



ESSENTIAL SERVICE MARKETS: HISTORICAL LESSONS

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The introduction of competition into essential services such as utilities, telecommunications, banking, medical care, education and transport continues to generate heated debate. Market principles have extended deeply into sectors of the economy that would have been regarded as unthinkable not so long ago. Yet surprisingly little attention has been paid to the historical market and policy failures apparent in what could be described as traditional essential service markets. Markets in credit and insurance provision, especially the US examples, provide policy makers with valuable lessons that could be applied to analysis of new essential service markets such as utilities, telecommunications, banking, medical care and education.

Services such as gas, electricity, water and telecommunications have long been viewed as 'essential' services. This has arisen not only as a result of the deemed and actual non-discretionary nature of consumption of these services but also because of their status as natural monopolies. Food, housing, medical care and education too are generally considered essential, although the competitive opportunities for delivery have mitigated the demand for regulatory oversight or government provision. Finally, pooled risks such as insurance and credit are rarely described as essential, although various forms of compulsory insurance (for example transport accident, Medicare) and insurance in the form of universally provided services (such as disability and age pensions) belie this lack of inclusion.

This article explores the emergence of market segmentation in recently liberalised essential services in the US, UK and Australia, and market

segmentation's historical antecedents in the US credit and insurance industries. The neo-liberal aim of promoting economic efficiency (and hence social welfare) through competition is revisited in the light of what market segmentation of customers reveals about the operation of markets in essential services. Given that essential services are crucial to social wellbeing, market segmentation raises questions about the benefits of competition and challenges traditional understandings of safety net arrangements.

The extent to which any essential service market will experience market segmentation however, depends on each jurisdiction's specific industry structure and regulation. It is also important to appreciate that many so called deregulated essential service markets retain extensively regulated elements, so that some of the most glaring examples of market segmentation are mandated by government rather than result from competition per se.

It is also worth noting that whilst there are clearly differences between countries (and between states within these countries) the US, UK and Australia share certain characteristics and histories that have impact upon essential service industries. These include: post World War 2 growth that has resulted in mature, mass markets; significant gap in wealth between the rich and the poor; shared Anglo-centric adoption of neo-liberal reform; the globalisation of formerly national firms; and, the international expansion of market segmentation firms in wake of liberalisation.

Market segmentation also demonstrates that quite heterogeneous industries, under certain conditions, share certain characteristics that combine and facilitate a readily discernible outcome. The interactions of key variables can be predicted to have particular result.

Market Segmentation

[Marketers] either present their brand to a selected group of consumers in the same way, or they market the brand differently to different groups of consumers. The selected group of consumers to whom a firm present its brand is called a market

segment. By selecting some but not all consumers as potential customers, a firm focuses on a segment of the market and uses *market segmentation* (Alwitt and Donley 1996: 14; authors' emphasis).

Marketing literature and software companies actively promote market segmentation, arguing that profit-seeking businesses should subject customers to strategies that differentiate between customers with different economic and social profiles (Hallberg 1995; Berry and Linoff 1997; Clancy and Shulman 1991; McDonald and Dunbar 1995; Stewart 1996; Peace 2003; Grey 2002). The difficulty for public policy is that market segmentation of customers raises equity and fairness concerns, and possibly involves an insurmountable market failure. Segmentation may involve cross-subsidies from customers in the residual market to attractive customers, which are not justifiable in economic theory. If this were to be the case, market segmentation undermines the notion that markets, through the price mechanism, will always result in the most efficient allocation of resources. This would mean the rationale for market liberalisation of essential services in countries such as Australia is also undermined.

Market segmentation was identified in the US in the 1930s, although it is generally considered to be a post-World War II phenomenon (Church 1999). Observations of credit and insurance markets in the US reveal that segmentation took the form of *redlining*, a process relating to a specific form of exclusion from the market generally thought to be related to racial discrimination. Related to the redlining concept is what Colton (1997) describes as residual markets, which are concerned with economic exploitation rather than exclusion. Residual markets and redlined customer groups form two distinct customer segments. The third segment is the attractive customers who experience forms of positive economic discrimination ('cherry-picking' in marketing language).

Contemporary market segmentation literature extols the virtues of data mining (that is, the use of information technology to track individuals' expenditure) to identify the small percentage of consumers who are responsible for the bulk of spending whilst promoting the capacity and desirability of separating them from those customers who are to be avoided (Hallberg 1995; Berry and Linoff 1997; Clancy and Shulman

1991; McDonald and Dunbar 1995; Stewart 1996). The aim is to increase the 'share of wallet' received from customers, and to shed customers who are unprofitable (Fair Isaac 2003).

In order to segment, sellers manipulate the conditions of entry and exit to markets to corral buyers into particular 'choices'. In cases of product differentiation, such as book marketing and computer software, segmentation targets voluntarily transactions and the segments, whilst informed by socio-economic status, have much more to do with psychology. For example, the same cheese can be packaged for three different markets with three very different prices, appealing to the budget conscious, the gourmet, etc. For services such as credit, electricity and health for example, an actuarial assessment of the customer takes place, and it is this that opens the way for selective treatment. The difference, in a crude sense, is that in markets such as for cheese there are no unwanted customers. Involuntary markets, however, are characterised by sellers assuming some risk associated with customers' future behaviour. Markets in which segmentation is practiced, therefore, effectively assign customers a *status*, which then determines the type of offers (if any) they will receive. Perri 6 (2001: 7) argues that:

the rise of an economy fuelled by detailed personal profiles creates the risk that, if those profiles are handled and interpreted rigidly, many people could be excluded from basic services and opportunities essential to achieving a decent standard of living.

Segmentation has been subject to limited examination outside of marketing, although redlining in the US came to the attention of urban sociology in the 1970s. This lack of exploration is not difficult to explain. The conditions for widespread market segmentation across a broad range of sectors – and especially essential service sectors – did not exist in the US, UK or Australia, for example, until recently. In the main, essential services were monopolies (many state-owned) or regulated in ways that were inimical to segmentation. Market segmentation is also partly a reflection of mature mass markets, and this maturity is one of reasons why these industries have been subject to privatisation strategies and the introduction of competition. Knights, Sturdy and Morgan (1994: 46) argue that regulatory changes to stimulate competition, and changes

to the socio-economic profile of the population, were two crucial elements promoting market segmentation in the UK financial market after it was deregulated. They observed that 'market saturation of certain core products' arising out of increased personal incomes in the 1980s initially encouraged segmentation. The subsequent economic recession 'focused managerial attention more acutely towards costs and profitability' and efforts to 'select out' low-profit customers.

Ericson, Barry and Doyle (2000: 534) have noted the Canadian insurance industry's 'increasingly pronounced' tendency towards segmentation in the neo-liberal era in which individuals are 'panoptically' sorted 'into pools of standard, sub-standard, and uninsurable risks'.

Leyshon and Thrift (1999: 440) argue that information technology and credit scoring¹, as it is now applied in the UK retail banking sector, have not only permitted sellers the 'knowledge competency ... to overcome the information asymmetries that lenders confront in their dealings with potential customers' but:

have set new conventions for deciding who is a 'good' and who is a 'bad' consumer, producing new patterns of inclusion and exclusion. Credit-scoring systems and an intensification of competition within the industry may well have brought about an absolute increase in levels of financial inclusion, but they have also brought about *increases in relative levels of financial exclusion*; that is, financial exclusion is now a problem which overwhelmingly afflicts the poorest and most disadvantaged sections of society (Leyshon and Thrift 1999: 440, 448, authors' emphasis).

Leyshon and Thrift identify a number of strategies that have been aimed at attracting or avoiding customers. Incoming telephone calls were screened in relation to area codes. Customers from 'bad' localities simply did not get through. 'Good' customers received faster connection to an operator and their loyalty was rewarded. Competition and new

¹ Credit scoring' is the assignment of a value on a person, using not just factual data but also risk evaluation based on generic information such as the locality. In essence, credit scoring makes up values that are missing in individual profiles compiled through data mining.

technology also removed the emphasis on a network of branch offices. This process allowed easier entrance into the market for new competitors and increased cherry-picking. This in turn meant existing financial service providers came under pressure to further limit their exposure to possible bad loans (as the margins in the pool across which risk was spread dropped): more potential customers were denied access to services.

In Australia, attractive banking and telecommunications customers have become known as HVCs (high-value customers), and unattractive ones as transactors, value dilutors, barrens or BOZOS (brings only zero outcomes). BOZOS are frequently discussed in terms of requiring 'terminating' (Cornell 2003, also see Nicholas 2003, Lampe 2001, Barker 2001). McDonnell and Westbury (2001) argue that deregulation of banking in Australia has led to discrimination against low-income customers predicated on the combination of producer power and the non-discretionary nature of the service. The Parliamentary Joint Standing Committee on Corporations and Securities (2001: 9) noted that 'fees do not apply equitably, with high-value customers given exemptions while high transaction and low balance customers pay disproportionately more for what is fundamentally an essential service'.

Marginson (1997) identified segmentation in emerging education 'markets' in Australia and elsewhere, and the formation of a residual market comprised of government schools lacking the resources to compete. He argued that segmentation in education works to exacerbate socio-economic disadvantage. His view is supported by Perri 6's review of nine UK public service fields. Perri 6 (2003: 252) identified that:

the [education] market separates into a '*sink*' *sub-sector* of under-performing suppliers located in disadvantaged areas unable to attract good staff and for which there are falling levels of consumer demand and no competition between consumers for access, and an '*elite*' *sub-sector* of high performing suppliers located in wealthy, leafy areas able to attract good staff, with high levels of application, where there is congestion, and where in effect the suppliers choose the consumers [my emphasis].

Notably, Perri 6 (2003: 259) described the separation of sub-sectors as

'polarisation', and observed that it appeared that 'polarisation limits competition, unless regulation limits its effects'.

Knights, Sturdy and Morgan (1994) found that financial deregulation in the UK had resulted in the withdrawal of many low-margin products, which they believed was intended to restrict consumer choice to more expensive and profitable services. Moreover, industry executives understood that competition for the most profitable customers had led to discounted premiums for such customers at the expense – in the form of higher premiums – of lower-income households. This process effectively denied some customers access to the market.

Having described the process of market segmentation and briefly highlighted its historical location, it is useful to consider redlining as an example of segmentation in greater detail and to draw out some lessons.

Redlining – Exclusion from the Market

One group identifiable through segmentation are those customers who, in market terms, are regarded as unprofitable. Suppliers can seek to exclude or avoid them. In the US, the term *redlining* became synonymous with the practice of insurers and mortgage lenders literally mapping in red pen the localities they would not serve. Historically, redlining is associated with the exclusion of customers on the basis of race and locality. Colton (1995b: 1) defines redlining as a 'process of geographic discrimination, where a company either refuses to serve, or to serve on equal terms, an area that is demarcated by racial or socio-economic characteristics'. Colton defines a second type of discriminatory action frequently referred to as redlining (erroneously so in his opinion) which is based only on designated socially sensitive factors such as gender, race or socio-economic status.

Colton argues that the distinction between the two types is important in determining the appropriate policy response. Equal opportunity laws, for example, address discrimination against minorities. These laws are aimed at *preventing* certain actions. However, addressing lack of mortgage lending in a low-income minority neighbourhood would require the use of remedies intended to *promote* specific actions by an industry, such as

community reinvestment schemes. The distinction is also important because, although some discrimination is economically rational (in that it is profit maximising), it may not be socially desirable. Policies that fail to make the distinction are likely to exacerbate any discrimination. While geographical redlining in the US is widely regarded as racist because ethnic groups are sharply differentiated by location, the correlation between minority status and low income also suggests that race may be a crude way of demarcating populations whose economic status warrants that they be avoided by sellers.

Marcuse (1979) pointed out that the prohibition of non-economic discrimination for insurance and mortgage lending in the private housing market was unlikely to prevent discriminatory practices such as racism, due to providers' capacity to discriminate on rational economic grounds. Contemporary community anti-racism campaigns in the US have revealed a trend in unsuccessful anti-redlining prosecution exactly because providers have been able to establish that they are utilising 'colour-blind' statistically-based assessments that rely on 'legitimate' economic discrimination. The correlation, for example, between race and economic position is in effect reversed. Whereas once a zip code (the equivalent to a postcode in Australia) would be used as a denominator of a black neighbourhood to be avoided, now credit scoring of the individual customer incidentally results in disproportionate numbers of black customers in specific geographical areas being refused service or charged more.

Despite extensive debate on redlining in the US, only some commentators saw underlying economic discrimination. Marcuse (1979: 549) argued that this lack of insight was why some anti-redlining solutions perpetuated disadvantage:

Reinvestment strategies...as they are generally discussed assume the appropriateness of normal economic criteria for real estate investment, and seek, through governmental aid, cooperative and coordinated public and private efforts, education and training, and planning and legislation to create conditions by which such private economic criteria can be met for investments.

There was a failure to recognise that even in so-called competitive

markets, some sub-groups of customers, because of the structure of the industry and the needs of the market, would remain unattractive. Poor diagnosis led US policy makers in the 1970s to pass the Fair Access to Insurance Requirements (FAIR) laws that established selective (segmented) assistance to service that segment of the market that had previously been excluded. The law guaranteed service but the product was more expensive. It was a policy that ostensibly ended exclusion but failed to address affordability as an access issue: it also served to highlight a potential new and lucrative market.

The withdrawal of financial services from disadvantaged areas in the UK since deregulation of the financial services sector has also recently been described as redlining (Drakeford and Sachdev 2001). The UK Office of Fair Trading moved to prohibit this form of redlining 'because of its capacity to act as a cover for discrimination on the basis of race' (Drakeford and Sachdev 2001: 216). Yet the distinction between social and economic characteristics and between irrational and rational discrimination was not explored. Knights, Sturdy and Morgan (1994) cite UK Equal Opportunity Commission opinion approving of credit scoring specifically because it avoided using social characteristics such as race. Discrimination based on economic standing was ignored. In the UK the term 'service exclusion'² is commonly used, although usually appearing as a component of the broader concept of 'social exclusion' (National Consumer Council 2005, Gordon, Adelman, Ashworth Bradshaw, Levitas, Middleton, Pantazis, Patsios, Payne, Townsend and Williams 2000, Richardson and Le Grand 2002, Scullion and Hillyard 2005, Bramley and Ford *n.d.*). Neighbourhood renewal projects in the UK reflect the promotion of private sector action or community reinvestment that has been commonplace in the US for decades. Again, however, disadvantage is seen to arise from socially sensitive factors, rather than

2 The National Consumer Council (2005) in the UK provides the following definition of 'service exclusion':

Market-based exclusion affects those who are already the most disadvantaged in terms of their income, employment, health and life chances. It means that they find it hardest to access even the basic goods and services – heat, light, health services, banking facilities – they need to live in modern society. It also means that they may end up paying more than their better-off counterparts for these goods and services – even though they often don't meet their needs – despite having little, if any, money to spare.

from the operation of markets. If the issue of economic behaviour is raised, the response invariably is that economic discrimination is based on actuarial assessments and that price merely reflects the level of risk to the seller or underlying differences in costs to serve³.

In regard to actuarial assessments, a distinction needs to be made between those customers whose risk relates to deliberate intent to defraud (for example, failure to pay a final electricity bill when moving house) and those who experience financial hardship. For the latter, the imposition of higher prices (the premium is effectively an insurance policy) acts to reduce the capacity to pay, and by extension increases the risk of default. Logically, these customers could afford the cheaper standard rates. A range of arguments and counter-arguments about actuarial assessment could be explored in this context but, briefly, the success of the Grameen Bank⁴ and micro-credit movement shows that the conditions attached to service (that is, market entry) make a fundamental difference.

Residual Markets – Exploitation in Markets

It is market power, rather than actuarial assessment, that drives pricing for non-discretionary goods and services. Colton (1995b) observed that public policy effort directed at addressing redlining frequently resulted in the formation of *residual markets* - that is, markets 'of last resort' characterised by consumers who have no market power and are likely to be subject to exploitation. Some industries have their own term for the residual market segment. The credit industry calls it the *sub-prime* market (Consumers Union 2002b). In Australia, payday lenders (short term, unsecured lending) increasingly serve this part of the market – at exorbitant rates. Industry and regulators, however, argue that prices in this segment reflect risk or differences in costs and ignore market power. Rosen (2000:56-7) argues:

3 For some discussion on risk-based pricing see Temkin *et al* and Smith (2000). Also see www.ofgem.gov.uk in regard to the costs of pre-payment metering for gas and electricity.

4 <http://www.grameen-info.org/>

When price discrimination is not based on the willingness to pay but, rather, on the consumers' inability to negotiate the terms of the sales contract, or some other manifestations of market power that turns a particular customer class into *price takers*, particularly for a necessity of life, then it is clear that price discrimination has taken a negative turn. It is also clear that such price discrimination is likely to hurt small customers, while large customers are likely to benefit [emphasis in original].

Stutz (quoted in Colton 1999: 36), warns that small electricity customers face the risk of 'cost shifting and lack of market power [that] will result in small captive customer rates increasing'. Ericson, Barry and Doyle (2000: 535) argue that:

segmentation is simultaneously a process of marketing and one of risk assessment or underwriting, because preferred risks are doubly desirable as insurance clients: they are seen to be both affluent consumers, on the one hand, and less risky in terms of claims, on the other. However, insurers also profit by pooling substandard risks, as insureds in the resulting pool, with little market choice, are compelled to purchase under the most substandard of arrangements.

They go on to describe compulsory private sector vehicle insurance in Canada as 'de-selecting' the poor into a market sub-segment where they are ruthlessly exploited, not just through higher premiums, but through credit provision to pay for these higher premiums, direct debit schemes and unfair termination penalties (2000: 536). In Alwitt and Donley's (1996) observation, these types of markets have a robust number of suppliers and high profitability. The evidence seems to suggest that the problem of market abuse is not related to a lack of providers but rather to the non-discretionary nature of the service.

Market Segmentation and Safety Net Provisions

Competition has been introduced into essential services areas on the justification that monopoly is regarded as economically inefficient. Market segmentation, however, presents a dilemma because, not only is one segment of customer excluded from the market, but another is

effectively subject to monopoly-like conditions and exploited. Moreover, there is the prospect that the competitive segment – that servicing attractive customers – is subsidised by the monopoly segment (the residual market). The economic objective of recent neo-liberal market reform - that prices should reflect costs facilitating the most efficient allocation of resources - is voided.

Segmentation is, in part, recognised by governments who seek to protect disadvantaged consumers in markets by providing some kind of safety net arrangements. Of interest here are the new safety net schemes that have become prevalent in jurisdictions that have introduced competition into former monopoly and/or state run essential services areas such as electricity provision. Governments concerned with exclusion from essential services can, at the outset of reform, deliberately segment the market and assume responsibility for the least attractive customers through what may be called *provider of last resort* (POLR) schemes. POLR schemes generally require legislatively backed positive discrimination, usually subsidies of some form. This has been the case in many of the US states that have deregulated domestic electricity supply (Sharam 2006).

Alternatively, governments can either inadvertently or intentionally facilitate a residual market. It is arguable that, in regard to electricity and gas pre-payment metering in the UK (and elsewhere) and the Victorian government's 'standing offer' for vulnerable domestic electricity customers, regulation intended to 'guarantee' supply consciously permits negative discrimination. In the UK, Florio (2004) identified regulation as the cause for increased exploitation in essential service markets rather market forces, as might have been expected. The lesson is that there is a danger that public policy directed towards mimicking the market will contribute to negative discrimination and diminishing welfare outcomes.

Having introduced the concept of market segmentation of customers and its two manifestations, redlining and residual markets, and seen the varied public policy responses, particularly as they relate to vulnerable or unattractive customers, we now need to explore how segmentation of essential services customers entrenches disadvantage and why price subsidies or income supports fail to adequately compensate for the effects of segmentation.

Market Segmentation and Consumer Disadvantage

In the UK the National Consumer Council (NCC) developed a framework for examining 'consumer disadvantage' after the findings of two earlier studies on why the poor pay more (National Consumer Council 1977, Scottish Consumer Council 1994). NCC describes 'consumer disadvantage' as a persistent shortfall in 'consumer benefits' and identifies the causes as lack of purchasing power, exploitation, discrimination, social exclusion, other people's transactions, and provision deficit. Consumer disadvantage, in the view of the NCC, is caused by the combination of 'vulnerability factors' and the 'supply features' of a particular market (NCC 2000).

The identification by the National Consumer Council of 'supply features' and 'vulnerability factors' is important because the various understandings of market relations and models of social protection may or may not reflect or take account of both. The neo-liberal market model, for example, rejects amelioration of consumer disadvantage through changes to the supply features of an industry (such as permitting cross-subsidies). The 'Third Way' approach likewise rejects intervention in markets, preferring to see 'social exclusion' and the vulnerabilities arising from customers' social characteristics (Social Exclusion Unit 2004a, Howarth *et al.* 1998, Gordon *et al.* 2000, Palmer *et al.* 2003, Consumer Affairs Victoria 2004, Connolly and Hajaj 2001, Conaty and Bendle 2002, Stagoll and Lynch 2002). The Social Exclusion Unit in the UK, for example, describes disadvantaged persons in terms such as 'people who have poor basic skills, who have disabilities and long-term health problems or who are from certain ethnic minority groups. Social exclusion happens when people or places suffer from a series of problems such as unemployment, poor skills, low incomes, poor housing, high crime, poor health and family breakdown' (Social Exclusion Unit 2004b).

In Australia, the Evatt Research Centre (1988) observed early on that proponents of privatisation often saw the issues of universal service, equity and social considerations only in terms of cross-subsidies, ignoring externalities and market failure. The result of this selective view, it argued, was that the question competition reform advocates

would ask was 'What is the best means of *providing* for the subsidies?' rather than 'What is the best way of *correcting* for the failures?' (Evatt Research Centre 1988: 56). Market advocates consistently argue that, if subsidies are required, they should be provided on the demand-side as an income supplement to avoid distorting price signals in the market.

Traditionally in Australia, government provision of selective assistance (whether income or price subsidy) has been determined in relation to the recipient's income (the means test). Income tests, however, assess only income, not a customer's position in the market. Perfect markets are theorised to reflect true costs, yet few people argue that perfect markets exist in practice. Often the least perfect are those that have been established in the wake of the break up former state monopolies. One only needs to think about the lack of telecommunications competition in rural areas. Segmentation of essential service markets indicates the presence of market power and, accordingly, selective assistance needs to acknowledge such power and its impact upon the purchasing ability of vulnerable customers. Segmentation has material bearing on the costs faced by the customer. The application of differential pricing (ie. discriminatory pricing) undermines selective assistance based on the means testing of income.

Segmentation raises a welfare conundrum. Competitors in essential service markets will segment the customer base. A residual market will form. In effect, competitors in markets will act on inequality and exacerbate it. What then is the purpose of welfare transfers? Is it to compensate for discriminatory pricing or to prevent it?

As Perri 6 (2003: 253) found in the UK, school 'vouchers' were 'inadequate to create a sufficient incentive for good schools to compete for these [poor] children, and to attract the best teachers to work with them'. Competition had resulted in market segmentation that was not overcome by price subsidies (the voucher). The schools 'market' was acting on inequality, which selective assistance was not overcoming specifically because it did not take full account of segmentation. Leyshon and Thrift (1999) observed in their study of financial deregulation in the UK that the market segmentation functioned to increase the relative level of disadvantage. It is difficult to imagine, however, that governments would increase income support to compensate individuals in residual

markets; if they were to do so, they would, in effect, be rewarding suppliers profiting from market abuse.

In summary, there are two deficits in segmented markets that welfare transfers need to address. One is lack of purchasing power, to which subsidies are traditionally directed. The second is the economic exploitation of customers who lack market power. Transfers, for example, in the form of income support, do not currently take account of the latter. Were they to do so, it may be found that this is a more costly method than traditional universal service in addressing the problems arising from inequality.

Proponents of markets would argue that excessive profiteering should attract new entrants, who would then compete and bring prices down, but this is exactly what the history of redlining in the US and more recent experience of financial deregulation establishes as not occurring.

'Competitive' markets in essential services are flawed because segmentation ensures that the goal of economic efficiency (or 'welfare' as it is called in orthodox economic theory) is undermined by market abuse. The compensatory social welfare measure - budget-funded price or income subsidies - cannot efficiently overcome the discrimination. Hence the pervasive inefficiency. The alternative is to pool all the risks together, as occurs with universal service, so that the customers' vulnerability factors and the industry's supply features are addressed together, recognising the relationship between the two.

The deregulation of electricity supply in the US offers an insight into the relationship between civil, political and social-economic rights and markets. Redlining in the 1970s and 1970s resulted in legislation, such as the Community Reinvestment Act and the Fair Access to Insurance Requirements laws, to protect the civil rights of minorities. In the wake of telecommunications and gas liberalisation (and the emergence of redlining in these industries), electricity consumer advocates, like Colton, moved quickly to have anti-redlining provisions included in reform legislation. Legislative provisions were made in most deregulating States to protect customers from discrimination on the basis of income and income source. This was new. These laws made it clear that, as an essential service, the presumption of profit-seeking through limiting

payment default, through denial of service, or through discriminatory service was void for customer groups who could be regarded as economically vulnerable. This is very much an anti-segmentation measure. Civil rights are thereby used to give effect to a socio-economic entitlement. In addition, many States in the US have also required industry-based (supply-side) cross-subsidisation of disadvantaged customers. The general effect of this set of civil rights is universal service. Civil rights have been bound with socio-economic entitlements because both are required to prevent the discriminatory impacts of segmentation.

Conclusion

Essential services are widely understood to be crucial for social well-being. When these industries are subjected to market competition, or to regulatory regimes that attempt to mimic competition, they are prone to the discriminatory impacts of market segmentation. The emergence of redlining and residual markets has undermined efforts at providing safety net arrangements intended to deliver social protection in these new markets. Marketisation (and, by extension, privatisation where competition is used as a major justification) is particularly problematic for these industries.

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