

Customer engagement in regulation

Let's start with the customer

Sharon Darcy

Customer engagement is generally seen as a 'good thing'. Most regulators now spend significant resources engaging customers in their key decisions and have increasingly required regulated companies to do the same.

The reasons to engage customers in regulation are well rehearsed. When there is monopoly power or market failure, the regulator frequently acts as the proxy consumer. To be evidence based and credible, regulators need to ask customers what sort of services they want or to get regulated companies to do the same. When there are significant information asymmetries, involving some customers in the design of services can lead to better outcomes for all. Customer engagement can also help ensure that the right approach is taken to meet the needs of people in vulnerable circumstances.

Being clear about why customers should be engaged in a decision is an important first step to deciding what sort of engagement mechanism is appropriate. Similarly, seeing this from the point of view of the customer rather than the regulator (or provider) is essential if the process is to really add value.

Five meta-trends are now influencing customer engagement across the economy. Regulated sectors are not exempt and due to the essential services that they frequently cover, may face some unique challenges. The first two of these trends are technical. Digital communications are leading to increasing pressure for more timely engagement and more varied, open and ongoing relationships between customers, regulators and providers. In this context, formal engagement processes need to evolve if they are not to be seen as clunky, remote or unresponsive. Companies may be better placed than regulators to fulfil this new role but safeguards and incentives may be needed.

Secondly, smart technologies (such as domestic photovoltaic panels) can enable customers to self serve, become 'pro-sumers' or develop new collaborative approaches. With the move towards DIY technically enabled solutions to service problems, what was often a monolithic customer base can become fragmented. Different customer segments may increasingly want different outcomes. Customer engagement processes need to be receptive to these different voices but also take into account that they can have significant distributional impacts if increasing cost-reflectivity leads to the unwinding of cross-subsidies. Involving customers in decisions around how the balance of different interests is struck, and how customers in vulnerable circumstances may need to be protected, is important.

The third meta-trend is social, and is largely a consequence of the first two. Customer expectations are changing rapidly. The increasing demand for more social, mobile, and local services inevitably adds to the call for more bespoke and tailored approaches to engagement. The democratising impact of new forms of communication enables groups and communities that were not previously able to get their voice heard to do so. It is also changing the sphere of reference that customers can have about a particular service. Rather than just comparing one water company's customer services with another's, for example, consumers are likely to compare them with the best service providers they have used – irrespective of the service delivered. In this context, regulatory engagement mechanisms may need to adapt to take a far less sector by sector approach and to become more customer- and community-centric. This can also help overcome problems around 'consultation fatigue.'

The shrinking state and continuing drive to focus policy on market rather than state led solutions and reduce red-tape is the fourth, and most political, meta-trend influencing customer engagement. Giving customers a greater say in what previously may have been micro-managed activities clearly brings many benefits. However, if the focus is too much the other way, and an individual approach is always given precedence over collective solutions, it may similarly be sub-optimal. This may particularly be the case in complex networked services that, due to long asset lives for example, may require a more strategic approach. Getting a collective long term customer perspective here would seem important. Alternatively, in services where policy costs are being met by bill payers rather than taxation, it may be necessary to have an approach to engagement that recognises that these issues may have a citizen as well as a consumer perspective. Without this, concerns around a democratic deficit in decision making may develop. To effectively involve customers in such issues may require the use of more deliberative or empowered types of engagement, such as citizen juries or negotiated settlements.

The decline in trust and confidence in many regulated sectors – ranging from banks and energy firms to healthcare providers is the final trend that is shaping customer engagement. In such a context, engagement mechanisms need to address both the challenge of maintaining the social licence of regulated firms to operate and the legitimacy of regulatory frameworks. Ensuring that those involved in engagement processes are 'legitimate' representatives of the customers and communities that they speak for is important. Diversity is crucial here: of experience (be this of different customer segments, citizens or environmental interests); life stage (current and future users); and ways of thinking (cognitive diversity). Independence from companies and providers is also important. For this to be real, the resourcing of customer engagement approaches needs to be given due attention. Without providing adequate financial support, customers and their representatives may be unable to make the commitment to stay the course for what can be long and involved regulatory decisions. This can create a mismatch in expectations that could undermine the positive contribution that customer engagement can make.

Over the last few decades, the pace of change in customer engagement in regulation has been relatively slow. The five meta-trends explored here could start to change this. There clearly are available a myriad of techniques and approaches to engagement. However, it is important to start from where the consumer is. The basic guidelines in the following checklist may help. As the five trends become a new reality, it is important that approaches to engagement continue to evolve. Sustainability First's New-Pin^{*} is a step in this direction.

Effective engagement checklist for regulators and companies

1	Objectives	Why do you want to engage? Are you clear what outcome you want and what success looks like?
2	In the lead?	Should the regulator, company, trade body or a third party be in the lead? For some decisions, it may be more effective for other bodies beside the regulator to engage customers.
3	Stakeholders & audience	Are you involving the right people? Have you carried out a stakeholder mapping exercise? Are you engaging a sufficiently diverse group of customers?
4	Nurture	Have stakeholders the appropriate resources to engage? What can you do to help facilitate this and build capacity?
5	Embrace	Have you 'thought big' and engaged in a timely fashion and given a route in to those engaged to senior decision makers?
6	Mix & match	Have you used the most appropriate range of engagement techniques to help you achieve your objectives?
7	You said: We did	Have you explained the reasons for your decisions and why you have/have not acted on the in-puts from the engagement process?
8	Ongoing impact	Have you asked for feedback, measured impact, made any necessary changes and embedded good practice?

Sharon Darcy is an Associate of Sustainability First. She is expert advisors panel member of the UK Regulators Network and council member of Which?

^{*} Sustainability First's New Energy and Water Public Interest Network ('New-Pin') is a network of regulators, companies and public interest advocates (consumer, citizen, environment and investor groups) established to explore long term public interest issues in energy and water. Examining the similarities and differences between the two sectors, New-Pin seeks to develop: a clearer alignment between stakeholder views and build a better understanding of any differences; capacity and expertise amongst public interest advocates; and understanding amongst boards of the value of public engagement and what successful engagement looks like. For more information see <www.sustainabilityfirst.org.uk>