

NOVEL REGULATORY PHILOSOPHIES IN THE EUROPEAN UNION

DIRECTIONS, IMPLICATIONS, AND THE ROLE OF BETTER REGULATION

This ground-breaking report from the European Regulation and Innovation Forum (ERIF) identifies a series of major issues that are critical for the future competitiveness of the EU, and hence its capacity to become greener and more resilient.

1. Regulation based on management of risk (taking account of both intrinsic properties and the degree of exposure) has made an immense contribution to European health and environmental protection and to the prosperity, choice and the quality of life enjoyed by citizens.
2. Europeans can be proud of this approach, and it has not failed.
3. However, the European Commission is introducing a new way of managing health and environmental protection through a series of novel regulatory philosophies. These include prohibition based on intrinsic properties alone, a test of social value ('essentiality') to allow market access, greater focus on non-toxic harms ('persistence without toxicity') and directing investment according to these approaches ('sustainable by design').
4. These are far-reaching regulatory changes but there has been no systematic public debate on either the benefits or the consequences. The report from ERIF seeks to promote and inform such a debate.
5. The claimed benefits of these changes are to simplify and speed up regulatory decisions and the substitution of hazardous substances and products. However, the exclusion of technologies on the basis of intrinsic properties alone, and the granting of market access based on a subjective assessment of social value, will also introduce massive new complexities and legal uncertainties.
6. These complexities and uncertainties are very likely to offset the claimed benefits. They will also increase the costs and risks of investment, divert resources from innovation to compliance and decrease the incentive to innovate. The overall impact will be to reduce investment and innovation in Europe, at a time when exactly the opposite is needed.
7. ERIF believes that all of these challenges can be addressed in a careful and constructive way through application of the principles and practices of Better Regulation, where Europe has a strong capability and track record.
8. In line with Better Regulation principles and practices, we recommend an immediate inter-institutional review of the introduction of novel regulatory philosophies, strengthened governance of the regulatory process, clear standards for the use of science in regulatory decision making, and a constant focus on making Europe more attractive for investment and innovation.
9. With such an approach we are confident that European health and environmental protection, prosperity, choice and the quality of life can be advanced together to the benefit of all citizens.

The report and its findings are timely and insightful, an important contribution to Better Regulation and the role it can play in advancing these shared objectives.

I commend it to you.

Howard Chase
Chairman, European Regulation and Innovation Forum
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