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8 Myths about Co-regulation

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Definition of a Myth

Chambers 20th Century Dictionary:

A myth is an ancient or traditional story of gods or heroes; a story with a veiled meaning; or a commonly held belief that is untrue or without foundation.

There are a number of commonly held beliefs about co-regulation...

Myth 1: Gas Industry Co is involved in all aspects of the regulation of the gas industry

Gas Industry Co is not involved in:

- Exploration incentives
- Control or monitoring of prices
- Commercial negotiations between parties
- Promoting use of gas
- Resource consent

→ Focus on market development and infrastructure access

Myth 2: Gas Industry Co has power to approve industry agreements or codes

- Powers set out in Gas Act
 - Recommendations
 - Facilitate markets
 - Report to Minister

→ No power to endorse industry agreements

Myth 3: Gas Industry Co can bind industry to codes

Company can make industry agreements or codes binding or mandatory for industry participants

- Mandatory coverage can only be achieved by:
- Legislation
 - Contract

Can undertake any role

Myth 4: The Gas Industry Co can undertake any role its industry shareholders desire

- Special purpose vehicle
- Limited to roles set out in constitution
- Must apply GPS objectives

→ Gas Industry Co can only undertake roles set out in constitution

Industry Agreements are best

Myth 5: Industry agreements are always better than rules and regulations

Difficulty with industry agreements:

- Free riding, holdout or veto
- Commerce Act approval:
 - Arrangements which affect price
 - Information sharing
 - Cost allocations
 - Prudential and entry requirements

→ Rules may be better than industry agreements for mandatory coverage

Myth 6: Gas Industry Co can use levy funds for any industry governance activities it is involved in

Levy is for :

- Recommending rules and regulations
- Administering and enforcing rules or regulations
- Establishing, operating and facilitating markets
- Providing advice to Minister
- Other functions under the Act

→ Act sets out permitted uses

Myth 7: The Gas Industry Co makes rules and regulations under the Gas Act

- Gas Industry Co makes recommendations
- Minister can
 - veto
 - proceed without recommendations on some matters

→ Minister has power to make rules and regulations

Myth 8: Industry Directors can act in interests of company which appointed them

- Constitution requires Board to follow Gas Act objectives
- Board Recommendations:
 - Public
 - Subject to Consultation
- Final decisions with Minister

→ Directors must comply with Gas industry Co constitution

To Sum Up

Gas Industry Co has....

- Focus on market development and infrastructure access
- No power to
 - approve industry agreements/codes or
 - make industry agreements/codes binding
- Constitution which specifies its functions
- Initial view that rules may be better than contracts for mandatory coverage
- Restrictions on use of levy funds
- Power to recommend rules and regulations
- Obligation to follow Gas Act objectives