Policy, City University, London, United Kingdom

ARTICLE INFO

Article history:

Received 3 August 2014

Received in revised form

26 August 2014

Accepted 26 August 2014

Available online 29 October 2014

Keywords:

Utility regulation

Littlechild Report

UK utility regulation

International reform

ABSTRACT

More than thirty years since the 'Littlechild Report' put forward an agenda for incentive-based and competition-driven regulation, the time has come to reconsider its legacy. This article places the debates surrounding utility regulation in context. First, it suggests that at least three dominant interpretations exist regarding the legacy of the Littlechild Report. Second, this article explores the original theoretical arguments that underpinned the proposals underpinning the Report. Third, this article considers the contemporary challenges for utility regulation in the UK and elsewhere. Despite considerable concern about the state of utilities, and of utility regulation, the legacy of market-oriented regulation has been consolidated, especially in telecommunications.

© 2014 Elsevier Ltd. All rights reserved.

Thirty years have passed since the publication of the 1983 "Littlechild Report" (formally the 1983 report to the Secretary of State for Industry entitled 'Regulation of British Telecommunications' Profitability'). This report, putting forward the case for an incentive-based and competition-driven regime for the soon-to-be-privatised BT (British Telecommunications) set the standard for subsequent reforms in utility regulation, in the UK, across the countries of the European Union and the OECD, as well as in developmental contexts. The argument in favour of a forward-looking price-setting regime based on the principle of efficiency, namely the RPI-X idea, has been widely emulated. In addition, the 1983 Littlechild Report has become closely associated with further aspects of the 'British model,' specifically (a) the establishment in the U.K. of formally free-standing regulatory agencies tasked with competition oversight as well as economic regulatory responsibilities; and (b) a rise in the formalisation of relationships to replace the prior emphasis on informal relationships, or 'club government' (Moran, 2003; Loughlin and Scott, 1997). More generally, the 'British model' was intended, not least by Littlechild himself, to offer a distinct approach to regulation from that developed in the US, namely an approach that was to focus centrally on retail competition and one that avoided juridification.

From the viewpoint of the mid-teens of the 21st century and starting from the premise that the model, as outlined by the Littlechild Report, offered a distinct model of utility regulation, the national and international experience with the Littlechild model deserves further examination. What has been the experience with supposedly forward-looking incentive-based regulation, in the UK and elsewhere? Are contemporary debates still informed by the intellectual concerns of the mid-1980s? And are future developments likely to be shaped by the kind of intellectual concerns that made the Littlechild Report a persuasive account to inform regulatory reform? This special issue takes stock of national and international experiences in the light of these three questions to enquire whether we can still speak of a utility regulation model that broadly follows the recommendations set out in the 1983 Report. This issue brings together articles from academic and reflective practitioner perspectives. It offers insights into the continued legacy of the 1983 Littlechild Report in particular, and the British model of utility regulation, focussing on the British, OECD, and developmental worlds.¹

The rest of this article sets the scene and context for those that follow in this special issue of *Utilities Policy*. It first considers why a reflection on this continued legacy of the 1983 Littlechild Report is particularly pertinent in the context of utility regulation in the mid-

* This article belongs to the special issue: The British Utility Regulation Model in 2014 - Retrospect and Prospects: The 30th Anniversary of the 'Littlechild Report'.

* Corresponding author.

E-mail addresses: m.lodge@lse.ac.uk (M. Lodge), jon.stern.kimpton@gmail.com (J. Stern).

¹ Early versions of these articles were presented at a conference organised by the Centre for Analysis of Risk and Regulation (CARR) at the London School of Economics and Political Science in March 2014, in co-operation with City University's Centre for Competition and Regulatory Policy, and the Institute of Economic Affairs.

teens of the 21st century. Second, it considers the intellectual starting point of the UK debates which to an extent still shape the discourses surrounding utility regulation. Third, it sets out contemporary debates. Finally, we offer a brief introduction to the articles that follow.

1. Toward midlife crisis?

For many, a 30th birthday marks a major point for reflection. Gone are the youthful days of rebellion and optimism. Instead, a sense of seriousness and resignation usually starts to emerge. The story of regulatory reform is arguably no different. It should therefore come as no surprise that contemporary debates are divided when it comes to the enduring legacy of the Littlechild Report for contemporary utility regulation. One area of continued attention, and tension, has been the boundary between the worlds of electoral politics and the supposedly autonomous ('independent') regulatory agencies. Another ongoing area of attention, and tension, has been the centrality and understanding of competition in relation to utility regulation. Debates have emerged as to whether a competition-oriented and incentive-based regulatory regime has led to intended as well as unintended policy outcomes, in particular in terms of impacts on consumers, market structure and investment.

Interpretations vary as to the continued relevance of the Littlechild Report, as the title of this article suggest. Without claiming to offer a comprehensive or mutually exclusive account of different interpretations, three of them are summarized in this section, namely the 'consolidation' perspective, the 'existential angst' perspective, and, lastly, the 'fiasco' perspective.

First, the *consolidation* view suggests that the ideas of competition and incentive-based regulation have become centrally embedded in British and international regulatory discourse. They represent a major 'benchmark,' regardless of the episodic politicisation of independent regulatory agencies, and is exemplified by the evolution of the original RPI-X price cap into a more general pro-competitive form of forward looking incentive regulation (see Stern, 2014). One key UK episode in the evolution of the price-cap was the re-opening in 1995 of the price review in electricity (under Stephen Littlechild as electricity regulator), after the target of a hostile takeover bid revealed information that differed considerably from the material that had been contributed to the review of the company's RPI-X formula. For some, the decision to re-open the review proceedings undermined the credibility of RPI-X as a regulatory mechanism. RPI-X was, after all, premised on the principle that there would be no intervention outside formal review periods (Moran, 2003). For others, the community of regulation-oriented and competition-oriented individuals ensured the evolution of price-capping evolved further rather than having to be re-designed or abandoned.

Since then, some regulated industries in the UK have moved a long way beyond the simple RPI-X price-cap regime. The degree to which this has happened has varied depending on the extent to which competition is thought to exist in the various regulated sectors (cf. telecoms and water). However, there has been a continued emphasis on the role of competition (retail as well as wholesale), most noticeably in the area of telecommunications and information technologies. Competition may have played less of a role in other sectors, but the doctrine nevertheless has significantly shaped regulatory approaches in energy (at least until 2010), railways (franchising), and water (benchmark regulation, and subsequently, retail competition, see Cave, 2009). In other words, the economic regulation of British utilities has become, as predicted, increasingly informed by general competition principles. Somewhat differently, but nevertheless based on the idea of

consolidation, Price and Ross (2014) note how competition principles have become increasingly institutionalised as part of a cross-sectoral co-ordinated approach to regulation in the UK. Stern (2014) similarly suggests that despite some countervailing dynamics (most obviously in electricity), the linkage between regulation-oriented and competition-oriented institutions has become entrenched and is generally accepted across the UK political and institutional spectrum. Elsewhere, Gassner and Pushak (2014) note how, in the less developed world, competition-oriented regulatory approaches informed by the Littlechild model have witnessed consolidation in the area of telecommunications, but arguably less so in other regulated infrastructure industries.

Second, the *existential angst* view suggests that while competition and liberalisation may have been dominant themes over the past few decades, contemporary debate is shaped by different priorities. There has, therefore, been a move away from the Littlechild-informed priorities that used to inform the regulatory agenda. According to this argument, we are observing a multiplication of priorities in regulatory reform that, when taken together, create a more challenging context for regulatory institutions established as part of the various utility privatization experiences over the past three decades. Similarly, the context of industrialising countries points to a mixed record, as suggested by Wren-Lewis (2014). The remedies prescribed by the World Bank and other international organisations have had limited effects in middle and low income countries (Estache and Wren-Lewis, 2010). More generally, regardless of context, considerable evidence of so-called backsliding can be cited, such as in the case of appointments of regulators that display increasingly party political considerations, and the way in which the political climate in general favours incumbents and other established economic interests over new entrants (for example, in Turkey and Hungary).

Observers following this line of argument would point to the growing pressure for regional or local utilities, especially providers of infrastructure, to be returned to public ownership. This latter trend has been particularly prominent in Germany. Similarly, the continued debate about UK rail passenger franchising, and whether franchises should be returned to public ownership, highlights a continued political interest in the material ownership of utilities. The same might be said about the changes in British electricity and other infrastructure sectors that have arguably been moved from quasi-competitive markets to direct state involvement (Helm, 2013). Thus, the activities by the UK Regulators Network (see Price and Ross, 2014) could be interpreted as an attempt by regulators to justify their existence in the light of a more hostile political climate.

A different version of the existential-angst perspective is offered by Stephen Littlechild himself, who finds that the initial vision of the 1983 Report (for telecommunications) has been, at best, seriously undermined by bureaucratisation and legal formalism and, at worst, betrayed. This is perceived by Littlechild as primarily the consequence of regulatory asset protection for regulated companies via the development of the RAB (regulatory asset base) which, while preserving forward-looking efficiency regulation, also brings in significant elements of rate of return, cost-based regulation. In this view, the technologies of incentive-based regulation have not withered away, but have become part of the regulatory process (see Stern, 2014). This implies that the view of the all-powerful, sovereign final consumer has been increasingly supplanted by a view that consumers need protection from markets (particularly in energy, water and transport). According to this perspective, these developments (justified by 'Nudge' and 'behavioural economics') are seen as potentially

Download English Version:

<https://daneshyari.com/en/article/7411617>

Download Persian Version:

<https://daneshyari.com/article/7411617>

[Daneshyari.com](https://daneshyari.com)