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"Policies for mitigating problems stemming from differences in levels of development; trade-offs between investors' and consumers' interests; and the role which regulators can play in balancing interests of stakeholders"

"Balancing Stakeholders' Interests: a trade-off or a convergence? A power to exert or a service to deliver?"

Balancing Stakeholders' Interests: a trade-off or an alignment? The answer blowing in some case-studies.

Every regulatory decision – whether it relates to competition, infrastructure investment or consumer protection – has an impact on stakeholders.

The “quest” for “the best possible impact” requires achieving the right balance between investor and consumer interests. This balance is traditionally seen as a “trade-off”; however, in my opinion, the challenge is in adopting a different perspective.

We can consider the return to investors and the interests of consumers **not** as diametrically opposed positions (like **an apparently irreconcilable trade-off** may suggest), **but as elements of a coherent regulatory decision**. A decision that, to be “appropriate”, to be “high quality”, has to take into account all these interests as essential elements, **finding a point of “alignment”** (or, at least, convergence) among them.

I'll briefly mention some regulatory case-studies, both on infrastructure and on consumer protection, to show that this is possible.

On one side, when we regulate infrastructure, or promote competition, we should consider the interests of the consumers not as “a constraint”, but as “an element” of the decision. In fact, the benefit to consumer is an indicator (though not the only one) of the effectiveness of the delivery of infrastructure services or the efficiency of a market.

A first case-study can be found in the incentive regulation of quality of supply. A privately owned distribution company acting under a regulatory framework which only allows for the recovery of efficient costs (such as traditional revenue or price-cap formulas) wouldn't be have the incentive to improve the quality of service. But regulators may design economic incentives, through reward/penalty schemes, that give distribution companies the incentive to invest in network maintenance and development in a very targeted manner, in order to reduce number of faults and duration of interruptions, creating a “win-win pattern”.

A second example is what we call, in the Italian Authority, the “principle of selectivity”.

It is generally agreed that investment in infrastructure will produce benefits and economic growth, but the efficient use of infrastructure and the benefits to consumers may differ across

various infrastructure projects. Consumer interests then become an element that can help the regulator to “select” the best infrastructure, to assess how resources (that are scarce in times of crisis) can be applied in the most effective and efficient way.

This “principle of selectivity” has already guided our efforts to define how to promote investments on the basis of their “figure of merit”, both in electricity distribution and transmission (“regulatory period” 2012-2015), and in the regulation of gas facilities and infrastructures (“regulatory period” 2014-2017).

Selectivity was also used to support the Authority's actions in regard to renewable energy sources.

Whilst consumers should share the costs of providing appropriate incentives for RES and the costs of their impact on power system operation, the cost to consumers must be efficiently commensurate with energy environmental externalities (though keeping a stable and long term regulation, to protect investments).

So that consumers of electricity do not pay costs related to grid imbalances, the Italian Authority recently introduced its first selective measures for producers who use renewable energy sources in order to increase their responsibility in terms of the programming of energy from RES being fed into the grid.

The selectivity is now also embedded in the new approach to Project of Common Interest in Europe, recently mandated by Regulation (EU) n. 347/2013 and applicable to electricity transmission, gas transportation and also smart grid with cross-border impact.

On the other hand, we should regulate consumer protection considering the interests of the investors (in the market as well as in infrastructures) not as “a constraint”, but as “an element” of the decision. In fact, a fair and competitive market, and efficient investments, are among the most effective ways to protect (and to empower) consumers.

Competition can be a powerful weapon to protect consumers, not only in the traditional field of energy prices. Let's take, for instance, **the more recent issue of the “customer care”**.

It may be appropriate to set a minimum (though satisfactory) level of service of companies' customers care instead of establishing only strictly mandatory guidelines: the first option could better promote a real competition on the “extra care” of the client.

It may be appropriate to stimulate this “competition on customer care”, above the minimum level, through appropriate regulatory tools, like the use of a “reputational” approach (e.g., publishing a “white list” of best performers as a result of a survey to be conducted by independent body with a number of ghost calls, or a “black list” of companies using unfair commercial practices).

This, of course, requires finding “the right level”, “the right amount of regulation”. The interests of competing investors (in this case, investors in the retail market) can be an element to be considered in looking for this “right level”.

The **international cooperation** among regulators can provide several good practices to support us in this effort. Tools such as the **Regulatory Impact Analysis**, that have been deeply explored at the OECD (there'll be a specific panel on that in this forum), can help a lot: we are now trying to extend this debate to the economic regulators in the newly established **OECD Network of Economic Regulators (NER)**.

Another issue is **the build up of the retail price of energy**. In some countries (I have in mind several cases in our **MEDREG experience**), this price is fully regulated in a non cost-reflective way. The traditional reason for that is, again, the protection of consumers, but this approach protects not only the “vulnerable” consumers, but everyone. And sometimes the end result is that in protecting every-one, no-one actually benefits.

A more balanced approach is, in my opinion, a regulatory framework which minimizes price distortions on energy prices and which promotes cost-reflective retail tariffs gives a correct price signal to consumers. In association with that, we should focus on more targeted “protective” tools (i.e. discount, or bonus, on energy bills), in order to support only those consumers that really need additional protection.

Balancing Stakeholders’ Interests: a power to exert or a service to deliver? The answer blowing in the international cooperation.

A final remark, on **“the role which regulators can play”**.

The establishment of the right balance among stakeholders’ interests – or, in other words, the “quest for convergence” among stakeholders’ interests which I tried to describe – is one of the main missions of a modern regulator. But achieving such a mission must not become an exercise in the exertion of a power: it should result from delivering what is in the best interests of the public.

It should be a “regulatory service”, not “regulatory power”.

This mission – it is often said – requires the “independence” of the regulator.

A capable, independent and strong regulator – it is generally agreed – is a prerequisite for a stable investment environment to lower investments risks and boost investor confidences in infrastructures projects, as well as to allow customers to benefit from sustainable investments, better quality of services at reasonable prices.

But independence is not a status, or a privilege to be given for granted: it is a value to be conquered on the field (in a recent OECD-NER workshop there was quite a consensus on that).

Therefore, such an high and crucial role of “balancing stakeholders’ interests” must be earned by us regulators, not only by claiming and defending our independence, but by being transparent and accountable about the quality and the effectiveness of our actions.

A broad stakeholders engagements in the decision making process is probably one of the main approaches to define a clear and transparent decision making process.

Consultation processes are outstanding examples, not just as a ritual in itself, but as a source of data and inputs to be assessed, selected, balanced and evaluated by the regulator, to provide decisions that are “discretionary” but are not “arbitrary”, nor “political”, because they rely on evidence-based choices.

Choices that, in any case, should try to find the best possible “alignment” (not trade-off) between investor and consumers interests.

On this point, there are now several good practices around the world; this is in my opinion one of the main merits of the international cooperation among energy regulators: to share common views and experiences, as well as to support each other in our national challenges and in the international contexts.

And this WFER is probably the most important *séance* for that.