

Regulatory Brainstorming: When and Where?

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Building 20 was a fantastic environment. It looked like it was going to fall apart. But it was extremely interactive. You would walk down the corridor and meet people and have a discussion.

— Noam Chomsky, Professor of Linguistics, who revolutionized his field by drawing from biology, psychology, and computer science (referring here to a building at M.I.T. to which academic departments were assigned mostly randomly)

What am I supposed to do? Not tell him he's got a bad idea?

— Morris Halle, founder of M.I.T.'s Department of Linguistics

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These quotes comes from Jonah Lehrer, “Groupthink: The brainstorming myth,” in *The New Yorker* (Jan. 30, 2012). This indispensable piece, citing science and anecdotes, has immediate applications to utility regulation, via two key principles:

1. Group brainstorming usually generates fewer new ideas than people brainstorming on their own. Since the 1990s, regulators have introduced “collaboratives,” advisory committees, and task forces. Focused more on finding common ground than on breaking new ground, they are more likely to produce consensus and settlements than Nobel Prizes. The internet and email have added listservs, chatrooms, and the wretched “reply to all.” This constant conversation—too often among the same people—siphons many fine minds away from the deep thinking needed to solve regulation’s challenges.

Here’s what Jonah Lehrer discovered: While group thinking is popular, it doesn’t “unleash the potential of the group, but rather ma[kes] each individual less creative.” When group brainstorming does succeed, it follows two principles. First, debate stimulates more than it inhibits, so lose the usual rule of “no criticism.” Second, add outsiders, but not too many: Regular members meeting only with one another lose their edge, while mutual strangers have trouble focusing. A mix of legacy members and new members provides a familiar structure to fall back on but brings in new ideas.

2. Thinking-in-isolation also has its limits: Utility regulation is intensely interdisciplinary. Any decision, whether about rates, finance, market structure, mergers, service quality, product mix, or universal service, requires attention to engineering, economics, finance, accounting, law, management, behavioral psychology, and politics. As with the sciences, complex problems demand specialization, but specialization risks isolation. Regulation’s resource differential makes it worse. Within utility companies, the litigation specialists, legislative strategists, and communications crafters mix with rate specialists and financial advisors to shape and package proposals whose well-planned effects on customers and

competitors can be missed by the more isolated, under-supported regulatory staff on whom the public depends.

Here's what Jonah Lehrer discovered: As intellectual advances become harder to achieve, researchers must become more specialized, "because there's only so much information one mind can handle." *For breakthroughs to occur, specialists need to collaborate*, "because the most interesting mysteries lie at the intersections of disciplines."

Solutions

There are ways to solve the problems of insufficient "alone time," groups whose members are insufficiently diverse, and individual isolation. Thanks to the hard work of many, three possible solutions already exist. With minor adjustments, they can produce more value.

1. *Regulators' meetings:* Hierarchy, workload, geography, and budget conspire to separate regulatory professionals from one another. The more junior the staff, the greater the separation. Commissioners, by attending thrice-yearly regulators' meetings, have the most state-to-state interaction, but the benefits are truncated by the average 4-year tenures. Senior staff attend the occasional out-of-state conference, but the agendas are so packed with 15-minute overviews (usually limited by the deadening, unidimensional PowerPointless pitches—see www.edwardtufte.com for a storied professor's critique of "one damn slide after another") that there is little mental and temporal space for the multidisciplinary depth that leads to breakthroughs. Making attendance possible for the permanent staff, expanding speaking time to allow for depth, and assigning slots to groundbreakers rather than position-takers will bring out the community's full value.

2. *Regional transmission organizations:* Another forum for state-to-state interaction is the meetings prompted by regional transmission organizations. Some useful interaction occurs, but if the agendas are established by the moving parties, the ones with the funds and the clout—the utilities and the RTOs—the interaction is less creativity than reactivity. The solution is reorganizing these meetings so that priorities are set by commissions and consumers—not because they are "stakeholders" but because it is their priorities that the utilities and RTOs are obligated to honor.

3. *"Knowledge Communities":* The National Regulatory Research Institute has developed its Knowledge Communities to allow for relaxed, random interaction across states, disciplines, bureaucracies, and hierarchies. The effort ran into two predictable bumps. Staff's work time was so controlled by the pace, quantity, and complexity of utility filings that they did not have the time for random interaction. And some hesitated to share ideas that might conflict with the positions of their bosses or commissioners.

Culture change needs leadership—here, leadership commitment to the cause of empowering staff to make external connections. I asked a group of 10 commission leaders—a high-achieving group committed to excellence—if each of them would tell 10 of their staff to spend 15 minutes a week placing short questions or answers on Knowledge Communities. These

100 new interactions weekly would, at negligible cost, attract others to a high-quality oasis of inquiry. The commissioners' response was unanimous—and negative: “We don't tell professionals how to do their jobs,” one said.

This well-meaning message assumed that staff members have discretion over their days. They don't. Most of their time goes to following orders: statutory orders to process utility filings within a specified number of days. By changing the priorities (in this instance, for 15 minutes a week), commission leaders would not be “telling professionals how to do their jobs”; they would be freeing professionals to practice their professions—to inquire, interact, create, and share, unrestrained by someone else's priorities.

4. *Proceed interdisciplinarily:* Professional disciplines can constrain. A lawyer thinks about avoiding judicial reversal. The engineer aims to avoid outages. The financial analyst wants solvency, the accountant wants the books to balance, the market-structure economist measures concentration and entry barriers, the rate-design economist wants price to equal marginal cost. Every professional has her principles. Does the combination produce the best policy, and the words necessary to persuade the public? It can, if we follow Lehrer's point that “the mysteries lie at the intersections.” We can emphasize intersections by redesigning regulatory procedures. The basis for most regulatory decisions is expert evidence. The standard approach is one witness at a time, each witness confined to her pre-filed testimony, and that pre-filed testimony confined to the witness's professional credentials. What about requiring each witness to explain how her position takes into account factors from other professional disciplines—thus creating a testimonial obligation to consider the “mysteries [that] lie at the intersections?” Further, how about dispensing with one-witness-at-a-time in favor of the simultaneous appearance of all witnesses whose expertise and clashing positions can help solve the problem?