

**Strengthening the Capacity and  
Improving Service Provision in the  
Water and Sanitation Sector  
in the CIS Countries**

**WBI/JVI Workshop  
Vienna, Austria, March 5-9, 2007**

# Session B1

## **Sector Governance** *Government, Provider, and Consumers working together as Partners*

**Jan G. Janssens, WBI**

# Session outline

## 💧 **Sector Governance and Recognized Actors**

- Mapping stakeholders
- Unbundling functions
- Unbundling regulation and back to design issues
- Looking forward

## 💧 **Sector Organization**

- Between Central, Local Government and Service Provider
- The concept of 'Contractualization'
- The appropriate scale

## 💧 **Management Autonomy**

- A prerequisite for performance
- Corporatization
- Balancing external accountabilities
- Choosing an institutional structure

# Recognized Actors

## 🔥 Newly recognized actors:

- regional/local government
- small scale service providers
- local private sector
- civil society

## 🔥 Demanding downward **accountability** from sub national governments, water management agencies , utilities

## 🔥 Relations between emerging actors must be governed by the appropriate tools such as legislation and **performance contracts**

# Mapping Stakeholders - Step 1

**Users / Customers / Consumers**

**Domestic – Industrial – Commercial - Agriculture**

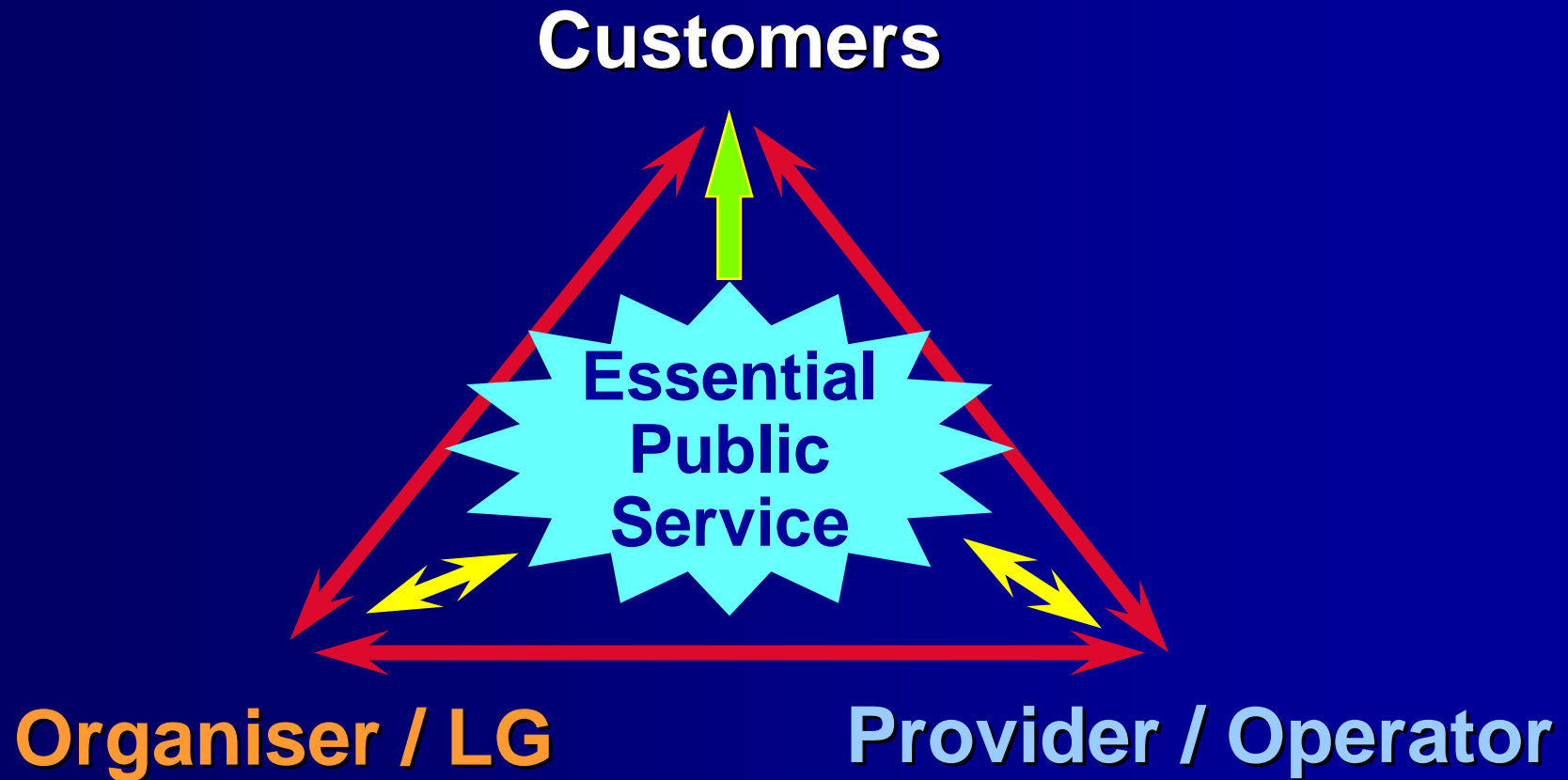
**Organiser / LG**

**Mayor  
Municipal Administration  
Regulators  
State Authorities**

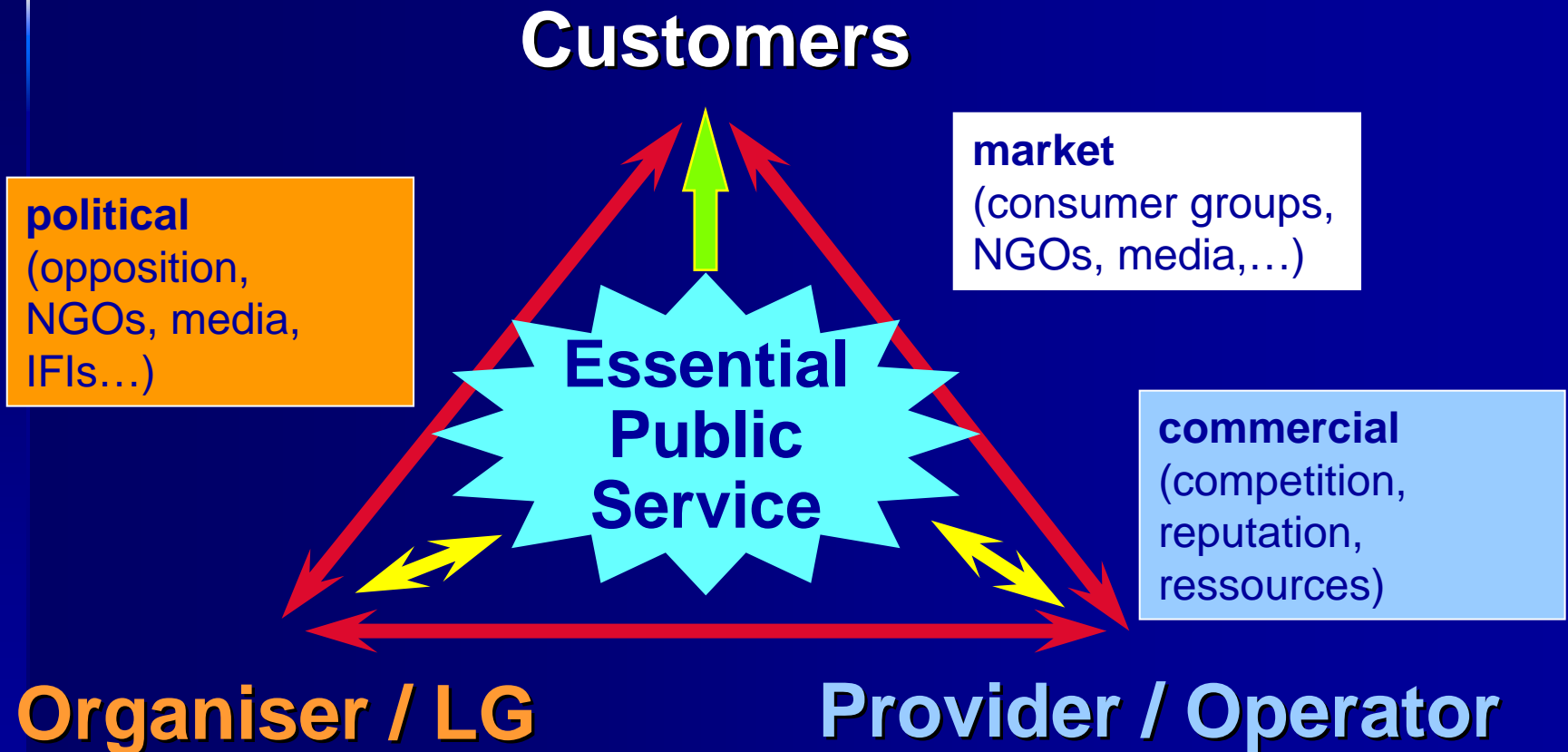
**Provider / Operator**

**Employees  
Subcontractors  
Suppliers  
Financiers**

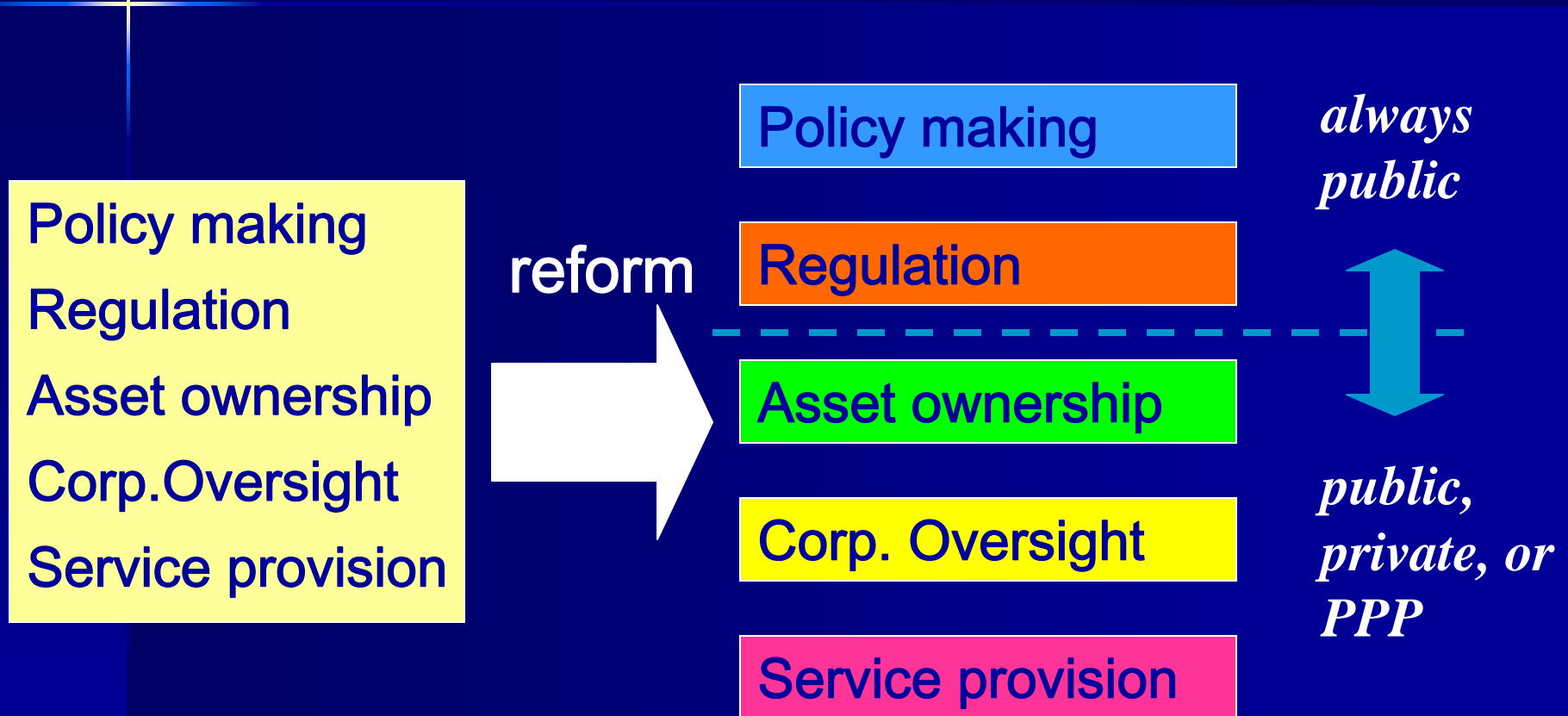
# Mapping Stakeholders - Step 2



# Mapping Stakeholders - Step 3



# Unbundling of WSS sector functions





# Reform of Sector Framework

- ✓ **Separation of functions is critical first step but insufficient**
  
- ✓ **Other critical factors include :**
  - **Financial flows**
  - **Formalization of responsibilities**
  - **Mandate and composition of Corporate Oversight Board (Executive Board of Utility)**

# Other critical factors (1)

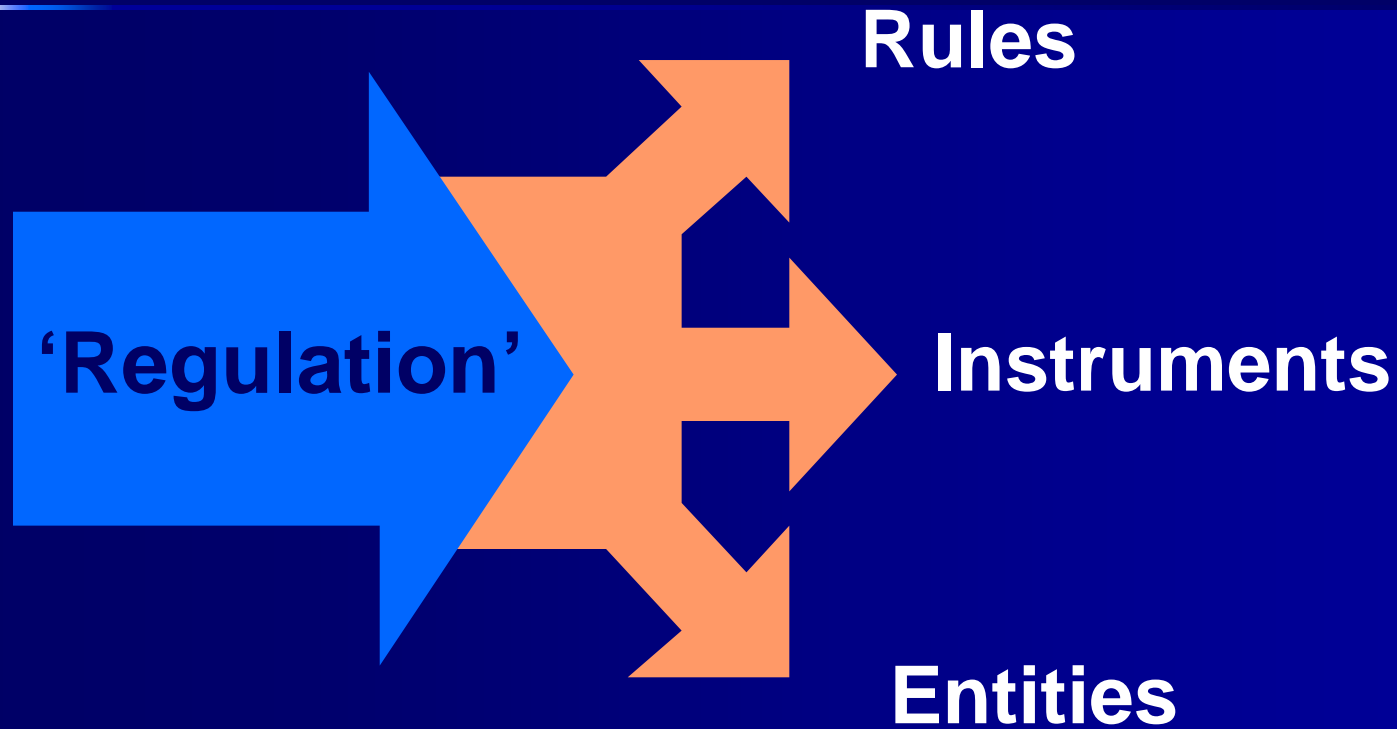
## Financial flows determine accountability

- **Revenues: cost recovery from users**
- **Financial management: controlling costs**
- **Access to alternative financial sources for investment**
  - **Government (central, régional, local)**
  - **Donors and Multilateral Agencies**
  - **Commercial Banks**

## Other critical factors (2)

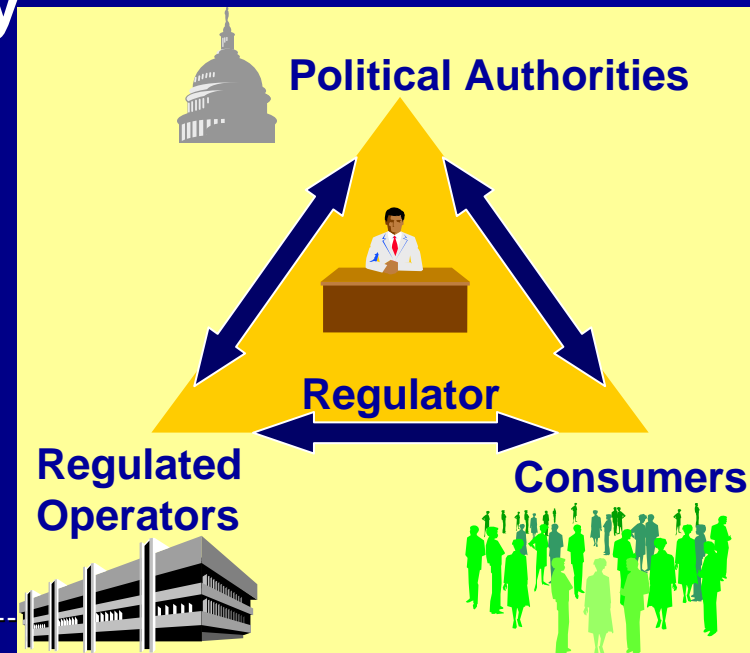
- 🔥 **Formalization of responsibilities through contracts [“contractualization”]**
  - **Written contracts**
  - **Reporting (requires defined, simple and measurable indicators)**
  - **Enforcement (requires defined and realistic sanctions)**
  - **Transparency (put contracts, reports, sanctions in public domain)**

# “Unbundling” Regulation



# Much greater appreciation for, and progress towards **transparent, balanced regulation**

- 🔥 Protect consumers (both present customers and non-connected poor households)
- 🔥 Promote other social interests
- 🔥 Protect service providers
- 🔥 Promote economic efficiency



# Regulatory functions

1. Writing the regulatory rules
2. Monitoring: collecting & analyzing information about performance
3. Formally seeking compliance with regulatory rules
4. Applying the rules to yield a binding decision
5. Handling appeals on decisions
6. Enforcing decision if operator does not comply

**Rarely are all functions  
combined in one entity**

# Back to design issues - 1

- 💧 should regulation be performed by central, state, local government agencies?
- 💧 agency, contract or both? how much discretion?
- 💧 multi-sector “utilities commission” or sectoral?
- 💧 combine price regulation with standard-setting?
- 💧 Regulation by contract?

# Back to design issues - 2

- 💧 regulation, a big concept; but often very pedestrian in practice
- 💧 need for capacity on all levels, and foremost, appropriate for local conditions
- 💧 all of this is not the panacea
- 💧 all the contracts and charters are meaningless unless their spirit is backed by full political commitment
- 💧 no substitute for policy reform



# Looking forward - 1

- 💧 **The issue is to have sustainable service delivery** through viable (public or private) service providers (utilities)
- 💧 **Focus must be on:**
  - **Financial viability:** tariffs, targeted subsidies to close financial gap, access to sub-national financing
  - **Good governance:** separation of roles & responsibilities, accountability and transparency, monitoring performance
- 💧 **Avoid political interference**  
**Encourage political support**  
**Escape “stop-go” situations**

# Looking forward - 2

- 💧 **With a balanced, pragmatic approach ...**
  - **The challenge: bring government, regulator, provider on to the same page,**
  - **Taking the difficult task of reforming public utilities**
  - **Introducing a change management process**
  - **How can the private sector help? What can the public sector learn from the private sector to be more efficient/effective?**

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**Central  
Government**

1



**Local  
Government**

2



**Service provider  
Utility**

1. Performance based Inter-governmental transfers
2. Performance based agreements

# A definition ?

## **Contractualization**

***establishing a contractual relationship between public entities, namely state and local authorities, and services providers (public, private or community operators), in order to empower, and create incentive and accountability structures within, a public utility thereby improving service delivery and increasing efficiency of operations.***

# A process ?

***Contractualization*** (or: “institutionalization”)

is **a process that involves the creation and implementation of a chain of contracts and/or other kinds of formalised agreements, linking the (majority of) stakeholders in a complex social system, that are set up to improve the performance and extension of essential public services.**

# The appropriate scale

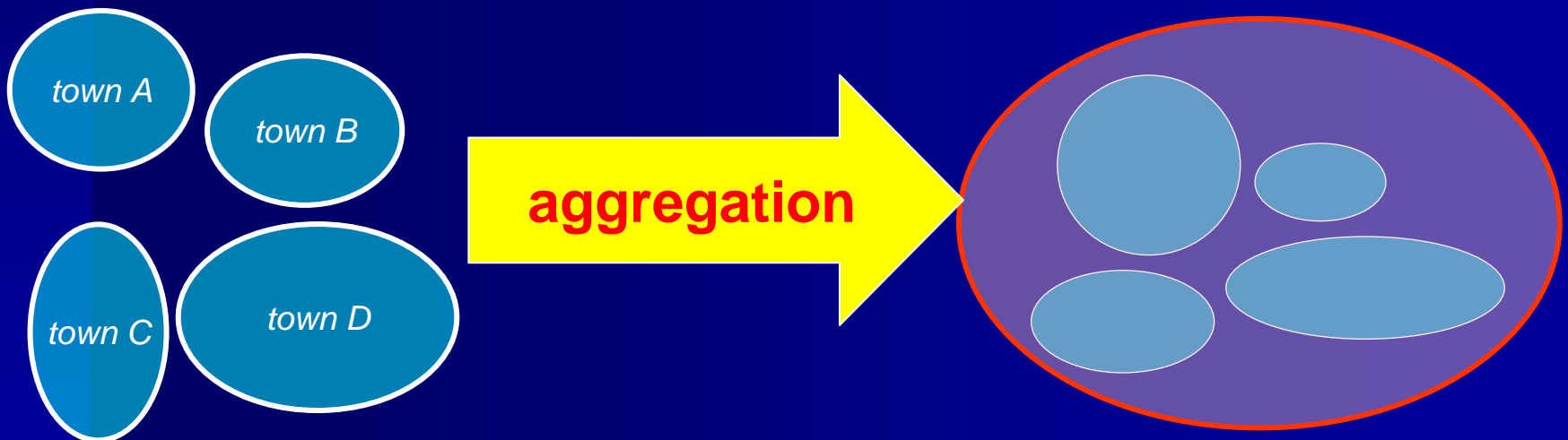
## Objectives :

- 💧 To promote the regrouping of communes for sufficient economies of scale to allow hiring specialized professional staff and ensure lower cost service delivery.
- 💧 To avoid inflation of small contracts heavy to manage.

# Managing Services in Small Towns through Aggregation

Grouping of several municipalities into a single administrative structure for the provision of a service, reflecting realities on the ground

*Aggregated service provider*





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# Management Autonomy, Prerequisite for Utility Performance

- 💧 **Commercially and professionally run; making decisions on a technical basis**
- 💧 **Insulation from political interference, patronage**
- 💧 **Empowered to do the job efficiently: financial viability, enabling human resource policies, capacity**
- 💧 **As public monopoly, service provider accountable to government; "regulation"**

# Basic Options for Structuring the LG – Service Provider Relationship

- 💧 **LG Department: not the optimum choice**
  - insufficient autonomy
  - susceptible to political interference, patronage
  - cumbersome civil service rules (HR, Proc.)
- 💧 **Public independent, “corporatized” utility: a promising alternative**
- 💧 **Various forms of PSP: successes and failures; succeeds if structured well**

# What is Corporatization

Empowering of, and creating incentive and accountability structures within, a public utility by legally ring-fencing its finances and management in order to improve services, increase efficiency of operations and **allow the utility to access private sector markets (such as finance) more easily.**

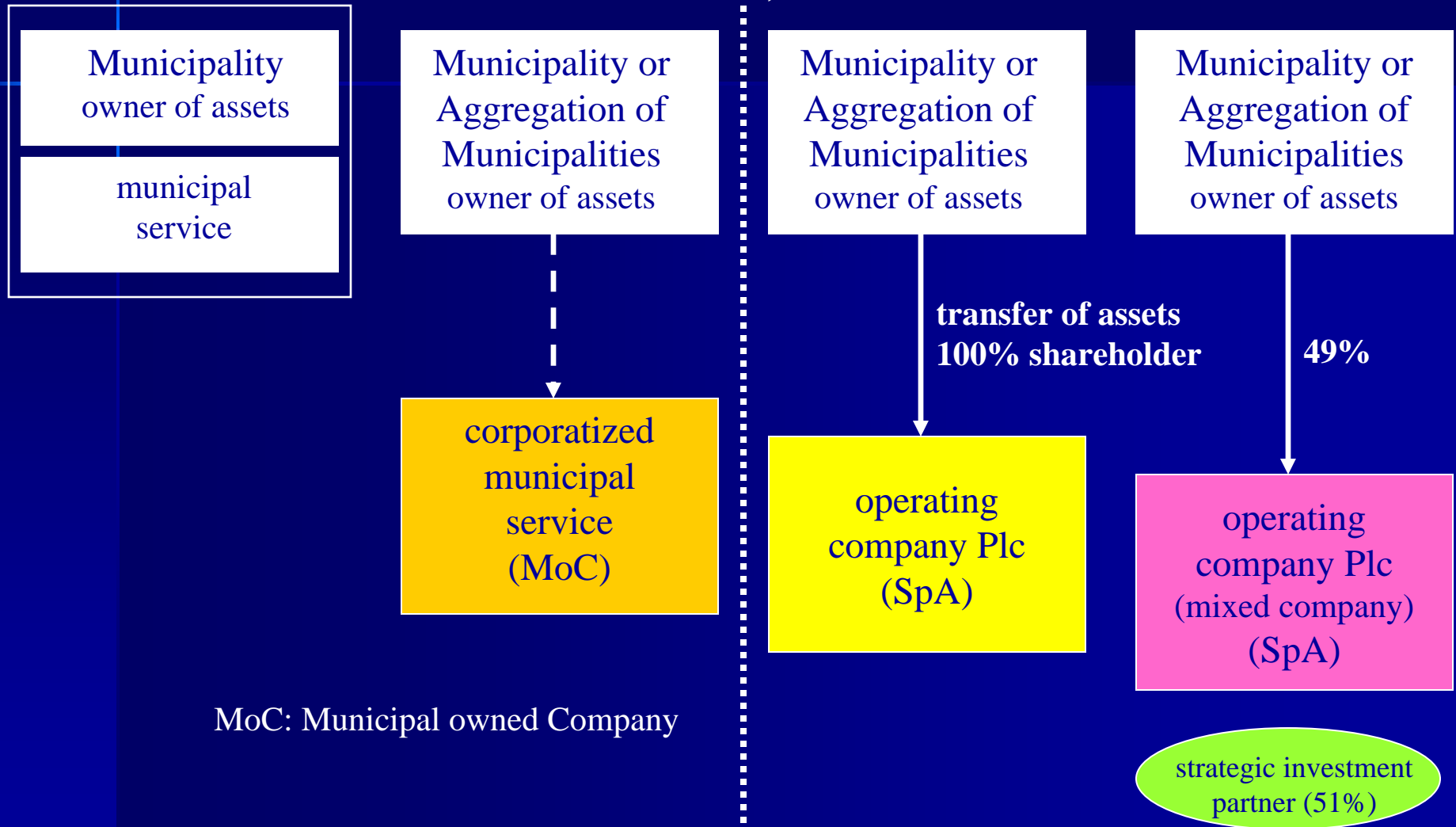
# Ownership of Fixed Assets and Ownership of Operating Company

Mode of sector organization	Who owns fixed assets ?	Who operates infrastructure ?	Legal status of operator / Legal framework	Who owns operating cy ?
Direct public - regional or local	Government – national, state, local (provincial/municipa)	National, state, provincial, or municipal service	National, state provincial or municipal department / Public Law	Not applicable
Direct public – ring fenced department	National or state/provincial government	National, state, provincial , or municipal depart.	National, state provincial or municipal department / Public Law	Not applicable
WSSU: Corporation - Authority – Statutory Body	Government or WSSU	WSSU	Parastatals, usually defined by special law / Public Law	Government (national, state, provincial, municipal)
WSSU: Public PLC	Government or WSSU	WSSU, under a concession arrangement	Public limited company (PLC) / Company Law	Government (national, state, provincial, municipal)
WSSU: delegated private	Government or public asset holding company	WSSU, under an affermage or concession arrangement	Private or mixed company / Company Law	Private partner holds majority of shares
WSSU: direct private	Government and/or WSSU and/or private sector (partial divestiture)	WSSU	Private or mixed company / Company Law	Private or mixed company, with private partner holding operations responsibility

Source: Janssens (2004), adapted from Blokland & Braadbaart, IHE-Delft (1998)  
WBI/JVI Workshop, Vienna, 3/07 --- Session B1 -- Sector Governance

# Italy : Reform process in WSS and electricity service provision

*Galli Law, 1994*



MoC: Municipal owned Company

# The “Corporatized” Utility: the Public Limited Company (PLC)

**Mimicking a private sector corporation  
with respect to decision making  
autonomy, accountability, incentives,  
professional management, commercial  
outlook**

# What Does “Corporate” Status Mean?

- 🔥 Owned by local government, public organization with its own independent identity
- 🔥 Legally independent company
- 🔥 Asset ownership by LG or Provider
- 🔥 **Non-political** Executive Board as highest authority responsible for utility policies and strategies
- 🔥 Accountable to LG policies as established in statutes and compacts
- 🔥 Performance monitored by “regulatory” arrangement



# Corporatization: Reasons for Success

- 🔥 **Political and management commitment**
- 🔥 **Clear guidelines, regulations and procedures**
- 🔥 **Focus on affordability and value for money**
- 🔥 **Extensive stakeholder engagement**
- 🔥 **Effective communication strategy**

# But also Failures ...

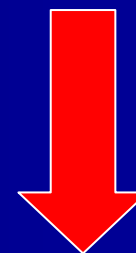
## 💧 Great successes

- Good way of separating politics from service provision
- Good examples concentrated in industrialized world

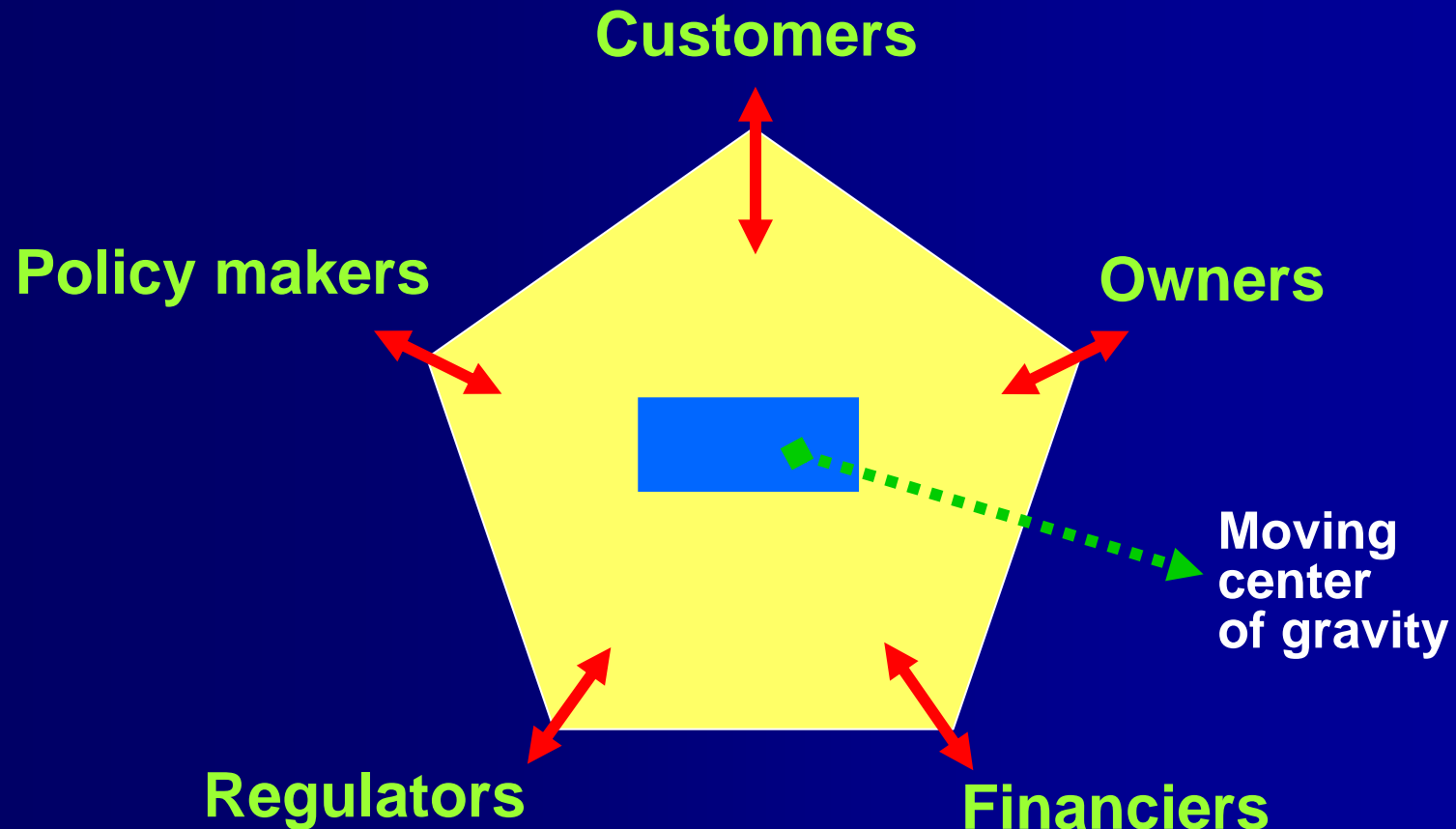


## 💧 Miserable failures

- political capture of Executive Board a pervasive problem in developing countries ( Africa, Latin America)



# Importance of Balancing External Accountabilities



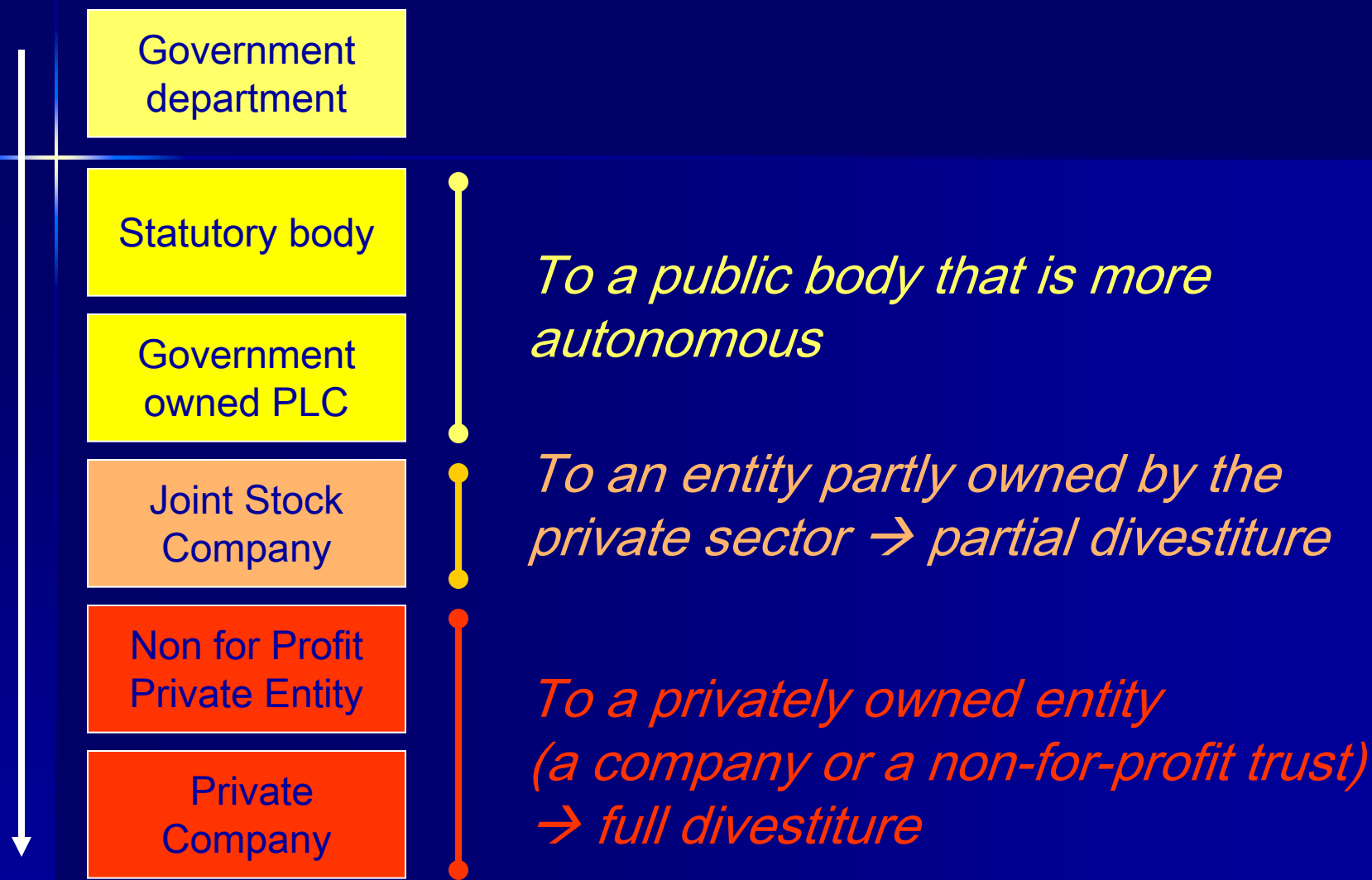
# Importance of Balancing External Accountabilities

- 💧 **Put all accountabilities on an equitable footing**
- 💧 **In addition, three external accountabilities for sustainable development**
  - **Social (political)**
  - **Environmental**
  - **Economic**

# Challenge

**Choosing an Institutional Structure with  
Managerial and Technical Autonomy  
while keeping the Government and  
Provider **honest****

# Possible reform path: transfer of assets



# Possible reform path: delegation of management

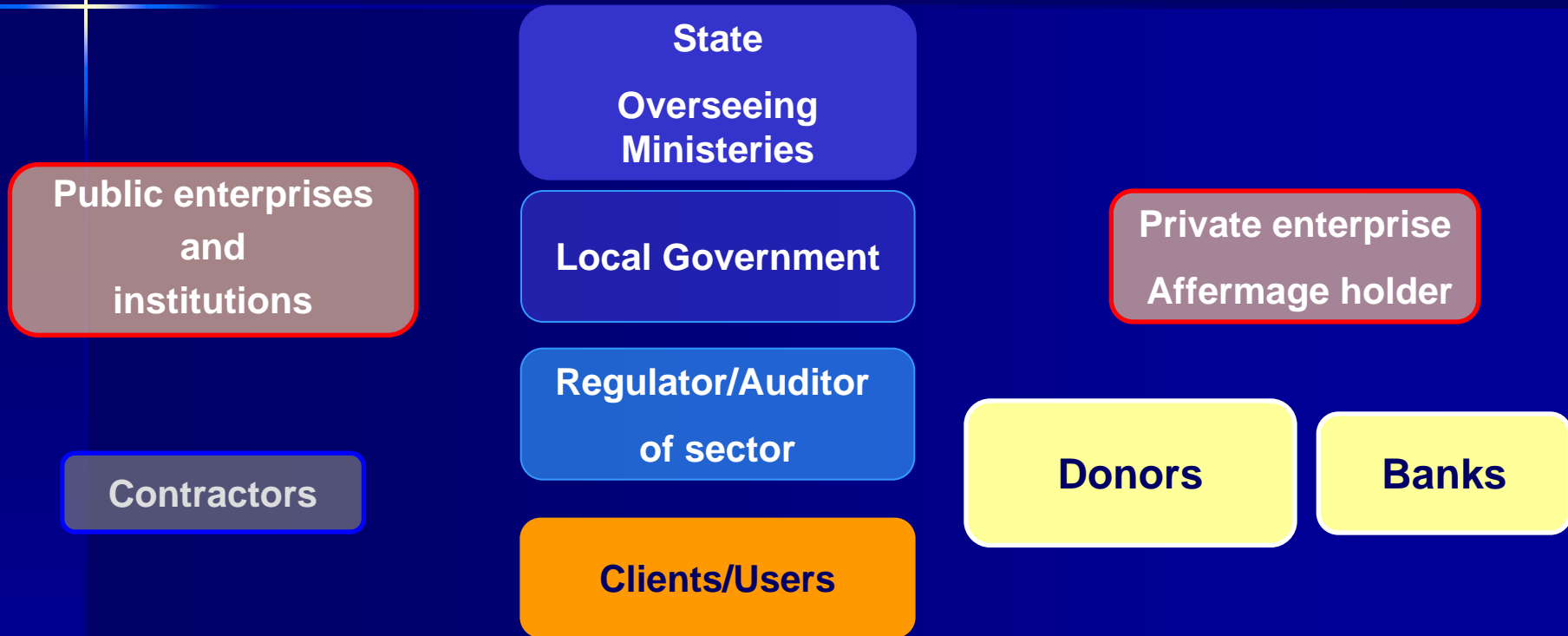


The asset owner can contract out service provision & operation of assets through a **delegated management contract**. Types of contracts include:

- Service contracts
- Management contracts
- Operators contracts
- Leases/Affermages
- Concessions

Operators can be publicly, mixed, or privately owned

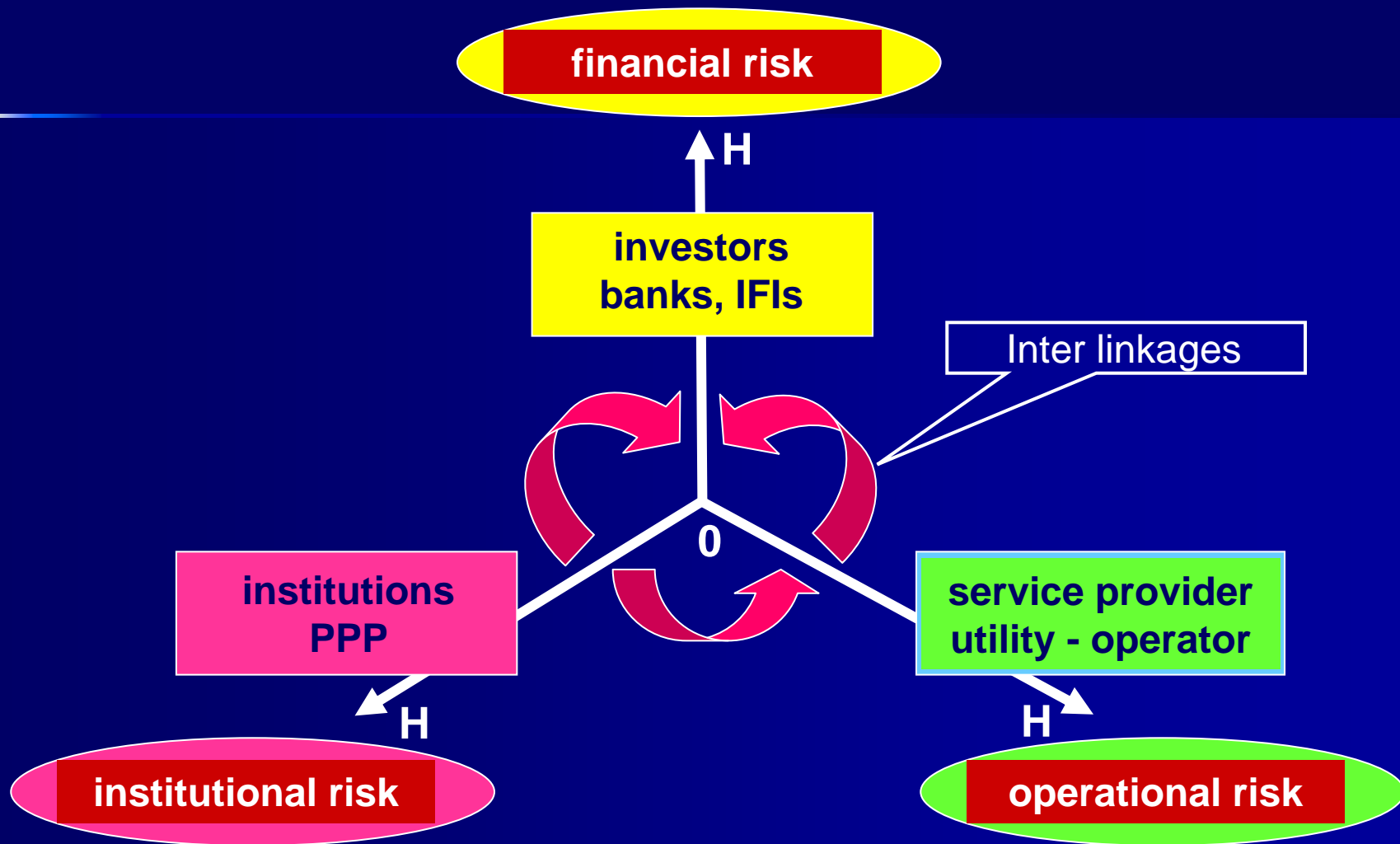
# Actors and Stakeholders

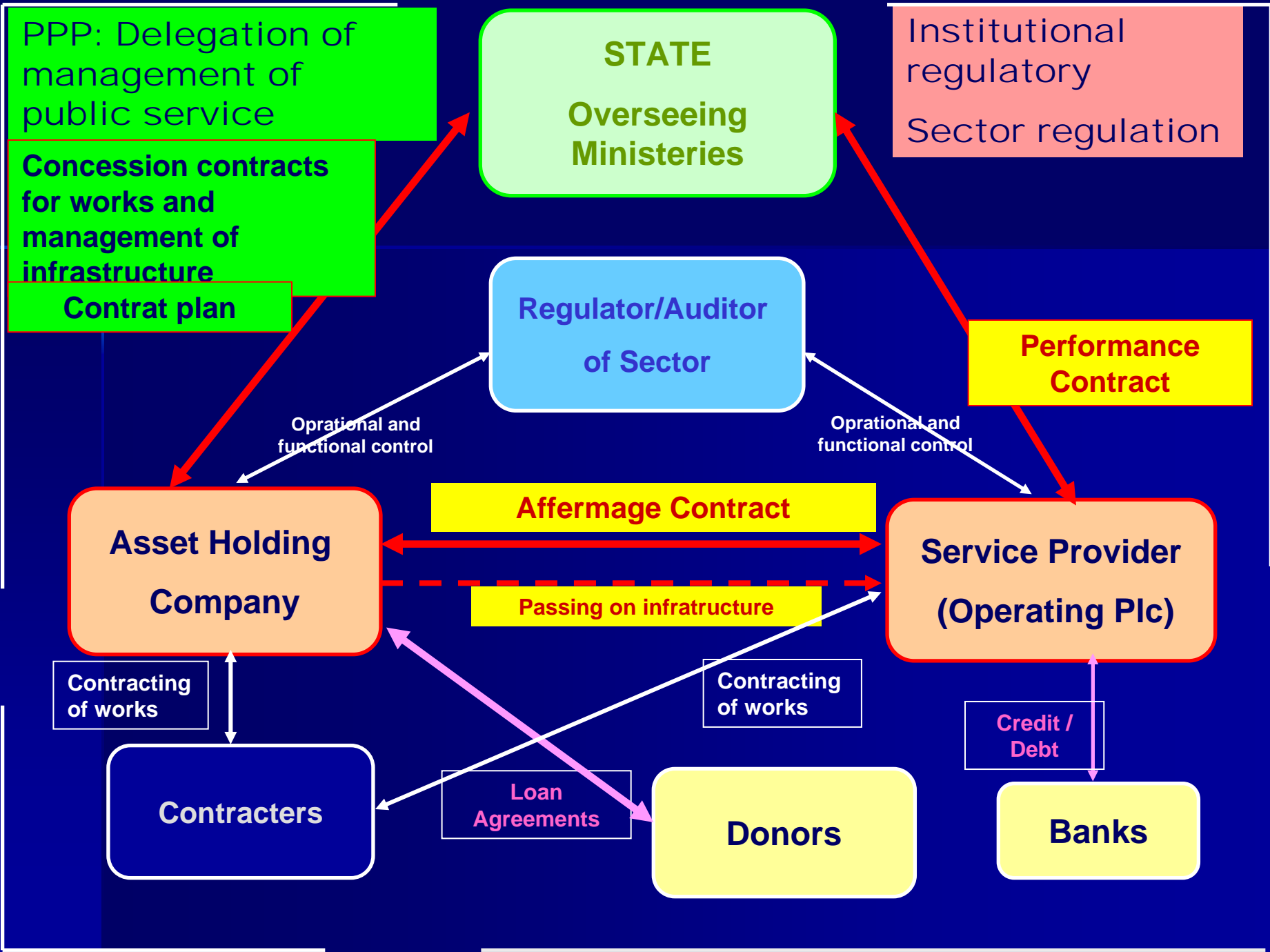


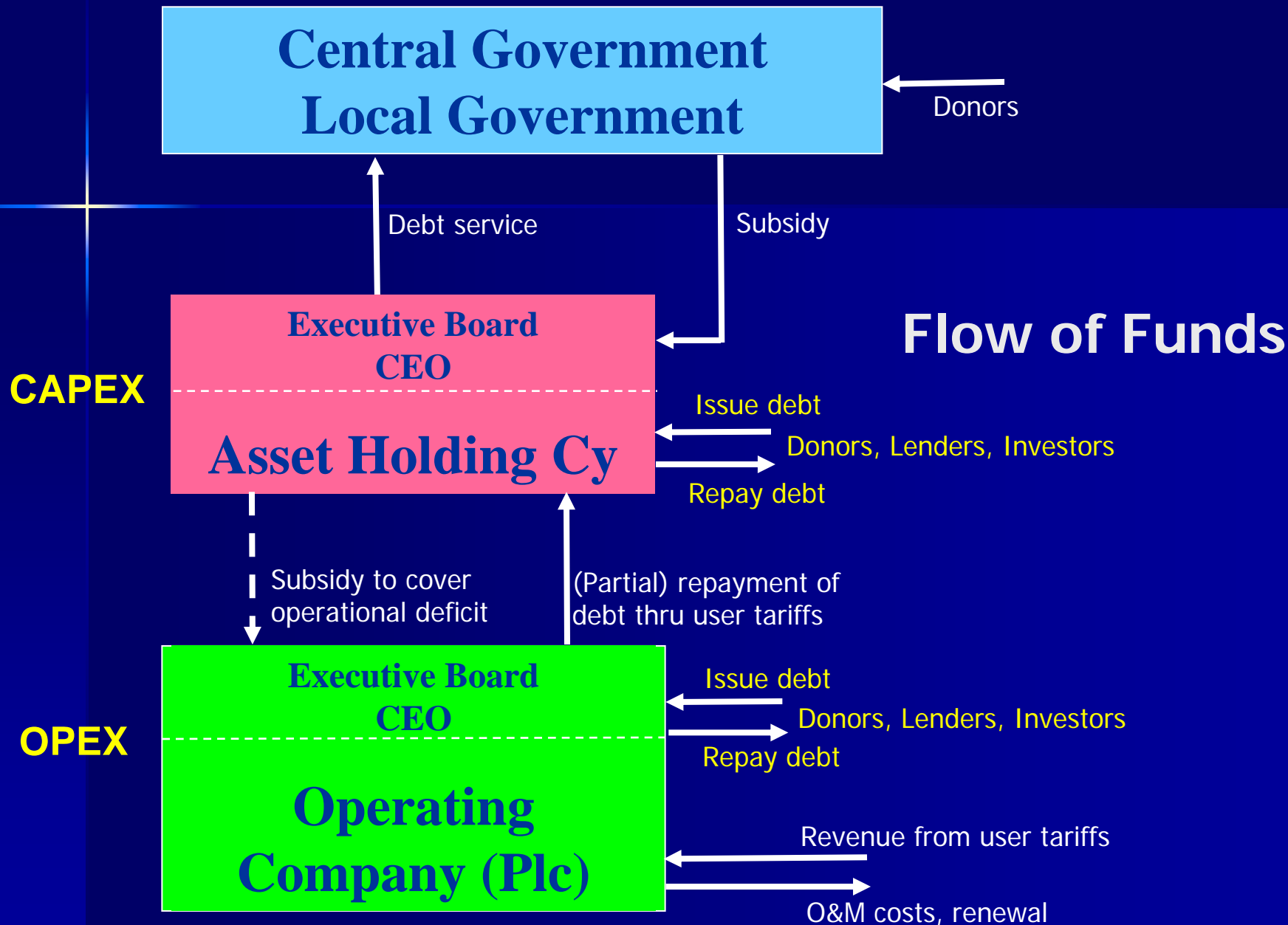
**A multitude of actors and stakeholders**



# Management of risk







# Contractual Arrangements

- 🔥 **A chain of complex and interdependent contracts**
- 🔥 **A multitude of actors and stakeholders**
- 🔥 **Fragile equilibriums which require adaptation**
- 🔥 **In a stable institutional and regulatory environment, appropriate and flexible**

# Thank you

