Regulators

proposals for delivery and development

Dana Gampel argues that with suggested changes to regulators, unions should remove their ideological blinkers, and allow workers to organise as private collectives to take advantage of the changes unfolding in the public sector.

Why establish regulators?

The public sector is undergoing significant changes – both in terms of what it has to deliver and how it will deliver these services. There are several forces driving this change process, including the following:

- Communities not yet receiving basic services demand delivery and pressure provincial and national governments to supply to these areas.
- The limited capacity (both financial and human resources) within the public sector to deliver services to these areas.
- The need for assistance in meeting delivery targets and thus finding appropriate partners.
- The challenge of delivering services to all despite the limited budgets and projected low returns on this investment
- The economic advantages that emerge from delivering services through joint efforts have pressured the state to open the market and facilitate private participation.

These pressures have created opportunities for changing the public sector. In the past this sector (that is municipalities and government utilities) was structured in a vertically integrated fashion – it owned the means to produce the final product and also sold the final product directly. The sourcing, manufacture and sale of the service or product was thus done by a single organisation. This meant that natural monopolies developed whereby a single company was effective enough in supplying the service – usually because of the economies of scale. In other cases, services previously supplied are no longer sufficient given changes in the size and affordability capacities of communities now included in new local government boundaries. Although delivery demands have increased, the needed resources to respond to these needs have not been available.

Solutions to this crisis are to either introduce other services suppliers – creating a competitive market – or to partner with other suppliers who can assist with funding, resources and skills. This partner would require a direct benefit from this relationship – necessitating an open-market economy

These 'solutions' need to be refereed If a partnership or natural monopoly occurs, it will be necessary to guard against unfair price increases Furthermore, if partners enter the sector, their participation must also be economically and financially viable. It is also important to make sure that targets are met and delivery occurs in the most effective manner During times of change, an overseer is usually required to ensure that all parties' interests are met and that the developmental goals are realised – even though the players and the rules may change. For these reasons, regulators have been established

Traditional roles of regulators

Protecting the customer

In the USA particularly, regulators have been established to ensure that consumers' interests on lowest price, best service and choice of supply are secured, and that large monopolies do not emerge.

In South Africa, similar reasons have been given for the establishment of regulators delivery targets need to be met, and these will probably be addressed by natural monopolies The lack of competitive forces to regulate this supplier and its prices, and the need to ensure that developmental targets are reached, have prompted the introduction of regulatory bodies to oversee this process. The cases of electricity and telecommunication networks are examples to note.

Policy documents like the Energy Policy and the White Paper on Local Government also propose the deregulation of the public sector and call for co-operation between suppliers of services – both within the public sector and with the private sector. Regulators have been established to ensure that these partnerships meet the needs of consumers, guarantee levels of supply and implement fair tariffs for the industry

Protecting the investor

Regulators were set up in the UK and Latin America to protect investors from risks associated with delivery such as non-payment

In South Africa this aspect of regulation has also been factored into the roles of regulators Although they are the guardians of consumer interests, they also ensure that conditions are attractive to investors and participants by ensuring competition, returns on investment and economic growth within the sector

A proposed new role

Regulatory authorities have been excluded from official involvement in planning and target setting This is correct, as the role of a regulator is to implement rules and objectives, ensuring effective delivery.

However, a direct role in the planning process is needed in this developing context given that new markets and demands are being addressed for the first time. The regulator is also in the best position (as it co-ordinates delivery centrally) to advise on realistic targets and installing services effectively

In overseeing the implementation of services, regulators are in a position to track where new needs (or redundancies) arise for associated services

Inter-departmental targets and resources should be planned as an holistic service package so that limited capacity, funding and resources can be maximised. Integrated infrastructural or specific service planning thus needs to be co-ordinated by the various regulatory bodies involved

Co-ordinating service delivery is thus a further role that regulators should play.

The Integrated Development Planning Unit (IDPU, based in the Department of Constitutional Development) is beginning to fulfil this role, but it needs closer co-ordination with other regulators.

Regulators monitor the impacts arising from service delivery. These multiplier effects are solutions to some of the social crises facing South Africa today. Multiplier effects arise when, for example, water is supplied, and demand for electricity (initially for heating and pumping purposes) follows. Once electricity is installed, the mushrooming of small businesses associated with these services occurs – for example, the sale of appliances and the establishment of laundromats or shebeens (using electricity for fridges to keep things cool).

Noting these multiplier effects should complement the co-ordination role suggested by making planning of associated services efficient. However, multipliers must also be noted as solutions and opportunities to address underdevelopment.

These multipliers indicate possible job creation opportunities. Resolving poverty through establishing 'community suppliers' (by skilling workers as independent agents who can maintain this service within the wider area) addresses the challenges of job creation, poverty and empowerment.

Regulators would need to link with structures such as the IDPU, the Business Trust and the various initiatives underway from organised labour to ensure that similar objectives are co-ordinated, inputs are resourcefully used and efforts are not duplicated.

Regulators would also need to act as the link between the emerging opportunity and the beneficiaries (public or private sector, or worker collective) who, through delivery, will unlock the economic value in these multiplier effects.

These opportunities need to be viewed not with ideological lenses of whether they benefit a particular party or not, but rather as gateways for a variety of beneficiaries (including workers) to enrich themselves and the community.

Independent regulators

Regulators should thus play a definite role in aligning with the government's, organised labour's and business' efforts to address social concerns. This contradicts the traditional call for regulators to be independent.

This 'need' for independence has arisen – mainly from investors – who demand that service delivery be free from state involvement so that their finance is dedicated to the project where it can generate projected returns, and is not used for cross subsidy requirements.

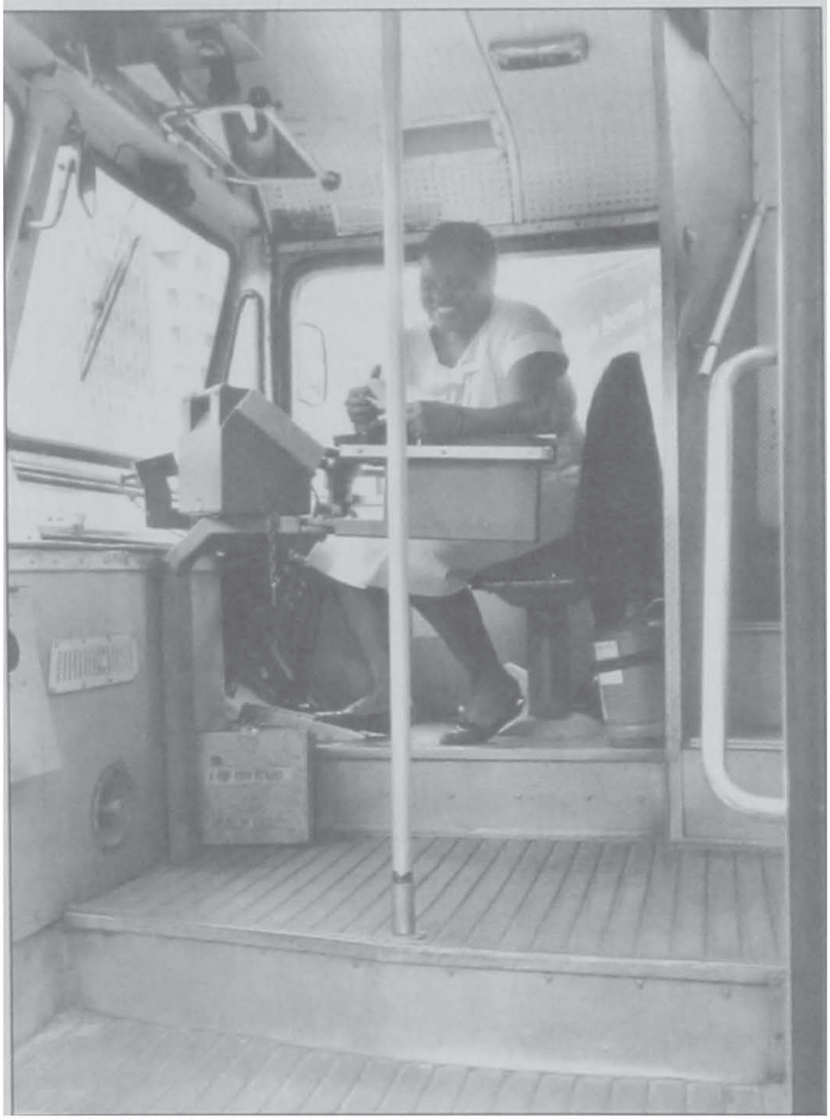
This call for independence is inappropriate in this context. Regulators are established through Parliament, have to implement targets and objectives set down by political agendas and are established through political structures. They report back to these political structures and are dictated to and influenced by the political policies and agendas of the day.

But so what if these bodies are influenced in these ways by the state? If policy targets are acceptable and the regulator can be held accountable for non-delivery (or approached for adjustments and amendments), then what difference would it make who the regulator reports to? After all, it is responsible for implementing policy, not creating it.

The regulator cannot be an independent body, but its officials should be independent.

The regulator is the referee for the industry: monitoring implementers or service suppliers, consumers, possible partners and noting opportunities and threats to the intended development. Regulatory officials cannot be players in the industry or policy target-setters (whose role is strategic rather than implementory)

However, regulators cannot divorce themselves from the industry's players implementing targets effectively requires conducive conditions for all the players in the industry. It also necessitates suggestions from players about the system and its flaws or developments. Thus, constant consultation with and feedback from players is needed



Workers on the East Rand bought busses to deliver a service.

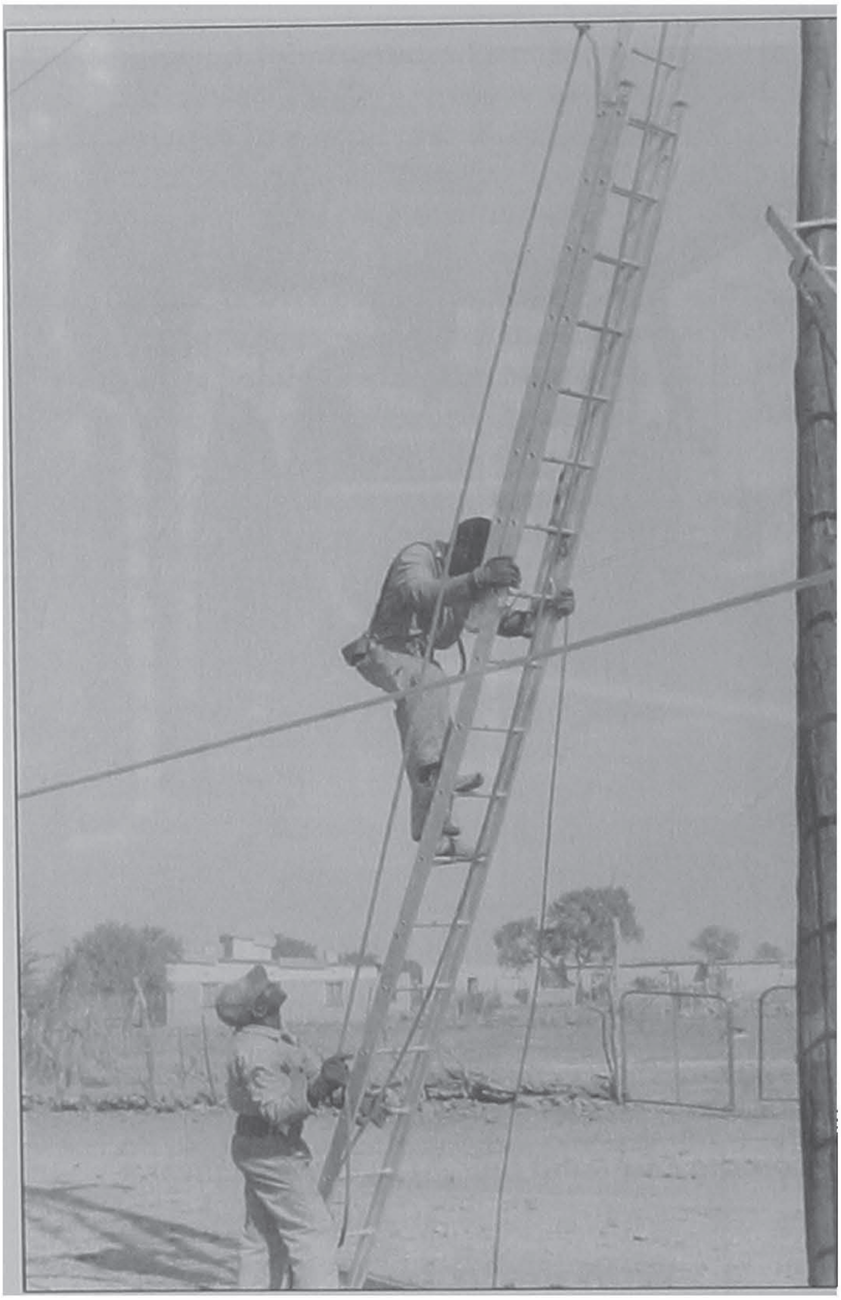
This then refutes certain arguments proposing that municipalities could still play a regulatory role in a particular jurisdiction - even while supplying the service It also shows the flaw in the proposals made by some unions stating that they have a 'watch dog' role to play in the public sector - despite their role in installing services

Regulators in South Africa have been inclusive by consulting all players However, this has generally been within the traditional boundaries of regulation - targets, costs and delivery issues. These consultations need to take on a new format given the further roles that regulators should play, and this is where a new role for workers could be forged

Workers' roles

The unions' roles with regulators have customarily been to give input into industrial policy and to bargain for wages, benefits and working conditions Only recently have unions become concerned with the development and growth of specific industries given the crises with unemployment and the need for new solutions to poverty.

Seemingly though, solutions are still couched in the paradigms and objectives of union officials that will swell union ranks but not necessarily or simultaneously enrich and advance workers as independent service suppliers



Workers can identify needs in a community.

This latter approach has been rejected given perceptions that it restricts workers from identifying with each other and establishes them to become a new form of exploiter, once they hire additional staff. The problem with this argument is its narrow assumptions that workers wish to remain impoverished, albeit more influential and cannot/do not organise in non-exploitative collectives. Ways in which workers have responded to public service needs through, for example, establishing private companies (organised as a collective) and successfully participating in public-private ventures in cases like those on the East Rand and Johannesburg's Eastern MSS, should be noted These organisations still see themselves as collectives of workers who have become wealthier, not via exploitation, but through strategic uses of opportunities and a key knowledge of the market and industry.

Given that the regulator should have a role in planning, co-ordination and opportunity-identification, workers should be included and consulted for three key reasons:

Firstly, workers in the sector have developed skills that are crucial for the effective delivery of these services. Workers should benefit from sharing their tacit knowledge, but calling only for increased wages in exchange for their participation is not an option – given the lack of finances and the obvious impression of 'selling-out' it creates. Instead, workers should be offered a strategic and entrepreneurial role in delivering services. Creating opportunities to become independent suppliers and advisors on implementing service delivery (who could still be affiliated to the union if desired), creates a mutually beneficial platform where workers and regulators gain from their involvement. Effective planning and implementation can occur, together with greater opportunities for employment and economic empowerment and growth

Secondly, delivering services for developing communities becomes limited, unless these are maintained and expanded as the community grows and changes Regulators will have to identify suppliers who can deliver this service

In many cases the regulators appoint the established large organisations However, given workers' knowledge on tools, materials and effective techniques needed in maintaining services, an alternative to this convention emerges organising workers as maintenance agents fuels black economic empowerment initiatives, and creates further small and medium enterprises with the potential of employing more workers

The establishment of a pool of maintenance specialists (assisted and established with the backing of the regulatory body) will contribute to updating and maintaining the service and associated developmental needs

Given that workers and unions are in the frontline of installing and maintaining services, they are in a key position to advise on new requirements for planning purposes and on how to implement effectively They should also assist regulators in their monitoring role.The union or workers themselves can monitor quality, efficient service and the community's involvement

Indeed this could – as suggested above – lead to the emergence of independent agencies being formed, or alternatively this could be the 'watch dog' role some unions say they intend to play The difference is that this 'watch dog' facilitates the development and competitive abilities of the sector rather than guards the established rules of the game which need readjusting as the sector changes

In return for this role, unions need a significant degree of power and influence to be able to lever the regulator (and the industry) into facilitating other desired outcomes for its members and affiliates

These very embryonic suggestions are not intended to imply that the union's role should be reduced to this function, but rather to propose its alternative roles in a regulatory framework (as a planning and co-ordinating body) Here unions can be active participants and developing agents, growing the industry, entrepreneurial opportunities in it and improving the delivery of services therein It also implies that unions need to be recognised for the input they can offer beyond executing their traditional responsibilities

These proposed new roles point to the necessary features of participation that involvement and consultation should be on areas where the participants can add value – and in return the participants should be supported in their objectives to generate wealth, growth, employment and skills for their constituents Ensuring that these complementary roles ensue from the establishment of the regulator would surely be more relevant to delivery and the creation of a viable economic setting than the conventional demands for independence from the state.

Regulation is intrinsically related to political agendas and is a politicised forum by its very creation How it benefits the economy and particular sector, and how it generates development and growth should be its reasons for existence.The art in achieving this has to be through maximising opportunities for participants and recipients of these services and not just implementing the conventional 'rules of the game'. ★

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