EU Better Regulation: Achievements, Limitations and Prospects

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Plan

i. State of Play
ii. Achievements
iii. Limitations
iv. Prospects

Credits to William Blake 1757 - 1827
State of play and a couple of good old questions....

2015 Better Regulation Strategy

Inter-institutional agreement on better lawmaking

ECA report 2018 on ex-post review of legislation

CJEU 4 September 2018

Timmermans task force on subsidiarity

BR to learn or to control?
Is regulation policy aligned with innovation policy?
**SONGS OF INNOCENCE and OF EXPERIENCE**

**Infant Joy**

Little Lamb who made thee
Dost thou know who made thee
Gave thee life and bid thee feed?
By the stream and o'er the mead;
Gave thee clothing of delight,
Safest clothing wondrous bright;
Gave thee such a tender voice,
Making all the vales rejoice.
Little Lamb who made thee
Dost thou know who made thee

Little Lamb I'll tell thee,
Little Lamb I'll tell thee;
He is called by thy name,
For he calls himself a Lamb
He is meek and he is mild,
He became a little child;
a child and thou a lamb.
We are called by his name;
Little Lamb God bless thee,
Little Lamb God bless thee.
Achievements

1 Strong emphasis on Consultation

2 Attempts made to include ex-post legislative evaluation into the policy cycle (work done by Mastenbroek team)

3 the de facto independence of the RSB and its capacity to handle different types of scrutiny

4 IA mainstreamed
Limitations

• Lack of alignment between drafting and impact assessment work
• IA-free zones
• Methodological robustness and timing of the ex-post evaluations
• Hard to find evidence that good IA, good evaluations, good RSB scrutiny generate good EU legislation and support innovation and sustainable growth – too many steps in this causal relationship and too little research
• Forest and tree problem
Four questions on IA and drafting

• How much does the Commission take into account the opinions of the RSB when adopting the final proposal? Or is the impact of the RSB felt much earlier on?

• How is the preferred option of the final Impact Assessment reflected in the Commission proposal?

• The final proposal may contain exceptions, qualifications, classic concessions: does the final IA cover these political details?

• Are the differences between the proposal adopted in the Commission and the final legislation large, if so how many times have they impact assessed?
Lessons drawn from experience

Better Regulation as multi-level policy
Inter-institutional dimension
Subsidiarity and Better Regulation
EPRS on Juncker Commission year 4

• In the period until the end of September 2018 the Commission had tabled 482 proposals in almost four years (out of 543 initially envisaged)
• 216 adopted by the co-legislator
• Jobs, growth and investment: less proposals than expected

Source: EPRS Sept 2018
Prospects
Member States and Commission
(Paolo and Francesca in Dante)

• Business impact target
• The “political” Commission and the Commission envisaged by the Treaties
• RSB future?
LONDON [bold text mine]

I wander thro’ each charter’d street,
Near where the charter’d Thames does flow
And mark in every face I meet
Marks of weakness, marks of woe.

In every cry of every Man.
In every Infants cry of fear.
In every voice; in every ban.
The mind-forg’d manacles I hear

How the Chimney-sweepers cry
Every blackning Church appalls.
And the hapless Soldiers sigh
Runs in blood down Palace walls

But most thro’ midnight streets I hear
How the youthful Harlots curse
Blasts the new-born Infants tear
And blights with plagues the Marriage hearse
The future?

• New Commission will need a robust stock of evaluations to start well
• Innovation and mission-oriented policies can revolutionize the whole approach to better regulation
• Implementation of the inter-institutional agreement
• More forest-vision than trees, but can the RSB deliver on that?
• Transparency and participation (CJEU Sept 2018)
• Brexit effects
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