Director’s Take

Information Rules: Part II

"The problems that exist in the world today cannot be solved by the level of thinking that created them." – Albert Einstein

Much of the work of regulation can be traced to two basic information problems. The first is the information asymmetry between the regulator and the utility, namely, that the company knows more about its markets and its costs than does the regulator. This information asymmetry gives rise to things like incentive regulation and discovery processes. The second concern is the information asymmetry between the regulator (or government) and the citizenry, namely, that the regulator knows more about what she does and why than does the public. This asymmetry gives rise to things like regulating in the sunshine and limits on regulatory discretion.

These two concerns view information in a static sense: Someone knows something that others do not. What if the information problem is dynamic? What if the problem is that the collective pool of knowledge is too limited, implying that regulators and stakeholders all need to learn? Solving dynamic information problems requires additional tools.

There seem to be at least four essential competencies for regulators who want to tackle dynamic information problems. The first competency is the willingness, ability, and self-discipline to listen. Being willing to listen means that the regulator accepts the premise that knowledge is limited—both her knowledge and the collective knowledge of the stakeholders. The ability to listen involves getting on the balcony to understand context, mental frameworks, motivations and relationships, and emerging patterns in what is being said through words and actions. Self-discipline means having the patience to gain understanding before interpreting facts and reaching conclusions.

This self-discipline takes us to our second competency: the willingness to communicate and make oneself understood. Communicating regulatory priorities, policies, and decisions is hard because a regulator’s message must satisfy many criteria to be effective. The possibility of judicial review demands rigor and detail. The prospect of setting precedence calls for clarity on principles. The need for legitimacy with policymakers and the public necessitates plain language and sensitivity to the multiple contexts within which regulatory actions are interpreted.

Our third aptitude is to not alibi, but to act when existing regulatory policies do not match current realities. As we learned from the California energy crisis, ignoring a growing dysfunction leads to bigger problems and more painful resolutions. As Peter Drucker observed, “The most important task of an organization’s leader is to anticipate crisis…. To wait until crisis hits is abdication.”

Our last skill is to recognize the difference between person and role. Regulation is the work of people serving in particular roles, such as commissioner, staff attorney, or staff accountant, and the persons filling the roles change. This implies that each person has an obligation to his or her role, meaning that he or she needs to look out for its continuity and its effectiveness. In some respects the role is more important than the
person. This is especially true when the role is high up in the organization because so much of the success of the organization is dependent on that role.

Regulatory learning is more than obtaining information: It includes facilitating the discovery of new information, interpreting facts, and reaching conclusions about what they mean for public policy towards utilities.

(Additional information on these competencies can be found in Peter Drucker’s *Managing the Non-Profit Organization.*)

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