Network governance and multi-level delegation: European networks of regulatory agencies

Jnl Publ. Pol., **28**, 1, 49–71
doi:10.1017/S0143814X08000779

Network Governance and Multi-level Delegation: European Networks of Regulatory Agencies[1]

DAVID COEN *Public Policy, University College London*
MARK THATCHER *Public Administration and Policy, London School of Economics*

ABSTRACT

European networks of regulators in industries such as telecommunications, securities, energy and transport have been cited as important examples of the growth of network governance in Europe. Using a principal-agent perspective as a starting point, the article examines why a double delegation to networks of regulators has taken place. It looks at how and why the European Commission, national governments and independent regulatory agencies have driven the creation of networks, their institutional character and their implications for regulatory governance in Europe. It argues that problems of co-ordination were the main factor advanced to justify establishing networks of regulators. The new networks have been given a wide range of tasks and broad membership, but enjoy few formal powers or resources. They are highly dependent on the European Commission and face rivals for the task of co-ordinating European regulators. Thus in institutional terms the spread of network governance has in fact been limited.

Introduction

The 1980s and 1990s saw a widespread phenomenon in Europe of states switching from direct economic interventionism to delegated governance – both at the national and supranational levels – to such an extent that there have been a considerable number of analyses of a 'regulatory state' or multiplicity of regulatory regimes (Majone 1996; Coen and Héritier 2005; Thatcher 2002a; Levi-Faur 2005). A key element was two parallel delegations of powers by national governments to supranational bodies such as the European Union (Pollock 2003; Majone 2005) and to domestic independent regulatory agencies (IRAs) (Radaelli 2004; Thatcher 2002b, 2007a; Majone 1999; Bartle 2005). However, as policy makers at these two levels of regulatory governance attempted to harmonise European single market issues in the late 1990s, pressure grew

for a further round of delegations of co-ordinatory functions to *European regulatory networks* (ERNs). Here the creation of ERNs required a *double delegation* of powers and functions: one 'upwards' from the newly created IRAs and a second 'downwards' from the European Commission.

The changing patterns of delegation have been seen as part of a broader move towards 'network governance' in Europe (see Schout and Jordan 2005; Sabel and Zeitlin 2007; Eberlein and Kerwer 2004; Héritier and Lehmkuhl in this issue; Christiansen 2001), itself linked to literature on policy networks (see Marsh and Rhodes 1992; Rhodes 2000; Sabatier 1998) and recent work on new forms of 'international market governance' (see Slaughter 2004; Coen and Thatcher 2005). In the field of regulation, three key elements of network governance can be set out here. One is the linkage of actors from different institutional levels – national, EU and international – and both the public and the private sector in a form of sectoral governance (see Héritier and Lehmkuhl in this issue; Pierre and Peters 2000). A second is a shift of power from previously well-established levels to organisations or individuals whose main role is linking and co-ordinating actors (Schout and Jordan 2005; Jordan, Wurzel and Zito 2005; Peters 1998). A third element involves a change in the mode of governance, away from hierarchy and towards consultation, negotiation and soft law (Sabel and Zeitlin 2007; Hudson and Maher 2001; Eberlein and Grande 2004; Kaiser and Prange 2004). In the context of these governance discussions, ERNs have created much excitement, with claims that they form part of moves towards 'network governance' in regulation (Eberlein 2003; Eberlein and Grande 2004).

This article examines why the European Commission, national governments and independent regulatory agencies have accepted or indeed driven the creation of these networks of regulators, their institutional character and their implications for regulatory governance in Europe. Taking a principal-agent perspective as a starting point for the formal analysis of powers and functions delegated by the European Commission and IRAs, the central argument is that the networks represent a new round of double delegations. They are designed to respond to the multiplication of regulators and their uneven development by co-ordinating implementation of regulation by member states. But, at the formal level, the new European networks of regulators remain highly constrained by existing actors. In particular, the European Commission and national regulators maintain many controls over the networks, which lack resources and rights of initiative. Such shadows of government potentially limit the innovative scope of ERNs (Héritier and Lehmkuhl, in this issue) and raise important questions about their ability to evolve into strong regulatory bodies (Sabel and Zeitlin 2007). The weakness of the networks and the controls of their principals help to explain why

double delegation was agreed to by both national and EU actors: they transferred only limited powers and retained many controls over ERNs. It also suggests that, since their formal institutional position is weak, if the networks are to have an impact on regulatory governance in Europe, they must either develop informal resources and influence after formal delegation has taken place (Sabel and Zeitlin 2007; Coen and Doyle 2000) and/or gain new powers through new delegations in order to evolve into more powerful regulatory bodies (Majone 2005; Thatcher and Coen 2008). In formal terms, analysis of European regulatory networks shows that 'network governance' remains very limited in EU economic regulation.

The article begins with traditional analyses of delegation in Europe and then sets out the principal-agent framework that will be applied by the empirical work on ERNs. Thereafter it examines the pressures and problems that led to the creation of ERNs, before using principal-agent theory to chart the double delegation to ERNs and offering a systematic analysis of their functions, powers, resources and rivals. The conclusion links the findings back to arguments about network governance in Europe, as well as pointing to further research that is needed given the limits of the principal-agent framework. The article uses detailed case studies of the two most powerful and well-established ERNs, since they offer the maximum degree of delegation: the European Regulators Group for telecommunications and CESR (the Committee of European Securities Regulators) for securities. Similar developments have been observed in energy and data protection (Eberlein and Newman 2007), but these are weaker ERNs than our two cases, which therefore offer a good test for the position of such networks.

The logic of double delegation in European regulation

European regulation has been transformed by a series of delegations. At the supranational level, European states have given the EU progressively greater powers to extend its regulatory activities (Majone 1996; Franchino 2007). Using these powers, EU sectoral regulatory regimes have grown in major markets previously largely immune from EU action, such as telecommunications, financial services, electricity, gas, railways, postal services and food safety (see Humphreys and Simpson 2005; Bulmer et al. 2007). EU regimes involve detailed EU regulation, notably: liberalisation through ending the right of member states to maintain 'special and exclusive rights' for certain suppliers; and 're-regulation', i.e. EU rules governing competition, ranging over a vast array of matters, such as interconnection of networks, access to infrastructure and universal service. At the national level, governments have created new IRAs,

both sectoral bodies and general authorities, and/or have strengthened existing IRAs (Thatcher 2002b, 2007a; Coen and Héritier 2005; Gilardi 2002, 2005; Levi-Faur 2004). IRAs are legally and organisationally separated from government departments and suppliers, are headed by appointed members who cannot be easily dismissed before the end of their terms and have their own staff, budgets and internal organisational rules (Thatcher 2005).

In such a context of delegation to both the EU and IRAs, from the late 1990s onwards a further set of double delegations has taken place to European regulatory networks (ERNs). As will be described in greater detail below, these networks straddle national and supranational levels of regulation, since they comprise national IRAs from all EU member states, as well as the European Commission. Established through EU law that gives them functions, they are hybrid bodies that link the EU and national levels, and indeed bring together two sets of agents from previous delegations, namely IRAs and the Commission. They are given the task of co-ordinating regulators and increasing consistency of regulation across the EU. They appear to offer an important move towards formal network governance, one that goes beyond pre-existing delegations and/or the reliance on soft law in informal European networks.

How can delegation in European governance, including to ERNs, be analysed? One approach is to use principal-agent theories. These explain delegation by elected politicians to non-majoritarian institutions in terms of the advantages gained by insulating IRAs from political pressures and their ability to perform functions for elected politicians (Thatcher and Stone Sweet 2002; Bendor, Glazer and Hammond 2001; Weingast and Moran 1983).[2] Principal-agent theory has been applied to delegation to regulatory bodies in Europe (Thatcher 2002b, 2005; Pollack 2003; Gilardi 2002; Majone 1996). It is argued that governments have delegated both to IRAs nationally and to the EU to enhance credible commitment, especially in sectors such as utilities, where governments seek outside investment or other long-term commitments but where other actors such as investors fear that governments will renege on promises (see Levy and Spiller 1996). Another reason has been to shift blame for unpopular or difficult decisions (Egan 1997). A third factor has been to increase efficiency, especially in domains that are complex and technical (Majone 2001). All of the above have at various times been used as rationales for delegation to EU agencies (Pollack 2003; Franchino 2007) and have emerged to a greater or lesser extent in the recent debates surrounding ERNs.

However, principal-agent theory points out that delegation is a variable. Principals choose the extent of delegation and which specific

powers are given to their agents. Equally, they maintain controls over the agent, such as appointments, budgetary and staffing resources and the ability to overturn agents' decisions. Indeed, principals will be highly concerned to minimise 'agency loss' (i.e. agents acting against the preferences of the principal) through 'shirking' and 'slippage'. They will seek to design institutions to minimise such agency losses.

In light of the above, we see that principal-agent theory is a useful tool with which to perform an initial analysis of the rise of ERNs for four reasons. Firstly, ERNs were created explicitly by IRAs and the European Commission. Principal-agent theory's interest-based approach directs us to examine why these actors have chosen to delegate and offers a range of possible reasons to explain delegation. Secondly, the EU's legalised nature means that delegation of powers requires a legal basis. Since the formal institutional position of ERNs is set out, including their powers and the controls over them, principal-agent analysis can be used to examine their formal independence. Thirdly, application of principal-agent theory requires definition of principals and agents. Hence it necessitates a careful study of who is delegating and who wields controls, a central issue in a complex polity such as the EU, especially for ERNs, which are children of multiple parents (governments, IRAs and the European Commission). Finally, the principal-agent framework underlines the importance of institutional design since principals will be highly concerned with post-delegation events and are expected to mould their initial choices accordingly.

But principal-agent tools must be wielded with care, and the limitations of the approach understood in analysing delegation (see Coen and Thatcher 2005). In particular, it is based on a rational choice conception of institutions, which it presents as consciously and explicitly designed; hence it excludes non-rational strategies such as copying or the evolution of institutions (see McNamara 2002). Secondly, and closely linked, it focuses on the formal structure of delegation, leaving aside informal resources and controls. Thirdly, it examines post-delegation behaviour through the rather narrow prism of formal principals and agents and agency loss. It omits other actors in the 'regulatory space' who may be of great importance in the governance structures of the ERNs (Scott 2000) and may fail to allow for the fact that delegating actors are also active members of the newly created bodies. It also downplays post-delegation behaviour that may alter the original delegation (Coen and Thatcher 2005). One example of such behaviour is the alteration of formal delegation driven by endogenous factors such as learning or the development of expertise, or exogenous factors such as technological and economic developments or external coercion (Sabel and Zeitlin 2007). Finally, formal institutions are overlaid with informal linkages,

such as policy or epistemic communities/networks. These may modify behaviour within a given formal institutional framework, due to factors such as learning or new resources, representing a form of renegotiation of the original 'contract' or formal delegation (Coen and Héritier 2005).

All of the above caveats are important if we are to understand the post-delegation phase of the ERNs and potential evolutionary trajectories of new market governance. Hence principal-agent analyses can offer a starting point, not an end point, for analysis. However, it is difficult to analyse post-delegation factors such as learning or the impact of exogenous changes without a sound understanding of the initial delegation. Equally, policy communities or networks operate within formal institutional frameworks or under the 'shadow of hierarchy' that sets the allocation of powers and sanctions (Héritier and Lehmkuhl, in this issue). Thus, understanding developments in delegation involves starting with the reasons for institutional changes and the formal framework that is put in place.

The spread of regulatory networks in Europe

EU regulation is implemented at the national level, not by the European Commission which has low numbers of staff and little in the way of financial resources.[3] National regulatory authorities (NRAs) are responsible for implementing EU legislation at the national level. NRAs can be governments or independent sectoral regulators (the IRAs). Since much regulation concerning liberalisation and re-regulation is based on EU legislation (albeit transposed into national law), NRAs in practice end up implementing and interpreting much EU regulation.

However, EU regulation has said relatively little about the institutional framework for the implementation of regulation within member states. It has not insisted that NRAs be IRAs and hence independent of government, nor has it laid down rules for the institutional form or powers of NRAs. Instead, it has confined itself to insisting that regulatory organisations be separate from suppliers, that they follow certain decision-making principles such as 'fairness' and transparency and that they have adequate resources to fulfil their EU-created legal duties.

This initial European regulatory regime contained two batches of delegation. One involved national governments delegating responsibilities to the EU which then delegated implementation to NRAs, notably IRAs. The other involved national governments delegating to IRAs (Thatcher 2002b). However, IRAs now have two sources of delegated tasks – both from the EU, since they are NRAs responsible for implementing EU legislation, and from national governments – and

hence two principals (of Egeberg 2006). Principal-agent analysis underlines that this situation could create problems for these two principals in controlling their common agent (IRAs). Since it emphasises the importance of institutional design for IRA behaviour, it also points to the likely cross-national differences in implementation arising from the lack of EU regulation on the institutional form of NRAs.

Indeed, the evidence points to the existence of such difficulties. Co-ordination of different national regulators in implementing EU regulation was encouraged via informal agreements and working groups at the EU level, but the Commission struggled to establish regulatory norms and best practice. Moreover, IRAs differed in terms of their age, powers, autonomy, finances and staffing (Coen 2005; Thatcher 2005; Coen and Héritier 2005; Böllhoff 2005), as their institutional design and creation varied from one country to another. In fact, after twenty years of deregulation and liberalisation, we still observe diverse regulatory principles and different relationships between IRAs, elected politicians and suppliers (Thatcher 2002a 2007b). Implementation of all public policies faces problems of agency loss, as IRAs and governments putting policies into practice enjoy discretion and the ability to alter a policy's original aims, but these features were magnified in the case of the EU, because legislation is broad and EU directives are binding on member states as to their aims but not the means of achieving them. In addition, the Commission's limited resources make oversight of IRAs difficult, indeed largely ruling out any 'police patrol' strategy (McCubbins and Schwartz 1984).

Given difficulties in implementing EU regulation, calls were made in the 1990s for independent 'Euro-regulators' – i.e. EU-level bodies insulated from member states and separate from the Commission (Majone 1997, 2001; Dehousse 1997). While arguments based on co-ordinating the European single market, international competitiveness and increasing integration encouraged many economists to call for a single European regulator, the political reality meant that it was unlikely to occur. Firstly and most importantly, national governments were reluctant to create such a body, even in telecommunications, the sector with the most advanced 'partnership' between member states and the European Commission. Their opposition was firmly rooted in questions of sovereignty and control of political economy issues such as universal service and national champions. However, equally significant was the unwillingness on the part of politicians to open up the single market and Maastricht treaties – with the very real risk of the treaties unravelling. Finally, on the practical side, and at a time of smaller government and worries about the creeping competences of the European Commission, member states were unwilling to fund and staff an EU regulator. Running

parallel with this lack of 'political will' was the fear of most suppliers about the remoteness of a Euro-regulator and about losing a local IRA (Coen and Héritier 2000). Equally, the Commission was concerned about a transfer of powers to a Euro-regulator, and the powers that it could delegate were limited by the legal doctrine of 'non-delegation' (the 'Meroni Doctrine'; see Majone 2006).

As an alternative to Euro-regulators and in line with broader moves to encourage 'the open method of co-ordination' and subsidiarity (see European Commission 2001b), European regulatory co-ordination has been encouraged and fostered through the formation of formal and informal horizontal networks of regulators (Coen and Doyle 2000; Eberlein and Newman 2007). Initially, these involved informal fora of sectoral public and private actors, who met infrequently and had no formal powers or organisation. Examples include the European Electricity Regulation Forum (the Florence Forum, started 1998), and one year later the European Gas Regulation Forum (the Madrid Forum) (see Eberlein 2005). Thereafter, informal groups of national IRAs (NIRAs) were established, such as the Independent Regulators Group (IRG) for telecommunications in 1997, FESCO (the Forum of European Securities Commissions 1997) and the CEER (Council of European Energy Regulators 2000). Both types of network were groups set up by national IRAs through memoranda of understanding; they lacked legal powers or functions. They were added to highly intergovernmental bodies such as the CEPT (Conference of European Postal and Telecommunications Administrations), established in 1959, whose membership goes beyond that of the EU.

However, the early 2000s saw further moves that involved greater formalisation of networks and a further set of delegations through the establishment of ERNs. The ERNs are considerably more formalised and involve greater delegation than the other networks (many of which continue to exist alongside them).[4] They were set up by EU legislation (usually decisions) in key sectors such as telecommunications, financial services and energy. Their legal basis sets out their functions, composition and powers. They are composed of public officials from member states, in contrast to the fora. Equally, the Commission has a significant role, with rights to attend meetings, unlike groups of NIRAs such as the IRG and CEER. They are given tasks of co-ordinating national regulatory authorities through functions such as providing 'technical' advice to the Commission, consulting the industry monitoring compliance with EU regulation, and establishing norms and benchmarks, which are forms of soft law. However, in pushing for the creation of the ERN, the Commission, under pressure from the IRAs and the European Parliament, made a number of important concessions on its right of veto over

the decisions of IRAs concerning regulatory harmonisation remedies (Coen and Doyle 2000).

Figure 1 summarises major networks in a 'hard' to 'soft' continuum, where 'hard' refers to greater powers and formalisation of position. As can be seen, ERNs represent a considerable move away from intergovernmental bodies such as the CEPT. Moreover, in the past ten years several ERNs were created; Table 1 summarises the key developments.

It should be noted that there are continuing debates about the evolution of institutions for regulatory co-ordination (see Thatcher and Coen 2008). In particular, in attempting to co-ordinate the single market, ERNs have found themselves caught between the objectives of their two principals. At the European level we have the Commission pushing for greater consistency of interpretation, greater harmonisation and more monitoring of regulatory activity proposals.[5] Conversely, the IRAs, while recognising the benefits of regulatory convergence and best practice within the single market, have tended to look to their domestic constituencies and have in the past sought to limit their involvement in the ERNs.[6] The above tension illustrates the risks involve in this double

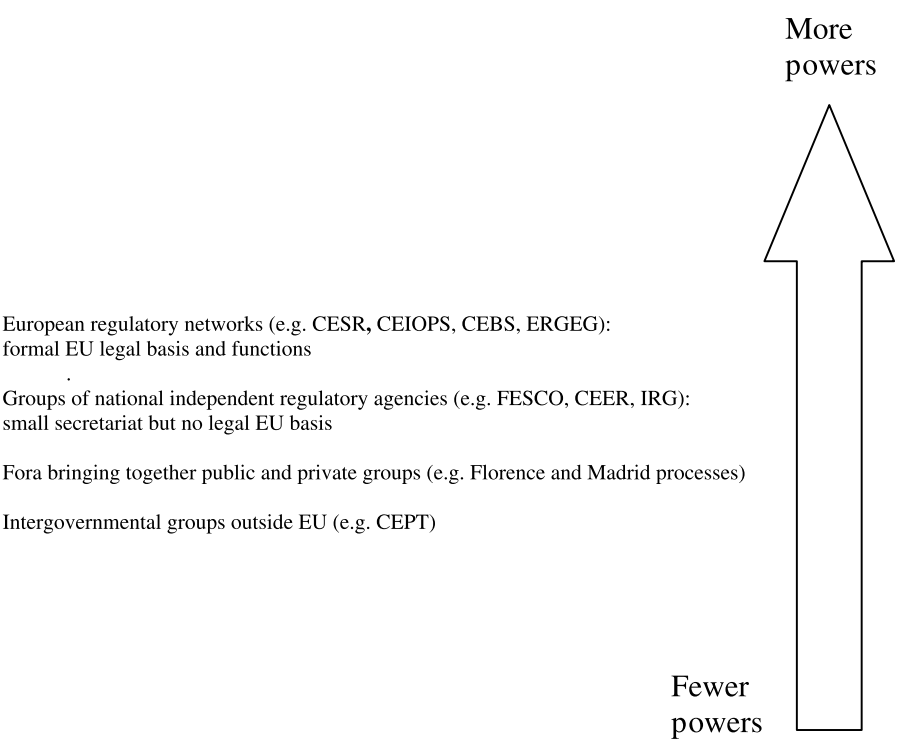

FIGURE 1. *Classification of networks from 'hard' to 'soft'*

Table 1. European regulatory networks

	CESR	ERG	ERGEG	CEOPS	CEBS	EPRA
Name	Committee of European Securities Regulators	European Regulators Group (for Telecommunications)	European Regulators Group for Electricity and Gas	Committee of European Insurance and Occupational Pensions' Supervisors	Committee of European Banking Supervisors	European Platform of Regulatory Authorities (broadcasting)
Creation	Created in June 2001 as a 'less bad option' than a European securities regulator, as part of the Lamfalussy process.	Created in July 2002 to balance the increased delegation of decision-making to NRAs, and ensure implementation as close as possible to the market in the member states.	Created in November 2003 to advise and consult on the achievement of the single market in energy.	Created in late 2003 after the extension of the Lamfalussy process to banking and insurance.	Created in late 2003 after the extension of the Lamfalussy process to banking and insurance.	Created in April 2005 for discussion between regulatory authorities especially broadcasting.
Role	To improve co-ordination among European securities regulators, act as an advisory group to assist the Commission and work to ensure better implementation of community legislation in the Members' States; includes a role in helping draft secondary legislation.	To improve co-ordination between NRAs in electronic communications and to advise the Commission on related matters.	Similar to ERG but for electricity and gas.	Same as CESR except for insurance regulators.	Same as CESR except for banking regulators.	To act as a forum for regulators. mainly broadcasting; no binding powers.
Relationship with European Commission	A representative of the Commission attends meetings except where they are deemed confidential by members.	Creation of ERG was first time EC had formal involvement with NRAs' implementation of EU directives.	Commission can attend meetings and inform European Parliament of ERGEG's work .	As for CESR.	As for CESR.	The Commission and the Council are permanent observers; European Commission contributes substantially to the EPRA budget.

delegation to ERNs. As a result, discussions of Euro-regulators or strengthened ERNs have been revived in sectors such as telecommunications and energy.[7] Thus, for instance, Information Commissioner Vivien Reding stated that: 'For me it is clear that the most effective and least bureaucratic way to achieve a real level playing field for telecom operators across the EU would . . . be by an independent European telecom authority' (*Financial Times*, 16 November 2006). Equally, the Commission in its December 2006 green paper on energy (European Commission 2006) put forward the idea of a Euro-regulator in the context of increasing fears over energy security and a desire to promote cross-border links and competition.

While justification for the creation of Euro-regulators continues to focus on regulatory efficiency and greater top-down co-ordination, many real political and economic barriers to their creation continue to exist. Under such conditions the strengthening and altering of the ERNs' functions and powers remains a credible governance alternative and needs to be better understood. Thus, the focus in this paper is on ERNs and the two most established and most important, CESR and the ERG. Looking at these two bodies in detail helps us explain who delegated to ERNs and why, and their significance for changes in European regulatory governance.

ERNs in telecommunications and securities: the establishment of CESR and the ERG

CESR arose directly from the Lamfalussy commission, which was set up by the European Commission and national governments to aid the creation of the single market in financial services and notably for the 1999 Financial Services Action Plan (European Commission 1999b). The initial report suggested the creation of a 'regulators' group', which was more palatable for respondents to the Lamfalussy consultation than a European securities regulator. The Lamfalussy report noted the drawbacks of the existing regulators' committee, FESCO, which had no official status, worked by consensus, and had non-binding recommendations. Interestingly, FESCO itself advocated the creation of a more formal regulators' committee that could be involved in the legislative process, offering evidence that national IRAs were in favour of CESR (FESCO 2000: 16). The final Lamfalussy report proposed the establishment of CESR, which would both act as an advisory committee to the European Commission and aid in bringing together IRAs and practitioners to ensure more consistent implementation of Community law.

The decision to establish a new body was taken by all the EU institutions. Thus, an ECOFIN Council communication of November

2000 confirmed its support for the creation of a regulators' body, but also asked it to perform a role when particularly sensitive issues were concerned (ECOFIN Council 2001: Annex 1, 43). A European Council Presidency communication of December 2000 also supported the creation of a regulators' body as a part of the Lamfalussy process, although it noted that harmonisation of national regulatory functions would be a desirable prerequisite (Ibid: 44). The European Parliament was concerned about inadequate supervision of delegated legislation comitology procedures (European Parliament 2001), but did not attempt to block the establishment of CESR. CESR was then set up as 'an independent advisory group on securities in the Community' by a Commission decision in 2001 (European Commission 2001a).

Many parallels can be found between the creation of CESR and that of the ERG. During the 1990s, several proposals were made for a European telecoms regulator, including one by the Commission. Firms were divided: newer operators hoped for the creation of a single regulator, but existing suppliers were concerned that centralisation of regulation across the EU might damage their commercial prospects. But ideas of a Euro-regulator were rejected by member states.

Instead, the Commission turned to the idea of a less prominent and powerful body. The genesis of the ERG lay in the Commission's 1999 Communications Review, which looked at updating and unifying the various pieces of EU legislation in telecommunications that had accrued over the previous fifteen years. A Commission communication (European Commission 1999a) of November 1999 mooted the idea of increased co-ordination of NRAs' decisions at European Union level. It claimed that stronger EU-wide co-ordination was necessary since the NRAs would be delegated more power by the new regulatory framework. The communication also noted that existing procedures for co-operation with the CEPT had not worked satisfactorily. The CEPT was an existing organisation run through consensus and in an intergovernmental manner: that is, without binding powers on its national members, and often concerned with standard setting rather than liberalisation and regulation of competition. Initially, a High-Level Communications Group involving the Commission and NRAs was established under the telecommunications Framework Directive (European Parliament and Council 2002) to help improve the consistent application of Community legislation and maximise the uniform application of national measures. However, a short Commission decision soon replaced it with a European regulators group for electronic communications networks and services in July 2002 (European Commission 2002: 38).

The history of CESR and the ERG underlines the earlier general points made about ERNs. Firstly, their establishment was closely linked

to implementing EU regulation. They flowed from perceived difficulties of introducing the single market at the national level and co-ordinating a host of diverse NRAs. Secondly, ERNs followed the rejection of ideas of Euro regulators. They represented a response to co-ordination problems – i.e. delegation to increase efficiency – without creating a new supranational body. Thirdly, they were proposed by the Commission or Commission-created bodies, accepted by national governments and IRAs, then set up formally by Commission decision. They are the fruit of an agreement between several actors.

The institutional design of ERNs: composition, functions, powers, resources and rivals

CESR and the ERG appear to provide a good example of a movement towards network governance. However, analysis of the institutional design reveals the weaknesses of the new ERNs and the strength of their principals, namely the European Commission and national governments and regulators. The membership of CESR and the ERG is wide and ambiguous, making autonomous action difficult. The two ERNs are given very broad functions but few powers. Their resources are limited and they face rival venues both for co-ordination and for more traditional governmental functions of deciding through hierarchy and hard law. A detailed analysis of the institutional design thus reveals limited delegation, many controls and an institutional context that allows policymakers to work through alternative organisations.

Composition of ERNs

The membership of ERNs is composed of formal representatives from member state NRAs. It differs considerably from informal networks such as the Florence and Madrid fora, which involve private and public actors, including experts and regulatees. The Commission has an important position but its role is ambiguous, something between a full member and an external 'overseer'. Here, we focus on the ERG and CESR.

The ERG consists of representatives of IRAs from the twenty-five EU member States. However, eligibility soon posed difficulties with respect to the degree of independence required for membership. The original 2002 decision stated that the ERG 'shall be composed of the heads of each relevant national regulatory authority in each Member State or their Representatives' (European Commission 2002: Art. 4) but also that it should be a 'group of independent national regulatory Authorities' (Ibid: Art. 1). The preamble made reference to ensuring sufficient separation

from suppliers, especially if a member state had publicly owned suppliers.[8] This raised important issues of whether an IRA was sufficiently independent from publicly owned suppliers. The ambiguity was ended, at least in formal terms, by a new decision in 2004 (European Commission 2004) that simply stated that eligible IRAs would be listed in an annex and kept under review by the Commission. Nevertheless, this decision allowed the Commission considerable scope for further intervention to decide the ERG's membership.

The ERG also has observers from EU accession/candidate states and European Economic Area states. In 2005, the ERG granted observer status to Turkey and Croatia as EU accession countries. In addition, the Commission sits as an observer at the ERG. Its representatives are able to remain in the ERG while confidential issues are discussed. Although the Commission is represented on the ERG, it also works 'jointly' with the latter, as for example when they issued a joint paper on anti-monopoly remedies. So the Commission appears to be both a partner with the ERG and a quasi-member, as well as being one of its formal principals.

CESR is composed of one senior member from each member state's competent authority in the securities field, with EEA representatives as observers. The identification of 'competent authorities' with the requisite degree of independence was a problem for CESR as it was for the ERG. In 2002, countries such as France, Finland and Ireland all lacked a single NRA for the entire financial sector, with responsibilities being split between different bodies (CESR 2002b: 8). The Commission is an observer at CESR, but 'it shall be present at meetings of the Committee and shall designate a high-level representative to participate in all its debates', except when the Committee discusses confidential matters relating to individuals and firms in the context of improving co-operation among European Regulators (CESR 2002a: Art. 3.1).

Functions and powers of ERNs

The functions given to ERNs are very broad and strongly linked to the Commission, at least according to the EU decisions that create them. Thus, for instance, the Commission decision establishing CESR defined its role as 'to advise the Commission, either at the Commission's request, within a time limit which the Commission may lay down according to the urgency of the matter, or on the Committee's own initiative, in particular for the preparation of draft implementing measures in the field of securities' (European Commission 2001a: Art. 2). More specifically, CESR was required to consult extensively with market participants, consumers and end-users, and to present an annual report to the

Commission, which would also be sent to the Parliament and Council. This role was expanded in CESR's Charter to cover other tasks such as reviewing the implementation and application of Community legislation, the issuing of guidelines, recommendations and standards for its members to introduce in their regulatory practices on a voluntary basis, and the development of effective operational network mechanisms to enhance consistent day-to-day supervision and enforcement of the single market for financial services.

CESR was given roles within EU legislation on financial services. The Lamfalussy process sets out a four-level procedure which moves from the definition of the overarching regulatory framework through to its enforcement. The first level follows standard EU procedure, with the Commission making legislative proposals, based on stakeholder consultation, which are subsequently adopted through the co-decision process by the Council and European Parliament. This stage also sets out the implementation powers of the Commission. Level 2 concerns the adoption of implementing legislation laying down technical details for the framework principles agreed at level 1. Here, the comitology procedure is used, with votes being taken by qualified majority at the European Securities Committee (ESC). The European Parliament is also consulted on the draft implementing measures and is given one month to pass a resolution on the final legislation where it considers the Commission to have exceeded its implementation powers. Level 3 focuses on the consistent implementation of Community legislation across the member states. Here, comparisons of national regulatory practices are made and recommendations for common standards are proposed. The final level concerns the monitoring of compliance of member state laws with Community legislation. Where necessary, the Commission can pursue legal action through the European Court of Justice in cases where compliance is lacking.

CESR's involvement in this process relates specifically to the second and third levels. But its roles are mainly to provide advice and help to establish non-binding norms, a form of soft law. Moreover, its position is heavily dependent on other actors in the policy process. Thus, although CESR has been given a mandate by the Commission to prepare technical advice in the form of implementing measures, which it does based on its own formal consultation procedure, level 2 legislation is adopted through formal EU comitology procedures. These involve the ESC, consisting of representatives from member states, acting through EU legal procedures. At level 3, CESR is responsible for leading the co-ordination activities. It can issue non-binding common guidelines and standards aimed at facilitating the interpretation and facilitation of Community legislation. It addition, it can conduct benchmarking exercises aimed at gauging

member state compliance with such standards. This is, in many ways, an activity that is complementary to the Commission's compliance tests at level 4, though it is 'softer'. It underlines that CESR can have influence through the creation of norms or soft law. But, overall, while CESR has been given a clear mandate within the Lamfalussy legislative process, it can shape directives at level 2 only in so far as it can influence the Commission, and it risks being constrained by the European Securities Committee. Thus, CESR's major roles are advisory and involve co-ordination of implementation of Community regulation.

Similarly, the role of the ERG is to 'advise and assist the Commission in consolidating the internal market for electronic communications networks and services', and to 'provide an interface between national regulatory authorities and the Commission' (European Commission 2002: Art. 3). It too was asked to 'consult extensively and at an early stage with market participants, consumers and end-users in an open and transparent manner' (Ibid: Art. 6). However, its mandate is even less wide than CESR's in relation to the definition of implementing measures, as there is no well-specified equivalent to the Lamfalussy process for telecommunications legislation.

The powers of ERNs are often limited. Thus, for instance, ERG decisions are not binding on its members. Even deciding its own rules of procedure require considerable agreement among member states and it is dependent on the Commission: these are to be adopted by consensus or, in the absence of consensus, by a two-thirds' majority vote, one vote per member state, subject to the approval of the Commission (Ibid: Art. 5). CESR enjoys marginally greater powers over its own internal functioning in that the decision creating it allowed to adopt its own rules of procedure and organise its own operational arrangements. Nevertheless, the Committee has advocated that CESR use a voting procedure modelled on qualified majority voting where it was not possible to reach consensus, and this has been adopted in CESR's operations.

Thus, ERNs face ambitious aims and are asked to consult widely and cover broad fields. Yet they lack formal powers to impose decisions on their members and indeed even to organise their own internal arrangements.

Resources of ERNs

The material resources of ERNs are decided by their members and the European Commission. ERNs are small organisations in terms of staffing and spending. Thus, for instance, the CESR secretariat, based in Paris, started with seven members of staff plus a secretary general, although this had grown to fifteen by 2005. It also has a small budget, which led to

comments from Baron Lamfalussy that CESR lacked sufficient staff to make sure that the new regulatory framework worked properly (*Financial Times*, 13 March 2002). In 2002–3, the budget for CESR was increased by a third, apparently due to a willingness by members to contribute more; by 2005 it spent 2.4m euros (CESR 2005: 77). The ERG has even fewer resources of its own: the Commission provided its staff, which appeared to number three persons in 2003, while from 2006 the ERG secretariat functions are integrated into the services of the Directorate General for Information Society and Media (ERG 2003, 2005). Hence ERNs are small even relative to the Commission, let alone in comparison to national IRAs and especially regulated firms.

Alternative decision-making venues

ERNs face several rivals for the functions of decisionmaking, even at the EU level. The most important are the formally established EU committees. Thus, for instance, in securities, the ESC has significant powers over EU legislation. Like CESR, it was set up by a Commission Decision (European Commission 2001c) after lengthy discussions involving national governments and the European Parliament. It is composed of representative of EU member states, thereby integrating national governments. It acts as an advisory committee to the Commission on both policy issues and draft legislation; this mandate is considerably more precise than CESR's broad and undefined advisory function. In addition, in level 2 of the Lamfalussy procedures, when broad directives are being proposed by the Commission, it acts as a normal EU committee, that is, one that operates under the comitology procedure and whose approval is needed for Commission proposals to be passed without going to the full council of ministers (see Varone et al. 2006). Thus, the ESC's procedures form part of well-established EU comitology, and it has legal powers over legislation.

A similar situation exists in telecommunications, with the existence of the Communications Committee (Cocom), also set up by Commission decision (European Parliament and Council 2002). It is composed of representatives of member states and acts both as an advisory committee and a regulatory committee in accordance with general comitology procedures. In addition, it provides a platform for the exchange of information on market developments and regulatory activities.

CESR and the ERG also contend with well-established European and international organisations that operate through intergovernmental processes, notably consensus and the absence of powers to impose decisions on members. In telecommunications, there is the CEPT, created in 1959, extending beyond the EU to all European states. It has

played an important role in standard setting as well as bringing together representatives from national administrations and, traditionally, operators. Then there is the International Telecommunications Union (ITU), which has members across the world. In securities trading, there is also the International Organization for Securities Commissions (IOSCO), founded in 1984, which is composed of securities regulators from around the world and seeks to set international standards, notably via MOUs (memoranda of understanding). Its members cover more than 90 per cent of the world's securities markets and include the United States.

Finally, there are rival informal networks of regulators whose existence may result in institutional competition and venue shopping by those regulatees that can operate in a multilevel policy process. In particular, in telecommunications, the Independent Regulators' Group, established in 1997 as a group of European national telecommunications regulatory authorities, continues to exist alongside the ERG. It has the advantage (for IRAs) that the Commission is not a member and that it is run by IRAs themselves. Its mere presence raises questions over the level of confidence in the independence of the ERG with which it competes. Similarly, CESR's power (specifically at level 2) is constrained by the ESC, which is legally responsible for passing delegated legislation that details broad level 1 directives. In electricity and gas, the Florence and Madrid Fora include private sector participants, although the Commission is also closely involved. Moreover, the role of the CEER may potentially be eclipsed by the European Regulators Group for Energy and Gas (ERGEG).

Thus, national governments, IRAs and the European Commission all have venues for co-ordination that are alternatives to CESR and the ERG. The two networks are in competition for resources, attention and power with other networks or committees that have their own distinct institutional advantages, such as greater formal powers or the ability to work without the Commission.

Conclusion

ERNs have been established in economically and politically strategic domains, notably network sectors. Using a principal-agent framework, the reasons both for the decision to *double delegate* and for the institutional design of the delegation have been analysed. Delegation was undertaken by the Commission and IRAs, but after extensive discussions with the member states and European Parliament. It was justified by the need for greater co-ordination in implementing EU regulation: i.e. by greater efficiency. However, the creation of ERNs took place only after another solution, the creation of Euro-regulators, had been rejected. Whether

ERNs can indeed be seen as a 'second best' method of dealing with implementation of EU regulation or as a stable point in institutional regulatory design is a still a moot point (see Thatcher and Coen 2008). They certainly appear to be a compromise between actors pressing for greater European integration and those fearing it, especially national governments.

The institutional design of ERNs reflects their genesis. They have been given lofty tasks, but few powers and resources. The European Commission and national actors (governments and IRAs) maintain many powers over ERNs. In addition, the existence of several other regulatory networks and organisations creates rivals to ERNs. This limited mandate and competitive institutional relationship have created conflict between the aims and the capacities of ERNs.

What are the implications of these findings for wider claims of the development of network governance in Europe? The introduction set out three features of network governance: it offers, firstly, a form of sectoral governance; secondly, a shift of power from previously well-established levels to organisations or individuals whose main role is linking actors; and, thirdly, changes in the mode of governance, away from hierarchy towards more 'horizontal' and co-operative forms of decisionmaking.

Our empirical findings can be set against these three key features. In the first instance, the analysis suggests that, in formal institutional terms, ERNs bring together national IRAs and the European Commission. But they do not bind together sectoral actors from private and public sectors: although ERNs are required to consult private actors, those actors are not full members. Moreover, the ERNs' lack of powers to impose decisions on national IRAs and their small size and reliance on the European Commission (going so far as providing the secretariat for the ERG) suggest that ERNs are far from offering 'sectoral governance'.

With respect to the second feature, few powers have been delegated to ERNs. Even worse (for claims of the spread of network governance), existing organisations – notably the European Commission, traditional EU committees, national governments and IRAs – retain strong formal powers. There is little sign of a major shift in the allocation of formal powers in regulation.

This links to the third feature of network governance, which is still lacking: in terms of the formal structure of decisionmaking, hierarchy remains strong. In particular, EU committees continue to exist and to operate through voting and legislation. For their part, the ERNs have many aspects of a traditional intergovernmental organisation, including the importance of working by consensus. Indeed, their main formal powers are linked to that most hierarchical method of operating – passing legislation – on which they advise.

Of course, the limits of the analysis should be acknowledged. They largely flow from the principal-agent framework, which focuses on formal institutional structures and the relationship between principals and agents. ERNs suffer from severe weaknesses in their formal position, but may be able to develop informal resources and linkages. These could include information, expertise, reputation and trust (Sabel and Zeitlin 2007; Coen 2005). If ERNs are able to obtain these resources, they may wield power that is out of proportion with their formal position. Moreover, as the regulatory space literature suggests (see Hancher and Moran 1989; Scott 2001), other actors may be more important to an organisation than its formal principal. For ERNs, linkages with the industry may supply a vital source of power. Thus, ERNs may be able to alter governance by going beyond the formal institutional framework.

Nevertheless, analysis of that framework provides good evidence for why ERNs are subject to criticism as inadequate: on the one hand, they have been given sweeping goals of co-ordinating diverse national IRAs and ensuring consistent implementation of EU law across the European Union that relate to the heart of the single market; on the other hand, they lack the powers and resources to do so. The EU's double delegation to IRAs and the European Commission has failed to resolve the EU's problems of co-ordination and implementation. As a result, the issue of delegation and co-ordination remains a topic of lively political debate in Brussels and national capitals, with discussion of Euro-regulators in telecommunications and energy returning to the policy table in 2006–7. But the analysis presented here certainly suggests that network governance is far from the institutional position of regulation in Europe today.

NOTES

1. The project 'After Delegation: The Evolution of European Regulatory Networks' was funded by the EU 6th Framework Project as part of the EUI NewGov consortium. The authors would like to thank all the European Commission officials, national regulators and European network regulators who participated in the research. A number of people have commented on this paper at conferences at ECPR, EUSA, Connex meetings at ARENA, Birkbeck and Madison, NewGov conferences in Florence, ERSC Centre for Competition Norwich and the Centre for Network Industries Lausanne, but we would especially like to thank Jonathan Zeitlin, Keith Armstrong and Andrew Tarrant for detailed comments and Adrienne Héritier and Dirk Lehmkuhl for editing the special issue. Finally, and perhaps most importantly, we would like to give special mention to Julian Knott and Annelie Dodds for their research assistance on this project.

2. However, for an alternative view of delegation based on institutional isomorphism which results in non-functional delegation, see McNamara 2002.

3. There is the important but limited exception of some aspects of competition policy, although this itself was 're-delegated' to national regulatory authorities from May 2004 (Wilks 2005).

4. The major exception is FESCO, whose work was taken over by CESR in 2001.

5. See, for example, in telecommunications the *12th report on the Implementation of the Telecommunications Regulatory Package – 2006*, 29 March 2007, http://ec.europa.eu/dgs/information_society/regulation/index_en.htm.

6. Interviews with Commission official, NRAs and ERG 2007.

7. See the recent debates in telecommunications (the Commissioner Reding letter and ERG response (erg.eu.int/whatsnew/index_en.htm) and energy (see Thatcher and Coen 2008).
8. European Commission 2002: Preamble §2: 'In accordance with the Framework Directive, Member States must guarantee the independence of national regulatory authorities by ensuring that they are legally distinct from and functionally independent of all organisations providing electronic communications networks, equipment or services. Member States that retain ownership or control of undertakings providing electronic communications networks and/or services must also ensure effective structural separation of the regulatory function from activities associated with ownership or control.'

REFERENCES

Bartle, I (2005) *Globalisation and EU Policy-Making: The Neo-Liberal Transformation of Telecommunications and Electricity*. Manchester: Manchester University Press.

Bendor, J., Glazer, A. and Hammond, T. (2001) 'Theories of Delegation'. *Annual Review of Political Science*, 4, 235–69.

Böllhoff, D. (2005) 'Developments in Regulatory Regimes: A Comparison of Telecommunications, Energy and Rail', in Coen and Héritier, *Redefining Regulatory Regimes*, 15–52.

Bulmer, S., Dolowitz, D., Humphreys, P. and Padgett, S. (2007) *Policy Transfer in the European Union: Regulating the Utilities*. London: Routledge.

CESR (2002a) *CESR Charter*, www.cesr.eu/index.php?docid = 3892.

CESR (2002b) *CESR Annual Report for 2001–2002*, www.cesr.eu/index.php?docid = 222.

CESR (2005) *CESR Annual Report for 2005*, www.cesr.eu/index.php?docid = 3850.

Christiansen, T. (2001) 'Intra-Institutional Politics and Inter-Institutional Relations in the EU'. *Journal of European Public Policy*, 8, 5, 747–69.

Coen, David (2005) 'Changing Business–Regulator Relations in German and UK Telecommunication and Energy Sectors', in Coen and Héritier, *Redefining Regulatory Regimes*, 91–119.

Coen, D. and Doyle, C. (2000) 'Designing Economic Regulatory Institutions for the European Network Industries'. *Current Politics and Economics of Europe*, 9, 4, 455–76.

Coen, D. and Héritier, A. (2000) 'Business Perspectives on German and British Regulation: Telecoms, Energy and Rail'. *Business Strategy Review*, 11, 4, 29–37.

Coen, D. and Héritier, A. (eds.) (2005) *Redefining Regulatory Regimes: Utilities in Europe*. Cheltenham: Edward Elgar.

Coen, D. and Thatcher, M. (2005) 'The New Governance of Markets and Non-Majoritarian Regulators'. *Governance*, 18, 3, 329–46.

Dehousse, R. (1997) 'Regulation by Networks in the European Community: The Role of European Agencies'. *Journal of European Public Policy*, 4, 2, 246–61.

Eberlein, B. (2003) 'Formal and Informal Governance in Single Market Regulation', in T. Christiansen and S. Piattoni (eds.) *Informal Governance in the European Union*. Cheltenham: Edward Elgar, 150–72.

Eberlein, B. (2005) 'Regulation by Co-operation: The ''Third Way'' in Making Rules for the Internal Energy Market', in P. Cameron (ed.) *Legal Aspects of EU Energy Regulation*. Oxford: Oxford University Press, pp. 59–88.

Eberlein, B. and Grande, E. (2004) 'Beyond Delegation: Transnational Regulatory Regimes and the EU Regulatory State'. *Journal of European Public Policy*, 12, 1, 89–112.

Eberlein B, and Kerwer, D. (2004) 'New Governance in the European Union: A Theoretical Perspective'. *JCMS: Journal of Common Market Studies*, 42, 1, 121–42.

Eberlein, B. and Newman, A. (2007) 'Transgovernmental Regulatory Governance'. Connex Conference, Oslo, March.

ECOFIN Council (2001) *Final Report of the Committee of Wise Men on the Regulation of European Securities Markets*. Brussels, 15 February.

Egan, M. (1997) 'Regulatory Strategies, Delegation and European Market Integration'. *Journal of European Public Policy*, 5, 3, 87–122.

Egeberg, M. (2006) *Multilevel Union Administration. The Transformation of Executive Politics in Europe*. Palgrave Macmillan.

ERG (2003) *ERG Annual Report*, erg.eu.int/documents/reports/index_en.htm.

ERG (2005) *ERG Annual Report*, erg.eu.int/documents/reports/index_en.htm.

European Commission (1999a) *Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, Towards a New Framework for Electronic Communications Infrastructure and Associated Services: The 1999 Communications Review*. COM(1999) 539.

European Commission (1999b) *Financial Services: Implementing the Framework for Financial Markets: Action Plan*. Brussels: European Commission.
European Commission (2001a) *Commission Decision of 6 June 2001 Establishing the Committee of European Securities Regulators*. 2001/527/EC.
European Commission (2001b) *European Governance: A White Paper*, COM(2001) 428, Brussels.
European Commission (2001c) *Commission Decision of 6 June 2001 establishing the European Securities Committee* 2001/528/EC.
European Commission (2002) *Decision 627/2002/EC Establishing the European Regulators Group for Electronic Communications Networks and Services*. Official Journal, OJ L200, 30 July.
European Commission (2004) *Decision 2004/641/EC Amending Decision 2002/627/EC Establishing the European Regulators Group for Electronic Communications Networks and Services*.
European Commission (2006) *A European Strategy for Sustainable, Competitive and Secure Energy* (105 final) ec.europa.eu/energy/green-paper-energy/doc/2006_03_08_gp_document_en.pdf.
European Parliament (2001) *European Parliament Resolution on the Implementation of Financial Services Legislation*. Ref. 2001/2247(INI).
European Parliament and Council (2002) 'A Common Regulatory Framework for Electronic Communications Networks and Services (Framework Directive)'. Directive 2002/21/EC, OJ L108/33, 24 April.
FESCO (2000) *FESCO Report 1999–2000*, www.cesr-eu.org.
Franchino, F. (2007) *The Powers of the Union: Delegation in the EU*. Cambridge: Cambridge University Press.
Gilardi, F. (2002) 'Policy Credibility and Delegation to Independent Regulatory Agencies: A Comparative Empirical Analysis'. *Journal of European Public Policy*, 9, 873–93.
Gilardi, F. (2005) 'The Institutional Foundations of Regulatory Capitalism: The Diffusion of Independent Regulatory Agencies in Western Europe'. *Annals of the American Academy of Political and Social Science*, 598, 84–101.
Hancher, L. and Moran, M. (eds.) (1989) *Capitalism, Culture and Economic Regulation*. Oxford: Clarendon Press.
Hudson, D. and Maher, I. (2001) 'The Open Method as a New Mode of Governance: The Case of Soft Economic Policy Co-ordination'. *Journal of Common Market Studies*, 39, 4, 719–46.
Humphreys, P. and Simpson, S. (2005) *Globalisation, Convergence and European Telecommunications Regulation*. Cheltenham: Edward Elgar.
Jordan, A., Wurzel, W. and Zito, A. (2005) 'The Rise of ''New'' Policy Instruments in Comparative Perspective: Has Governance Eclipsed Government?' *Political Studies*, 53, 3, 477–96.
Kaiser, R and Prange, H. (2004) 'Managing Diversity in a System of Multi-Level Governance: The Open Method of Co-ordination in Innovation Policy'. *Journal of European Public Policy*, 11, 2, 249–66.
Levi-Faur, David (2004) 'On the Net Impact of the European Union Policy Process: The EU's Telecoms and Electricity Regimes Between the Global and the National'. *Comparative Political Studies*, 37, 1, 3–29.
Levi-Faur, D. (2005) 'The Global Diffusion of Regulatory Capitalism'. *Annals of the American Academy of Political and Social Science*, 598, 12–33.
Levy, B. and Spiller, P. (1996) *Regulation, Institutions and Commitment*. Cambridge: Cambridge University Press.
Majone, G. (ed.) (1996) *Regulating Europe*. London: Routledge.
Majone, G. (1997) 'The New European Agencies: Regulation by Information'. *Journal of European Public Policy*, 4, 2, 262–75.
Majone, G. (1999) 'The Regulatory State and Its Legitimacy Problems'. *West European Politics*, 22, 1, 57–78.
Majone, G. (2001) 'Two Logics of Delegation: Agency and Fiduciary Relations in EU Governance'. *European Union Politics*, 2, 103–22.
Majone, G. (2005) *Dilemmas of European Integration: The Ambiguities and Pitfalls of Integration by Stealth*. Oxford: Oxford University Press.
Majone, G. (2006) *Dilemma of European Integration: The Ambiguities and Pitfalls of Integration by Stealth*. Oxford: Oxford University Press.
Marsh, D. and Rhodes, R. (1992) *Policy Networks British Government*. New York: Oxford University Press.
McCubbins, M. and Schwartz, T. (1984) 'Congressional Oversight Overlooked: Police Patrols Versus Fire Alarms'. *American Journal of Political Science*, 28, 165–79.
McNamara, K. (2002). 'Rational Fictions: Central Bank Independence and the Social Logic of Delegation'. *West European Politics*, 25, 1 (January), 47–76.

Peters, B.G. (1998) 'Managing Horizontal Government'. *Public Administration*, 76, 295–311.
Pierre, J. and Peters, B.G. (2000) *Governance, Politics and the State*. Basingstoke: Macmillan.
Pollack, M. (2003) *The Engines of European Integration*. Oxford: Oxford University Press.
Radaelli, C. (2004) 'The Puzzle of Regulatory Competition'. *Journal of Public Policy*, 24, 1, 1–23.
Rhodes, R.A.W. (2000) 'Governance and Public Administration', in J. Pierre (ed.) *Debating Governance*. Oxford: Oxford University Press, pp. 54–90.
Sabatier, P. (1998) 'An Advocacy Coalition Framework: Revision and Relevance for Europe'. *Journal of European Public Policy*, 5, 1, 93–130.
Sabel, J. and Zeitlin, J. (2007) 'Learning from Difference: The New Architecture of Experimentalist Governance in the European Union'. Connex working paper.
Schout, A. and Jordan, A. (2005) 'Coordinated European Governance: Self-Organizing or Centrally Steered?' *Public Administration*, 83, 1, 201–20.
Scott, C. (2000) 'Accountability in the Regulatory State'. *Journal of Law and Society*, 38, 1, 38–60.
Scott, C. (2001) 'Analysing Regulatory Space: Fragmented Resources and Institutional Design'. *Public Law*, Summer, 329–53.
Slaughter, A.-M. (2004) *A New World Order*. Princeton: Princeton University Press.
Thatcher, M (2002a) 'Analysing Regulatory Reform in Europe'. *Journal of European Public Policy*, 8, 5, 859–72.
Thatcher M. (2002b) 'Delegation to Independent Regulatory Agencies'. *West European Politics*, 25, 1, 125–45.
Thatcher, M. (2005) 'The Third Force? Independent Regulatory Agencies and Elected Politicians in Europe'. *Governance*, 18, 3, 347–74.
Thatcher, M. (2007a) *Internationalisation and Economic Institutions. Comparing European Experiences*. Oxford: Oxford University Press.
Thatcher, M. (2007b) 'Reforming National Regulatory Institutions: The EU and Cross-National Variety in European Network Industries', in B. Hancke, M. Rhodes and M. Thatcher (eds.) *Beyond Varieties of Capitalism*. Oxford: Oxford University Press, pp. 147–72.
Thatcher, M. and Coen, D. (2008) 'Reshaping European Regulatory Space: An Evolutionary Analysis'. *West European Politics* (forthcoming June 2008).
Thatcher, M. and Stone Sweet, A. (eds.) (2002) 'The Politics of Delegation: Non-Majoritarian Institutions in Europe'. Special Issue of *West European Politics*, 25.
Varone, F., de Visscher, C.-F., Bergstrom, C. and Almer, J. (2006) *Final Report Project 07/D06*. Florence, European University Institute, NewGov Consortium, www.eu-newgov.org/database/DELIV/D07D06_Final_Report.pdf.
Weingast, B. and Moran, M. (1983) 'Bureaucratic Discretion or Congressional Control? Regulatory Policy-Making by the Federal Trade Commission'. *Journal of Political Economy*, 91, 765–800.
Wilks, S. (2005) 'Agency Escape: Decentralization or Dominance of the European Commission in the Modernization of Competition Policy?', *Governance*, 18, 3, 431–52.

DR DAVID COEN
School of Public Policy
The Rubin Building
29/30 Tavistock Square
London WC1H 9QU
e-mail: d.coen@ucl.ac.uk

DR MARK THATCHER
London School of Economics
Houghton Street
London WC2A 2AE
e-mail: M.Thatcher@lse.ac.uk