The 'R' Files

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Funding the Consumerist NGOs

'Regulatory capture' is a notion that has long shaped a good deal of thinking about the interaction of government agencies and businesses. Analysts pointed to seemingly over-sympathetic decisions of regulators, for example in favouring incumbent firms over new entrants. Whether or not this accurately describes yesterday's regulatory bodies, their contemporaries' affinities are closer to anti-business groups.

Australia's regulatory agencies, the most important of which is the ACCC, are highly energetic in pursuing businesses which they consider to have acted improperly. Indeed, other public bodies have criticized the ACCC for doing so to excess. These criticisms have been explicit in the case of the Australian Competition Tribunal, which overturned ACCC pricing and regulatory control decisions on pipelines, and the Productivity Commission, in its Gas Access Report; they were implicit in the case of Energy Minister Macfarlane, who overturned the ACCC's aspirations to regulate the Moomba to Sydney pipeline.

The efforts of regulatory agencies have, in recent years, been massively augmented by a considerable expansion in their budgets and staffing levels. In addition, the regulatory thrust has been fortified by the phenomenal growth of public funding for anti-business and anti-market non-government organizations. The Consumers Federation of Australia has 94 of these groups as members. Both the Commonwealth and the Victorian Governments have funding arrangements for these bodies and afford them privileged access to the policy development process.

This funding to groups with a highly militant anti-business perspective provides oxygen to organizations which have no representational credentials, being elites rather like those who used to claim they were the 'vanguard of the proletariat'. These anti-business groups propagate ideologically soiled views that purport to demonstrate the malevolence of the industries' enterprises. They are splenetically anti-privatization.

Funding is also provided to business lobby groups ever ready to recruit government muscle as an alternative to negotiating with their suppliers.

In addition to providing funding to these two types of groups, governments have, in some cases, also outsourced the decisions on specific funding allocations to representatives of the same or affiliated groups.

FEDERAL FUNDING

Telecommunications and energy are two prominent areas where specific funding arrangements are in place.

For telecommunications, the grant recipients are determined by the Commonwealth Minister. The sums involved have been pared back in recent years and totalled $700,000 for 2004–05. Much of this funding is allocated for sitting fees on advisory bodies.

Aside from consumerist bodies, the main one being the Consumers' Telecommunications Network, funding on a more limited basis is also provided to other vocal anti-business zealots, including the Communications Law Centre. That said, telecommunications funding is mainly directed at niche groups such as those representing people with disabilities rather than in attacking Telstra as the main supplier.

This is in marked contrast with some other government funding. In this respect, the Advocacy Panel of the national electricity market is far more selective in its allocations. Appointed to represent State and Commonwealth governments, it offers over $1 million per annum to provide patronage for radical groups. Funded from a levy on the electricity supply industry, its latest report approved disbursements of:

- $42,000 for the Total Environment Centre, Sydney, for projects covering the electricity code and restructuring of the energy market.
- $104,000 to the South Australian Centre for Economic Studies, for advising on the appropriate market risk premium for equity investment, when setting prices.
- $68,000 to three groups for reviewing additional electricity charges.
- $137,000 for two projects by the Energy Users Association of Australia to examine issues under review by the NSW and Queensland Governments.
- $34,000 for a report by Allen Consulting on behalf of several consumerist bodies into the Future of Consumer Advocacy.

No review of the quality of the material produced from these grants has been published. It is safe to say, however, that not one of the 70 grants given to date have added one iota of knowledge that would allow better decisions on market management to be made. What has been created is a body of publicity which places pressure on politicians to regulate the industry, thereby adding costs.

The shameful abuse of these funds is well known to the electricity industry itself but, following a pattern observed all too frequently, it is tolerated under the supposition that wiser heads in government will recognize the poor quality of the NGOs' output. As is illustrated below, this is not always the case.

In any case, opening the door to this form of funding creates constant pressures for its expansion, often using the funding itself to promote this. One such example even outraged the hapless Chairman of the Advocacy Panel. He felt obliged to provide a lengthy and scathing rebuttal of the findings of one report, by Allen Consulting, that his freeloading clients commissioned. That report recommended that the consumerists decide for themselves which of them obtains how much funding from the industry levy. The Advocacy Panel's Chairman called the report illogical and said it was 'unprofessional and unsophisticated ... alarmist in alleging market failure' and it offered no support for its claims.

Yet, so powerful are the consumerist bodies that, in August this year, the Ministerial Council on Energy made the astounding finding that the Allen Consulting report 'provides a useful starting point for considering the options for a new advocacy structure'.

STATE GOVERNMENT FUNDING

The Victorian Government has provided funding to the 'independent' Consumer Utilities Advocacy Centre (CUAC). Focusing on energy, this is a company guaranteed by the government itself.

CUAC seeks to redress what it sees as an imbalance between monopoly supplier interests and individual users. Yet governments have not before needed to fund users in order to understand how to manage them. The funding is also said to be needed because consumers are fragmented and often ill-informed. Yet imagine the incalculable damage that would follow from taxpayer-funded consumer advocacy panels for cars, bread or clothing.

Most CUAC funding is assigned to its own research. In addition, grants of around $250,000 per annum are distributed to anti-business agitator bodies (most of which are represented on its Board or 'Reference Group'). In the main, grants have gone to inveterate opponents of the free market, including anti-privatization groups at Swinburne and Monash Universities, and hardline consumerist organizations such as the Consumer Law Centre and the Energy Action Group.

THE NGOs REINFORCE THEIR INFLUENCE

Consumerist organizations lobbied hard to have the Australian Consumers Association's Louise Sylvan appointed as Deputy Head of the ACCC. Previously they had—for favours rendered to the Hawke Government—had Allan Asher appointed to this position. A former Chairman of the ACA, Asher was the architect of the move to radicalize what was previously a genteel organization. Having this position filled by one of their own was subsequently claimed by the consumerists as 'traditional'.

With Louise Sylvan's appointment, we have seen a predictable, renewed push for consumer advocacy. The ACCC has revitalized the Consumer Consultative Committee which she convenes. This has already commissioned the ubiquitous Consumer Law Centre Victoria to undertake two projects dealing with various aspects of the national electricity market. The ACCC, which is typically secretive in the nature of its expenditure allocations, does not identify the funding for this body and its consultants.

Both Canberra and State Governments also channel funding to NGOs through government departments. With the Coalition in office, the Commonwealth's largesse has been declining. ALP Governments, in power in all the States, however, have vote-assisting constituencies to reward, succour and re-energize across the breadth of issues: industrial relations, the environment and consumerist agitation. Funding is provided directly by governments to supporters such as the Total Environment Centre (NSW) and Environment Victoria.

Unfortunately, by establishing these forms of pressure groups, governments are apparently acknowledging their inability to fulfil their prime functions of defending the weak through an unbiased public service. This might have merit if the funding levels were forms of outsourcing of policy analysis. The partisan nature of the NGOs and the quality of their advice, however, shows that they cannot be relied on. The absence of corresponding reductions in staffing of mainline agencies demonstrates that governments, too, regard such outsourcing as unwise.

SOME WELCOME ANTIDOTES

Though the trend to funding of NGOs is creating these additional regulatory pressures, there are some welcome antidotes. The more important of these include the greater rigour of regulatory bulwarks that are being developed. The flagship among these is the Commonwealth's Office of Regulation Review which has robust procedures that involve vetting new regulations and public 'shaming' of those agencies and departments that undertake less than adequate appraisal of the regulations themselves.

The Victorian Government has also recently beefed up its own regulatory scrutiny. It has established a high level Efficiency Commission with, ostensibly, broad-ranging powers to vet new regulatory proposals and a brief to review existing regulatory measures that might impede efficient operations in the economy. If, in practice, this were to have the effect that the Government announcement foreshadowed of it, it would constitute a powerful antidote to the NGO funding and other regulatory slippages that have prevailed in the State.

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