



The Regulatory State

by Colin Scott, Professor of EU
Regulation & Governance at UCD

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Characteristics of the Regulatory State

- Separation of operations from policy making
- Greater use of free-standing regulators
- Greater formality in relations
- Across public and private sectors
- Reining in of self-regulation
- Prioritising the correction of market failure over state functions linked to redistribution and macro-economic stabilization (Majone)

Variety in Institutional Arrangements for Regulation

- Ministries
 - Agencies – Office of Director of Consumer Affairs; Food Safety Authority
- Parliament
- Independent Agencies – Comreg, Commission for Aviation Regulation, Financial Regulator, Commission for Energy Regulation
- Local Authorities – eg land-use planning
- Courts/Tribunals
- Self-Regulators – eg Advertising Standards Authority for Ireland
- Private Regulators – eg National Standards Authority of Ireland

Why do Governments Delegate to Agencies?

- Blame Shifting
- Overcoming Information Asymmetries
- Credible Commitment/Insulation from Politics
 - Particularly important in liberalising markets where government retains interests in key operators
- Expertise
- Compliance with EU Requirements

Explaining Delegation

- NOT simply a functional response
- Timing and Institutional Features Shaped by:
 - State Traditions
 - Policy Learning – ‘diffusion’
 - Bottom-up – countries responding to similar problems in similar ways – credible commitment an issue
 - Horizontal - non-functional or social explanation of diffusion
 - emulation – ‘taken for grantedness’
 - ‘symbolic emulation’
 - Top-down – Europeanization significant
 - Political Leadership

Relations Between Agencies and Elected Government

- Considerable Variety in EU in
 - Appointments patterns – political/non-political
 - Extent of independence – difficult to establish in many parliamentary systems
- Growth in authority of agencies
- Legitimacy issues
 - Agencies sometimes conceived of as having too little power get the job done but too much power to be legitimate
 - Legitimacy primarily derived from expertise
 - Economists and lawyers particularly significant
- Accountability
 - Parliaments
 - Courts

Explaining the Regulatory State

- Part of New Public Management Reform
- Response to disenchantment with bureaucratic governance
- Policy transfer from US – ‘Diffusion’
- Symbolic politics – regulation is a cheap form of commitment
- Requirements of EU membership
- Pressure from international organizations – OECD, WB, IMF

The Crisis of the Regulatory State?

- Failure of Command and Control
- Counterproductive Regulation and Unintended Effects
- Possible Solutions
 - More self-regulation
 - Responsive Regulation
 - Meta-Regulation
- What is the Post-Regulatory State?