Considerations on the elements of the “concept note” and road map for the legislative and structural reforms required in view of setting up an independent energy regulator

Alexandros Pramagioulis
Senior Expert on Regulation

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Setup an independent energy regulator: the basic questions

- How?
- To do what?
- Market?
- Competitive market?
- Why?
- Efficient use of resources? Cost reflective prices? New investment?
The fundamental question about how to setup an independent regulator

Do you believe in markets?

- No. But, how to resolve inefficiencies? How to attract capital?
- Yes. Assuming so, based on Minister announcement of strategic tasks.

(Have to keep reminding of this through the whole process)
Chicken and egg?

Independent regulator

Competitive market

Reason for existence of independent regulator is competitive market

Requirement for operation of competitive market is independent regulator
(The paradox of market regulation)

- If you believe in markets, you need a regulator to make them work.
- The more you believe in markets the less you will want to regulate externally.
Where we stand?

- Monopolised markets, state owned enterprises
- Government regulated.
  - Licencing: Ministry of Energy
  - Rules and standards: State Committee
  - Pricing: Tariff Council
  - Customer protection: Ministry of Energy (complaints and penalties)

- Ministry of Energy:
  - current regulator
  - initiator of market liberalisation
Transition to competitive market:
• Complex
• Long
• Legally demanding in volume and essence
• Resolve conflicts without compromising
  – Security of supply
  – Economic conditions of consumers
From here to there (2)

• Build **new institutions**:  
  – Develop their **logic** of operation into **market oriented**.

How to design and build new structure:

• **Driving power:** *profit*
• **Objective:** *public interest*
• **Restrictions:** *safety* and *security*, **no exceptions**.
• **No interruption** of the (long) process by political or commercial *interventions*
It’s a project

- Must be setup, implemented, monitored, and regulated in all stages
- Must have a “project manager”
Dual duty of the project manager

- design market opening
  - prepare legal framework
  - prepare institutional changes
  - train market participants in new roles in the competitive market

- prepare itself as energy market regulator
  - initially as Ministry of Energy advisor
  - eventually, as independent institution outside the structure of the Ministry
A two stage process (1)

1. Preparatory stage
   - Set up future regulator as “project manager” within Ministry of Energy.
   - advisory role
   - no need for changes to primary legislation.
   - prepare new primary legislation
   - prepare basic market design
   - Prepare and carry out institutional changes in view of market opening.
2. Competitive energy market stage

- **Primary law changes** for implementation of competitive market arrangements
- **Department becomes Agency**
- Obtains **decision making powers**
- **Rules** for the operation of markets are put in effect
- Market participants (as designated through licence conditions) start implementing the new rules
The two stages

Current
- State owned Monopoly
- Ministry sets policy
- Ministry regulates

Preparatory
- Department within Ministry
- Project manager
- Prepares advice on regulation
- Prepares market design
- Prepares legislation
- Raises awareness
- Obtains know-how
- Obtains capacity

Competitive
- New Primary Legislation applied
- Regulator is separate from Ministry
- Gradually obtains decision making powers
- Gradually gains independence
Setup of the Agency

Preparatory stage: Department within the Ministry of Energy

- **Advisory role**, prepare rationale and analysis for decisions, suggest decisions to Minister
- **Supervise licence compliance**, advise Minister for enforcement
- **Tariff analysis work**
- **Prepare legislation** for market liberalisation and regulation
  - Regulatory principles, practices, procedures, policies
Decision making transition and regulator independence
Regulator independence (1)

- Degrees of independence along with maturity of the market
- Primary Law provisions: a measure of independence
- Board of 3-5. Initially a Director
- Source of revenue to perform professionally and timely
- Sufficient resources and ability to attract, maintain and train qualified and skilled staff
- Have flexibility in adjusting staff to needs and requirements
Regulator independence (2)

• Initially budget and staff in accordance with Ministry practice
• Empowered by Law to issue secondary legislation. Initially prepare advice to Minister in accordance with current legislation
• Rules and conditions for appointment and dismissal of Board and staff
• Participate in hearings by Parliament or other, to review performance. Also carry out internal financial and performance audits to improve efficiency. Report in public
Separate policy from regulation

• Regulator and the competition authority
• Distinguish between regulation and policy making
Public participation, transparency

- Responsibilities with raising public awareness. Use also as training for market participants in preparatory stage
- All parties related to market operation participate in regulatory proceedings. Agency facilitate and encourage public participation prior to decision making
Role and functions of the Agency
(to be further elaborated and developed at the preparatory stage)

- Project manager
- Tariffs
- Licences
- Register of entities
- Quality and performance standards
- Renewables (market regulation only)
- Stakeholder participation
- Public awareness campaigns
- Customer complaint handling
- Dispute handling
- Data collection
- Coordination of technical assistance
- Market regulation
- Access to networks
• Setup Department. Mandate, role, Director, staff, work programme
• Prepare market design. Obtain technical assistance. Involve other stakeholders. Receive training on energy markets design, operation, regulation
• Prepare legislation: Energy sector, regulator, competitive sector (electricity, gas, based on policy). Obtain technical assistance.
• Provide advice on current business
• Prepare setup of network operators for market conditions