

ISSUES AND TRENDS OF EUROPEAN REGULATION



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INTRODUCTION

European Union approach to Regulation and the developing interrelations between EU bodies and national regulators:



DEVELOPMENT OF COOPERATION AND INTEGRATION IN EUROPEAN REGULATION

European community promoted directives for harmonizing national markets. Delays in adopting directives and regulatory gaps obliged EC to adopt a Composite Administration :

Committees

Agencies

Concert of
Regulators
(Regulatory
networks)

Advanced
European
Regulators

DEVELOPMENT OF COOPERATION AND INTEGRATION IN EUROPEAN REGULATION

COMMITTEES

- Composed of national administrative officials and a Commission's representative
- Ancillary to EU Commission and EU Council
- Advisory role

AGENCIES

- Decentralised community bodies
- Legal personality
- Ancillary to the EU Commission
- Specific powers

DEVELOPMENT OF COOPERATION AND INTEGRATION IN EUROPEAN REGULATION

Regulatory networks

- Spontaneous cooperation:
informal forums sharing information and making proposal
- Institutionalization: Concert of regulators
 - A simple administrative collegial body
 - No legal personality
 - Composed of directors of national regulatory authorities and a representative of the EU Commission

DEVELOPMENT OF COOPERATION AND INTEGRATION IN EUROPEAN REGULATION

Advanced European Regulators

- More independence and powers
- Stronger cooperation EU-national administrations
- Different organizations, powers and functions reflecting:
 - needs of the specific sector
 - balance of interests Commission-MS

DEVELOPMENT OF COOPERATION AND INTEGRATION IN EUROPEAN REGULATION

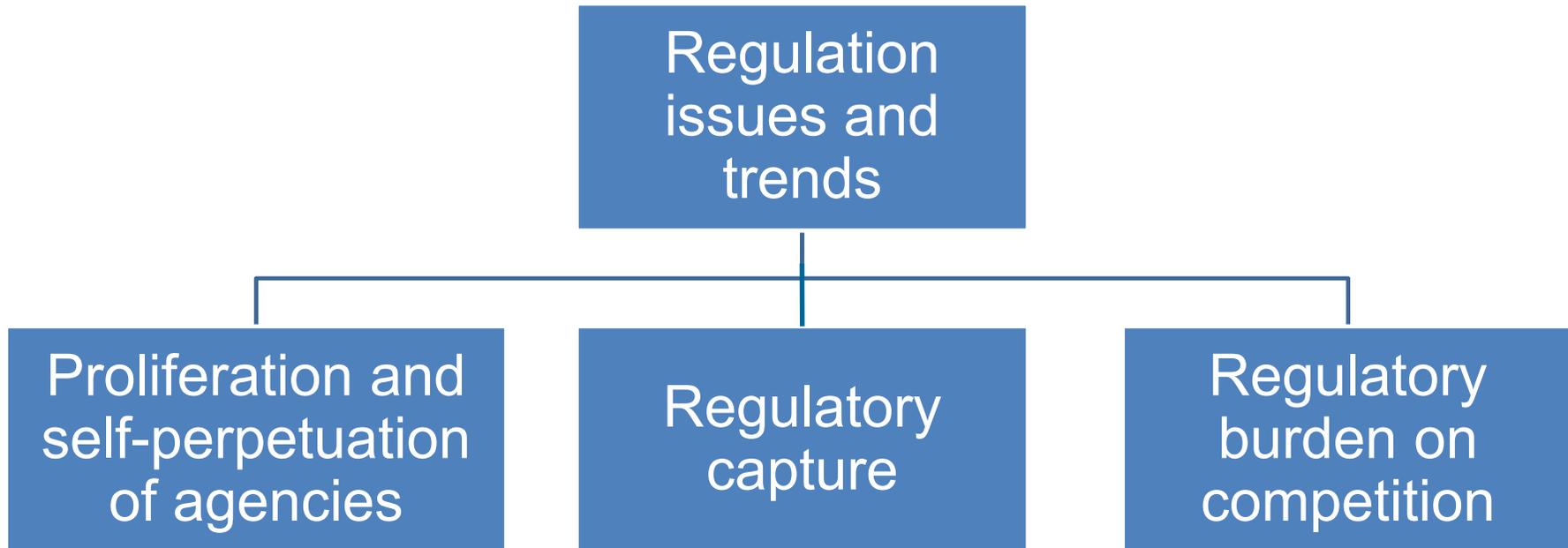
The creation of European regulatory bodies had a strong impact on national systems: national regulatory authorities gained greater independence vis à vis stakeholders and political authorities

Autonomous administrative authorities with technical skills and actual powers

Doubts of legitimacy: - no-mention in national constitutions
- non-elected
- endowed with executive, legislative and judiciary powers

Remedies: - legitimate within the framework of EU law
- accountability measures
- procedural guarantees

ISSUES AND TRENDS



Proliferation

PROLIFERATION

Wish of decentralized agencies led to proliferation for lack of planning

DISORGANIZATION AND FRAGMENTATION

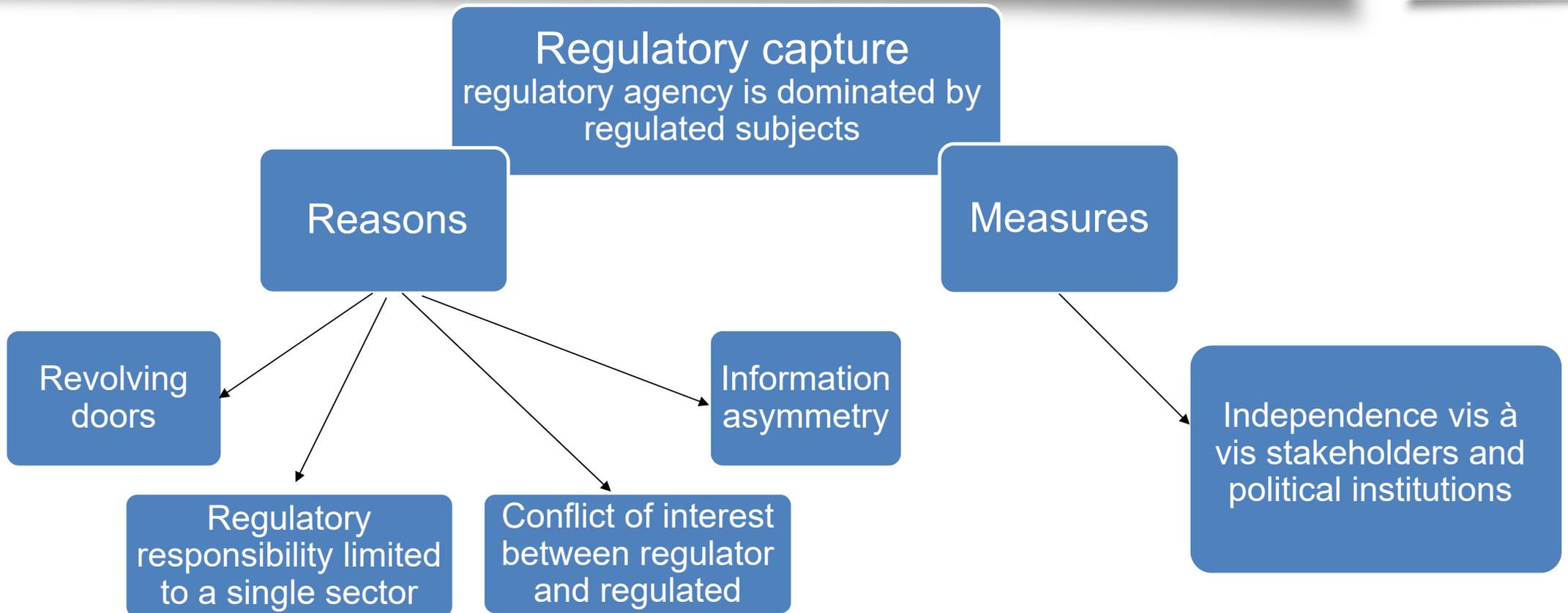
EU Commission repeated efforts to accommodate agencies within a common legal framework.

In 2012, at last, a EU Parliament, Council and Commission Joint Statement on a common approach to decentralized agencies

- Impact assessment before setting up new agencies
- Objective criteria for choosing their seats
- Sunset Clauses and measures for closing them

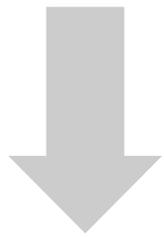
Measures to avoid self-perpetuation with timeline for accomplishing an agency's mission

Regulatory Capture

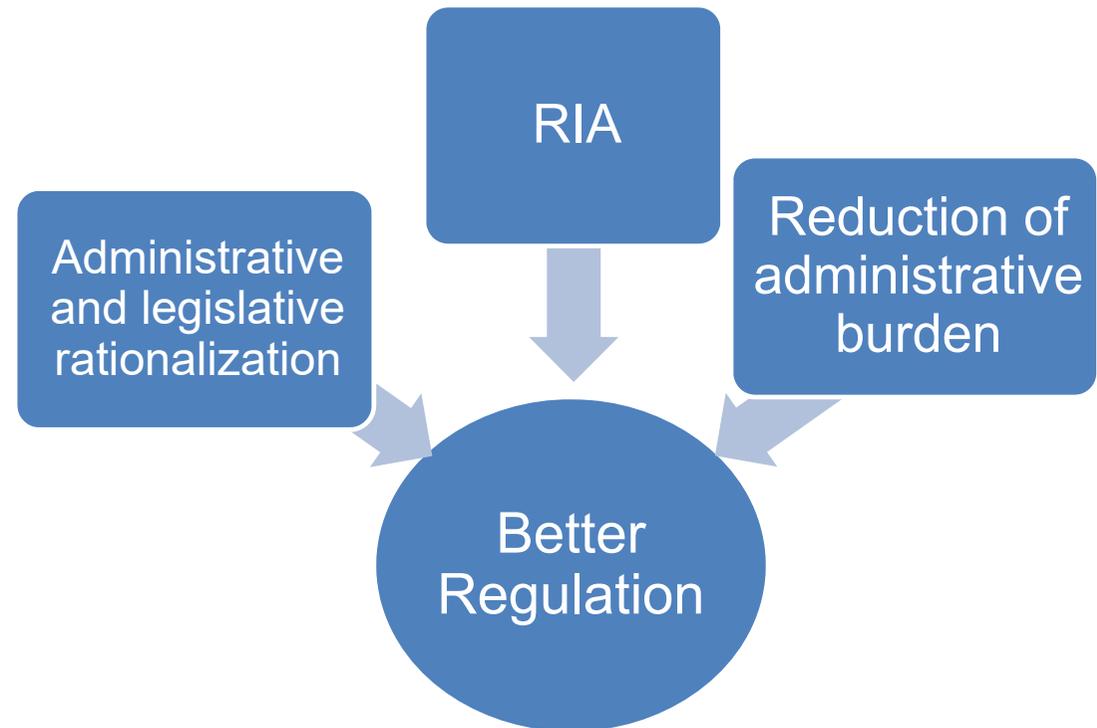


Impact of regulation on competition

Impact of regulation on competition: excessive regulatory provisions, namely an extensive set of bureaucratic requirements and formalities, could undermine competitiveness.



OECD guidelines to analysis the impact of regulation on competition (RIAC) as a complement to Regulation Impact Analysis (RIA), designed to analyse regulatory decisions in term of costs and benefits



TRENDS



Better Regulation



Smart Regulation
(Design, Monitor, Review)
*A planned circular process of
regulatory production*

Diffusion of principles at EU and national level
thanks to the participation of national authorities
inside the European regulators

CONCLUSIONS

Creation of European Regulators: ensure horizontal and vertical cooperation and collaboration between national regulatory authorities and the European Commission

At the centre of a Composite administrative system that ensure the participation of national authorities in decision-making processes and guarantee the uniform application of law

Bodies ad hoc that are assigned regulation and integration for a single, free and competitive market

Result of organisational development and attempts to balance the interests of EU institutions and Member States

EU regulators have great independence and powers to have regulators perform efficiently, but they are subjected to controls and forms of accountability to impede an arbitrary exercise of powers