

African Forum for Utility Regulators

Forum Africain pour la réglementation des services publics



Department of Water Affairs

THE ESTABLISHMENT OF AN ECONOMIC REGULATOR

**Debbie Roets
Executive Secretary**

**1st November 2012
Pretoria, South Africa**

Presentation Outline



- Introduction
- Key Principles For Initial Framework For Utility Regulators
- Functions of Water Regulators
- Challenges identified by African Regulators
- Conclusion

AFUR



- ◆ AFUR is a multi-sector Forum, formed under Clause 110 of the NEPAD Framework
- ◆ It focuses on issues related to the regulation of the Energy, the Telecommunications, the Transport and the Water & Sanitation Sectors
- ◆ Vision: To be the African Forum for effective utility regulation
- ◆ Mission: To facilitate the development of effective utility regulation in support of Africa's infrastructure development
- ◆ 32 Members from 25 different African countries from different sectors

Three Types of Water Regulators in Africa



- Most Water Regulators are embedded in the government ministry that deals with water; there is no separation of policy making and implementation.
- Some countries have fused water regulation with that of energy – Mali, Tanzania, Rwanda, The Gambia, Mauritania, Ghana, Niger, Lesotho.
- A few countries such as Zambia, Kenya, Mozambique have a single sector water regulator

Key Principles for framework



- ◆ Minimum regulation necessary to achieve policy and sector objectives,
- ◆ Adherence to transparent decision-making and due process requirements
- ◆ Independent or autonomous regulation where possible
- ◆ Accountability towards all stakeholders
- ◆ Non-discrimination when not in conflict with policy prerogatives of government
- ◆ Protection of investors against physical and regulatory expropriation
- ◆ Promotion of competition

General Functions of Water Regulators in Africa



- ◆ To issue, renew and cancel licenses
- ◆ To establish standards for goods and services, including the establishment of standards for the terms and conditions of the supply
- ◆ To regulate rates and charges
- ◆ To make rules for carrying out the purposes and provisions of the Regulatory Act and legislation
- ◆ To monitor the performance of the regulated sectors in relation to
 - Level of investment
 - Availability, quantity and standard of services

General Functions of Water Regulators in Africa – Best Practice



- The cost of services
- The efficiency of production and distribution of services
- ◆ To facilitate the resolution of complaints and disputes
- ◆ To disseminate information about matters relevant to its functions
- ◆ To consult with other regulatory agencies

Challenges Identified by African Regulators



- Governments view on the supply of water as a social service; making use of third party suppliers that charge a premium to the poor; setting tariffs at politically acceptable, but perhaps less than cost-reflective levels
- Rapidly growing demand for infrastructure services, inadequate infrastructure, under-investment and the continuous pressure of population growth and rising poverty levels far exceeding the capabilities of the operators.
- Regulatory Capture: Although some African countries have frameworks in place, the functioning and effectiveness of many recently created regulators is still a work in progress because of a number of reasons that include but are not limited to:

Challenges Identified by African Water Regulators (continued)



- Weak governance environment: insufficient staff; untrained staff; inadequate secondary legislation; lack of predictability
- The regulatory process; most utility regulators in Africa have only been in existence for less than 10 years
- Lack of clarity between Policy Makers and Regulators on the regulatory decision making process: Question still remains: Are African regulators politically Independent or administratively Autonomous.
- ◆ Limited private sector participation
- Many African countries still don't have Water Regulators in place

Conclusion:



- ◆ An independent regulator should be granted organizational autonomy in terms of its legal identity, physical location, and staffing pool (ability to hire or fire lies with the regulator and not with the Ministry)
- ◆ Funding is either through levies or licenses or an independent budget line from National Treasury
- ◆ The reporting line of the regulator should be to parliament and not to the ministry

Conclusion:



- ◆ Regulation is about solving problems that society or businesses can't solve alone, as well as making trade-offs among different objectives and the interests of various stakeholders.
- ◆ These tasks will not become any easier. Regulators face, among other challenges, the need to take fast-moving sociopolitical dynamics into account when they address issues that have no clear “right” answer

Conclusion:



- Summarizing:
 - Political will
 - Regulatory frameworks
 - Availability of accurate basic data
 - Economic balance of contracts (Win-Win)
 - Professionalism of private sector
 - Minimizing risks to attract private sector



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