

Corporate Coalitions and Policy Making in the European Union: How and Why British American Tobacco Promoted “Better Regulation”

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This article, which traces the role of corporations and national governments in promoting the adoption of a Better Regulation agenda by the EU, was published in the *Journal of Health Politics, Policy and Law* in 2015 (volume 40, issue 2).

Abstract:

Over the past fifteen years, an interconnected set of regulatory reforms, known as Better Regulation, has been adopted across Europe, marking a significant shift in the way that European Union policies are developed. There has been little exploration of the origins of these reforms, which include mandatory ex ante impact assessment. Drawing on documentary and interview data, this article discusses how and why large corporations, notably British American Tobacco (BAT), worked to influence and promote these reforms. Our analysis highlights (1) how policy entrepreneurs with sufficient resources (such as large corporations) can shape the membership and direction of advocacy coalitions; (2) the extent to which “think tanks” may be prepared to lobby on behalf of commercial clients; and (3) why regulated industries (including tobacco) may favor the use of “evidence tools,” such as impact assessments, in policy making. We argue that a key aspect of BAT’s ability to shape regulatory reform involved the deliberate construction of a vaguely defined idea that could be strategically adapted to appeal to diverse constituencies. We discuss the theoretical implications of this finding for the Advocacy Coalition Framework, as well as the practical implications of the findings for efforts to promote transparency and public health in the European Union.

Context:

- Since the early 1990s the concept of Better Regulation has been used to describe a program of regulatory reform, at both European Union and Member State levels.
- Mandatory impact assessment is the most significant innovation that Better Regulation introduces to the policy making process. When applied to the regulation of substances that pose threats to human health and the environment, impact assessment provides a framework for making decisions about whether and how to limit the resulting health and/or environmental damage. Different policy options are assessed, often using cost-benefits analysis, quantifying the impacts (positive and negative), to allow for a comparison.
- There are concerns over the neutrality of impact assessment, the capacity to foresee consequences adequately, and the quantification of nonmarket goods (i.e., health and environment), as the exercise can be misleading and oversimplifying. The process can also lead to delays in policy making. Impact assessment can also increase policy makers’ dependency on information held by resource-rich stakeholders, and those with commercial interests.

The role of commercial actors in the adoption of Better Regulation:

- The tobacco industry has been framed as a “vector” of tobacco-related morbidity and mortality and is therefore increasingly excluded from formal health policy discussions.

- In the 1990s the tobacco industry began to lose credibility and political authority, with many of its traditional techniques of policy influence coming under scrutiny. The industry was also increasingly concerned with the extent of tobacco control legislation coming from the EU. Specifically, there was concern from the industry regarding the use of the precautionary principle, seen as a tool for “radical” environment and health advocates.
- It is in this context that British American Tobacco (BAT) began to consider ways to increase its influence over EU policy by promoting the need for a form of structured risk assessment to be part of the European legislative process. This would be achieved through the promotion of rules to carry out the risk assessment, setting the bar for what would be “unacceptable risk”.

Coalitions and lobbying:

- Smith et al show that BAT was advised by a consultancy to build a coalition of allies and interests to push for this approach, i.e., to create the sense of a widely held consensus. It was also advised to use a front group, and sought the support of the European Policy Centre (EPC), a Brussels-based think tank.
- BAT advocated to replace existing exercises with a far more thorough and economically oriented form of business impact assessment, based on cost-benefits analysis (CBA), while working to promote the notion that risk assessment was a necessary part of this approach. This was a way to counteract the precautionary principle. Furthermore, the calls for transparency and consultation exercises have secured industry’s participation in policy making.
- The reforms were initially pitched by the EPC as primarily benefiting SMEs, which fit with the Commission’s aim of enhancing the competitiveness of smaller enterprises, despite the fact that the campaign was primarily orchestrated by, and designed to promote the interests of, large corporations.
- The campaign successfully managed to obtain a change of wording in the Treaty of the European Union, requiring the Commission to consult widely before proposing legislation and to justify its proposals with regard to the principle of subsidiarity, taking into account any burden to be minimized, and proportionality with the objectives to be achieved.

Conclusions:

- Smith and colleagues describe the term ‘Better Regulation’ as chameleonic; sufficiently vague as to be able to adapt its meaning to situations and audiences.
- The findings indicate that “chameleonic” ideas can play a crucial role in long-term efforts to affect policy change. These can be used to attract actors with quite divergent interests to support what appears to be the same idea, even though the various supportive actors may have rather different interpretations of what the idea entails.
- The findings show that European pressure politics are often obscured. The corporate interests involved in the campaign described in this article were rarely perceived by the people interviewed in the context of the article as interests involved in shaping or promoting Better Regulation.
- The article concludes not that Better Regulation is necessarily a negative development for public health, but rather that policy makers and those interested in promoting and protecting public health should at least be aware of why the industry has been working to influence Better Regulation.