

# Public property, political regulation and independent regulation for the public services

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## **public property, political regulation and independent regulation for the public services**

1. What is “public service”?
2. The historic role of public ownership
3. Network services
4. The rise of regulation
5. Are uniformity or coordination necessary?

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# 1. What is “public service”?

- Traditional definition: **all services provided by public entities**
- Referring to contents: services
  - which are necessary or very useful to the life of individuals, of the community
  - which will not be provided by an unregulated market in a satisfactory way because of:
    - **Inequalities**
    - **externalities (benefit / damage to third parties)**
    - **public goods (non-rival, non-excludable)**

# What is “public service” in the EU?

- The reference term is “services of general interest”
- Member states identify them
- Separate treatment of
  - “services of general economic interest” are subject to the rules of the EU Treaty: open market, competition or competitive bidding
  - “services of general non-economic interest” are not: usually provided by public entities (these include the typical tasks of the State)

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## 2. The historic role of public ownership

- a. a substitute for missing private initiative and an engine for development
  - the “infant industry” theory: basic industries
- b. a provider of public goods
- c. a remedy to monopoly
- d. a remedy to “natural” monopoly (network services)
- e. ideology: “public is always better”

Today the opposite belief “private is always better” prevails:

- a symmetric ideology?
- or a consequence of a disappointing performance of the public sector?

# The weakness of public ownership

- Conflict between profit maximisation and implementation of political directives
- Evaluation of results: which benchmark? how to assess the responsibility of managers?
- Government-owned company expected to behave different from private and to compete at the same time
- Privatisation often from Govt need for revenue or inability to fund company growth
- State aid: contrary to trade agreements (and to EU law), hard to define



# The alternatives to public ownership

- a. To promote development: good rules, infrastructures, incentives
- b. To provide public goods: contracting out
- c. To contrast monopoly: large open markets, antitrust law and competition authority
- d. **To face “natural monopoly” in networks:**
  - **services in competition, access to the networks**
  - **competitive bidding for the service**

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## 3. Network services

- In presence of a network (physical or virtual), competition may be impossible or uneconomic.
- Monopoly presents two risks:
  - Exploitation of consumers
  - Inefficiency
- The alternatives:
  - a. Public provision
  - b. Public tendering, private provision
  - c. Services provided in competition, free access to the network

## 3.a: public provision

### **Weaknesses:**

- no contest, no incentive to efficiency
- political interference
- investment a burden on public finance
- size of company limited by political boundaries

### **Remedies:**

- Monitoring of service quality by external body (consumers' association, independent office)
- Separation between political office and service management

## 3.b: public tendering, private provision

### Basic belief:

- **The public interest may be assured even without public ownership**

### Economic conditions:

- **Monopoly during the period of the contract**
- **Monopoly limited by terms of tender, of contract**

### Requirements:

- **Capacity for tendering**
- **Capacity for contract**
- **Monitoring and sanctioning**

## **3.c: Services provided in competition, free access to the network**

Networks regulated and accessible:

- **Unbundling (accounting, legal, ownership)**
- **Regulation of network: tariffs, rules for access**
- **A role for competition authority**
- **A role for industry regulator**

Competition for services

- **A sufficient number of competitors**
- **Market large enough to allow optimal size of company**
- **Competition authority**
- **Transition problems in liberalisation**

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## 4. The rise of regulation

- the US tradition of regulation
  - **Public Utilities Commissions since early 20th century**
- a weaker European tradition
  - **tradition of public (or semi-public) ownership**
  - **municipal tradition**
- a revolution started around mid-1980s
  - **deregulation, opening of markets, privatisation**
  - **objectives: efficiency through competition, shrinking and re-orientation of State functions**
  - **an independent authority seen as necessary**



# Political regulation vs. independent authorities

- reference case: the rise of independent central banks
- the case for “tying one’s hands” in the regulation of public services
  - necessary in presence of Govt-owned companies
- problematic relationship between government and regulator
- the rise of regulatory authorities in energy 1990-2005 ([www.iern.net](http://www.iern.net))

# The task of a regulator

- set tariffs for monopolistic services
- promote competition where possible
  - access to networks
- set technical standards for safety, interoperability
- promote development of infrastructures using obligations and incentives
- protect weak consumers
- advise Government



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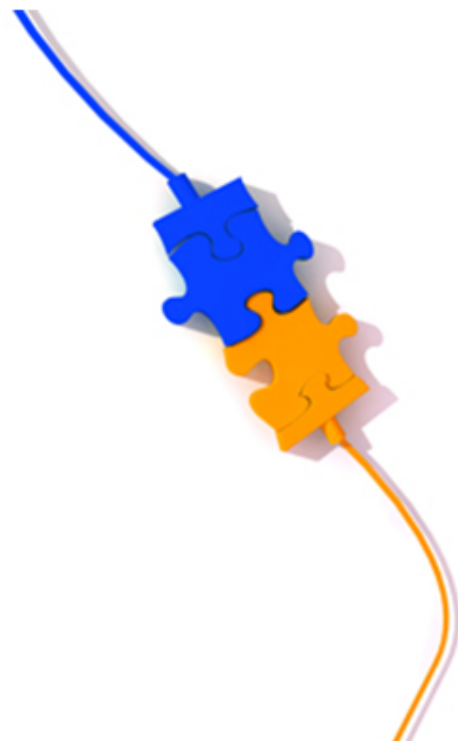
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**Number of energy  
Regulators in  
the world:**



319



## International Energy Regulation Network

IERN is a web platform that aims at facilitating information exchange on electricity and natural gas market regulation, to the benefit of regulators, but also of other interested users. Through IERN, regulators and other energy market stakeholders will be able to exchange information about themselves, the sectors they are involved in and the way these sectors are regulated.

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## 5. Are uniformity or coordination necessary?

- the extreme cases: financial markets vs. local services
- instruments for coordination
  - top-down: treaties, legislation, institutions
  - bottom-up: cooperation, information, best practices
- the “regulatory gap” between multinational companies and national (local) regulation

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