Energie-efficiency, afwikkeling van letselschade, algemene voorwaarden bij taxi en kinderopvang

Vervolgstudie

Maatschappelijke Reguleringsinstrumenten

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Summary

This follow-up study, *Societal Instruments of Regulation*, builds on our first study 'Trade Practices, Advertising, and Self-Regulation: Pilot Study on Societal Instruments of Regulation'.[1] In our first work, we developed an assessment grid to evaluate self-regulatory business initiatives. We did so from a legislator's viewpoint, as it is crucial that policymakers at the legislative level have a firm understanding of the respective benefits and drawbacks of the array of instruments at their disposal when they need to choose between alternative implements. What exactly are the advantages and disadvantages of 'societal instruments of regulation' such as self-regulation? Under what conditions can instruments such as self-regulatory codes of good practice serve as an alternative instrument of government policy? To answer these questions, we needed to establish, on the one hand, the standards against which legislation is evaluated and, on the other, under what conditions society – or at least part of it – is able and willing to subject itself voluntarily to regulatory goals. As stated, the first study accomplished this by means of an assessment grid.

The grid included standards of evaluation and relevant factors. We narrowed the standards down to three: the extent to which the instrument attained the goals set by the policymaker; the extent to which individuals and businesses are bound to comply; and the manner in which costs of overseeing compliance are dealt with. We then identified a number of factors that proved relevant in explaining the success or failure of several self-regulatory business initiatives. These factors included among others density rate of organisation, support, sanctioning, convergence of interests, practicability, and stability.

The first study centred on self-regulatory initiatives in the advertising industry, and focused in particular on advertising for alcoholic beverages, telemarketing practices, and consumer credit practices. In this research, we shifted our attention to three different cases: the Energy Efficiency Benchmarking Pact (Convenant Benchmarking Energie-efficiency); self-regulatory initiatives in the field of personal injury litigation; and the development of standard contract clauses in taxi hire and child care.

The aim of this second study was to investigate whether the results attained with the assessment grid in the first study could be duplicated, and thus to test whether the included factors would again prove to be relevant. Our conclusion is that the assessment grid remains a relevant tool for categorising the factors that help explain why certain self-regulatory initiatives fail and others succeed. As such, the outcome of this study confirms our previous results.

Furthermore, we have tried to show that certain factors have overriding dominance in specific constellations – we use the term ' dominant configurations to denote the situation in which two or more factors constitute a dominant combination that by and large explains the failure or success of a certain self-regulatory initiative. Two factors in particular come to the fore: density rate of organisation and support for the initiative. These

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[1] W.H. van Boom, M.G Faure, N.J.H. Huls en N.J. Philipsen, Handelspraktijken, reclame en zelfregulering – Pilotstudy Maatschappelijke Reguleringsinstrumenten (WODC Rapport 1535), Den Haag: BJU 2009.

elements seem to have a synergistic relationship: if the interests in a given branch converge, the density rate of organisation is high – and vice versa – which in turn facilitates an assessment of the support in this branch for the policy goals underlying the self-regulatory initiative. Therefore, policymakers would be wise to focus on analysing the factual and dynamic presence of these two factors in a given dossier.

What should the reader not expect to find in this study? We have not investigated the ideal mixture of regulatory instruments. We have merely studied the explanatory factors for success and failure. Therefore, the predictive value of our findings is limited, although some elements – notably the evaluation of dominant factors – could possibly be applied in a procedure involving ex ante assessment.