The once outlandish idea that private companies should run a country’s most important utilities has now become widely accepted. But when privatisation was young there were plenty of teething problems, as governments struggled to work out what their role should be in the new world of commercialised services, consumer rights and shareholder demands. Some ground rules were urgently needed – and the London Business School’s Regulation Initiative played a leading role in writing them.

“The whole challenge was down to the fact that what the Conservatives did in the UK was to privatise monopolies,” says David Currie, who led the Regulation Initiative from 1993, and who as Lord Currie now chairs the UK’s newly formed Competition and Markets Authority. He explains, “companies like British Telecom were sold as a whole. British Gas was sold as a whole. So there was no effective competition for these newly privatised companies. The whole challenge then was how do you regulate them so they don’t gouge the consumer, and how do you get the market to evolve.”

A new and unfamiliar world

Before privatisation, few had considered regulation to be a discipline in itself. State-owned industries were managed, not regulated. Government did not need to impose rules and set prices from outside the industry, or devise incentives for investment. With privatisation all that changed: a whole new environment that could satisfy consumers and shareholders had to be devised.

And it wasn’t easy. In more than one case relations between fledgling regulators and newly privatised companies descended into shouting matches.

Rule one: don’t annoy the regulator

“For example, one big question was how much information should a private company be required to divulge,” says Currie. “There was one case early on of a water company that simply decided it would be in their interest to withhold a lot about what was going on. They found out pretty quickly that it is not a good idea to get on the wrong side of the regulator – in fact the whole board ended up getting sacked.”

The work of the Regulation Initiative was about developing models of corporate behaviour that would help regulators identify best practice and write the rules to enforce it. The Initiative – which functioned with a small permanent office in London Business School, together with a wide network of outside contributors, developing discussion papers on a very wide range of regulation issues – set out to be an independent, honest broker between utility companies, regulators and policymakers.

The political moment

“We took a middle ground position,” says Currie. “We said the same things to Labour as we said to the Conservatives. You have to do that because the fact is in politics people talk to each other.”

And the reputation for even-handedness came in useful when the Conservative government that had privatised the industries was succeeded by a Labour government with a massive landslide election win.

It could have been ‘game over’

“When Labour came in it was quite possible that they would take all these companies back into state ownership. I was able to tell Labour that in fact there was a working system in place, it was entirely valid, and you needed to preserve it to keep the companies investing. And of course they did maintain the system, albeit with a big windfall tax which the companies absolutely hated.”

Although the Regulation Initiative was largely funded by the privatised utility companies, Currie thought it was the duty of his team to explore ideas that were not particularly welcome to the private businesses. One such idea was developed in a paper that Currie went on to write with co-author John Cubbin at City University, arguing that a forced breakup of British Telecom should be considered.

Time for a brain transplant

“BT didn’t like that – but they did recognise the independence of the initiative. And when later I unexpectedly became the Founding Chairman of Ofcom, the communications regulator, I went to them and said ‘look, don’t worry about it, I’ve had a brain transplant since I wrote that paper and nothing is presupposed’ – and to give them credit they accepted that.”

Realigning the relationship between BT and the regulatory authorities was essential. Before Ofcom, it was not good – or as Currie says “there were stand up rows, there were slanging matches.”

But Currie believes that the work of the Regulation Initiative helped pave the way for a much more fruitful and collaborative way of working.

The creative regulator

“I think it was because I had come from the LBS Initiative that it was easier for me, as a
regulator, to go to BT and say ‘look, we can be professional about this, we don’t need to have a situation where we have almost 300 separate interventions in your company without establishing any real competition. There has to be a better way. ’

“I think that turned a corner, and helped BT come forward with the ideal of equality of access of competitors to their network and the creation of Openreach [BT’s infrastructure business that now allows competitors to have access to the company’s local network]. On that basis they were able to build their broadband business, to the huge benefit of UK consumers and business. I think we showed that regulation isn’t just about control, it can actually help the companies to move forward.”

* note: this paper was published about 18 months after David Currie had left LBS, but developed the research done by the Initiative.

David Currie was Director of the Centre for Economic Forecasting at London Business School 1988-1995, and Director of the Regulation Initiative 1995-2000.