

Revisiting the Regulatory State: A Multidisciplinary Review and a New Research Agenda

KEYWORDS: The Regulatory State; network industries; independent regulatory agencies; regulation.

BACKGROUND

- The 'Regulatory State' is a term from political science which describes the growth in the importance of regulation as a means to manage the economy.
- This paper proposes a framework to move from conceptualizing the Regulatory State to considering its operation and assessing its performance.
- The paper aims to highlight avenues for interdisciplinary dialogue and future opportunities for research.

METHODOLOGY

- A comprehensive literature review was completed covering the political science, economic, legal and business disciplines.
- The review focuses specifically on how the Regulatory State has developed in relation to network industries in the European context since the 1980s.
- An interdisciplinary group of academics met regularly for the duration of the project. The group's discussions were key to identifying future research opportunities.
- The review is structured around five core themes where further research is warranted: (i) Ideas, Experts and Expertise, (ii) Governance, (iii) Consumers, (iv) Courts, and (v) Assessing Regulators' Performance.

KEY FINDINGS

- The term 'Regulatory State' is virtually absent from the economics literature; yet, economic studies provide extensive evidence on the performance of industries influenced by the Regulatory State.
- In comparison to the information available on the Public Utility Commissioners of US States, very little information has been collated on the background, characteristics and careers of individual utility regulators working within Europe.

POLICY ISSUES

- For each of the five areas identified above, important policy issues arise:
 - Ideas, Experts and Expertise
 - The lack of research (and data) on individual regulators, their career trajectories and regulatory agencies in Europe contrasts with the substantial empirical literature looking at state utility commissioners in the US. To increase the accountability of the Regulatory State in Europe this shortfall needs to be addressed.
 - Governance
 - New research could look at how regulatory networks are used as ‘opportunity structures’ to: (i) advance the preferred regulatory arrangements of a regulator’s home country, and (ii) to enhance a regulator’s powers, reputation and/or resources in its home country.
 - Comparing the performance of multi-sector and single-sector regulators in the European context also represents an important opportunity for further research.
 - Consumers
 - Understanding how consumer organisations operate and interact with regulators is a neglected area of study.
 - Investigations of new regulatory approaches, such as the use of ‘consumer challenge’ panels would be valuable.
 - Courts
 - The desirability of generalist courts in reviewing regulatory decisions may be limited by their ability to handle complex economic arguments. In the UK, one might consider whether the availability of a specialist court, the Competition Appeal Tribunal, has reduced this deficit in expertise and has led to superior performance.
 - Assessing Regulators’ Performance
 - It is 30 years since the institutions of the Regulatory State started to emerge in Europe. It seems an opportune moment to explore the performance of the Regulatory State against a range of possible objectives.

March 2014

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The authors wish to acknowledge the contribution of the ESRC who supported their research through Centre for Competition Policy funding (ref: RES-578-28-0002).

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