

Handbook on the Politics of Regulation

Edited by

David Levi-Faur

The Hebrew University of Jerusalem, Israel

The Free University of Berlin, Germany

Edward Elgar

Cheltenham, UK • Northampton, MA, USA

© David Levi-Faur 2011

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical or photocopying, recording, or otherwise without the prior permission of the publisher.

Published by
Edward Elgar Publishing Limited
The Lypiatts
15 Lansdown Road
Cheltenham
Glos GL50 2JA
UK

Edward Elgar Publishing, Inc.
William Pratt House
9 Dewey Court
Northampton
Massachusetts 01060
USA

Paperback edition 2013
Paperback edition reprinted 2016

A catalogue record for this book
is available from the British Library

Library of Congress Control Number: 2011925767

Printed on elemental chlorine free (ECF)
recycled paper containing 30% Post-Consumer Waste

ISBN 978 1 84844 005 0 (cased)
978 0 85793 759 9 (paperback)

Typeset by Servis Filmsetting Ltd, Stockport, Cheshire
Printed and bound in the USA

Contents

<i>List of figures</i>	ix
<i>List of tables</i>	x
<i>List of contributors</i>	xi
<i>Preface</i>	xvi
<i>Acknowledgements</i>	xvii
PART I INTRODUCTION	
Regulation and regulatory governance	3
<i>David Levi-Faur</i>	
PART II THEORIES OF REGULATION FOR THE AGE OF GOVERNANCE	
2 Bootleggers and Baptists in the theory of regulation	25
<i>Bruce Yandle</i>	
3 Capturing “capture”: definition and mechanisms	34
<i>Barry M. Mitnick</i>	
4 Beyond capture: towards a new theory of regulation	50
<i>Steven P. Croley</i>	
5 Institutional design and the management of regulatory governance	70
<i>Steven J. Balla</i>	
6 Voluntary programs, compliance and the regulation dilemma	84
<i>Matthew Potoski and Aseem Prakash</i>	
7 Competing theories of regulatory governance: reconsidering public interest theory of regulation	96
<i>Jorgen Gronnegård Christensen</i>	
PART III HISTORICAL AND COMPARATIVE PERSPECTIVES ON THE REGULATORY STATE	
8 The rise of the American regulatory state: a view from the Progressive Era	113
<i>Marc T. Law and Sukkoo Kim</i>	
9 Beyond the logic of the market: toward an institutional analysis of regulatory reforms	129
<i>Marc Allen Eisner</i>	
10 The Chinese model of the regulatory state	142
<i>Neil Collins and Jörn-Carsten Gottwald</i>	
11 The institutional development of the Latin American regulatory state	156
<i>Jacint Jordana</i>	

vi *Handbook on the politics of regulation*

PART IV SELECTED ISSUES IN THE STUDY OF REGULATION

12	Policymaking accountability: parliamentary versus presidential systems <i>Susan Rose-Ackerman</i>	171
13	Law and regulation: the role, form and choice of legal rules <i>Margit Cohn</i>	185
14	The independence of regulatory authorities <i>Fabrizio Gilardi and Martino Maggetti</i>	201
15	The regulatory rescue of the welfare state <i>Deborah Mabbett</i>	215
16	The regulation of privacy <i>Andreas Busch</i>	227

PART V REGULATING OLD AND NEW MEDIA

17	Regulating the media: four perspectives <i>Amit M. Schejter and Sangyong Han</i>	243
18	The regulation of advertising <i>Avshalom Ginosar</i>	254
19	Internet regulation <i>Andrew D. Murray</i>	267

PART VI RISK REGULATION

20	Risk regulation and precaution <i>Dieter Pesendorfer</i>	283
21	Strategic issues in risk regulation <i>Giandomenico Majone</i>	295

PART VII POLITICS OF REGULATORY ENFORCEMENT AND COMPLIANCE

22	The politics of civil and criminal enforcement regimes <i>Michelle Welsh</i>	311
23	The pragmatic politics of regulatory enforcement <i>Salo Coslovsky, Roberto Pires, and Susan S. Silbey</i>	322
24	Five models of regulatory compliance motivation: empirical findings and normative implications <i>Yuval Feldman</i>	335
25	Between soft law and greenwash: the compliance dynamic of civil forms of environmental regulation <i>Oren Perez</i>	347

PART VIII TOWARD BETTER REGULATION?

26	The new regulatory orthodoxy: a critical assessment <i>Tom Christensen and Per Læg Reid</i>	361
27	Performance-based regulation <i>Peter J. May</i>	373
28	The evolution of cost–benefit analysis in US regulatory decisionmaking <i>Stuart Shapiro</i>	385
29	Regulatory impact assessment: ambition, design and politics <i>Kai Wegrich</i>	397
30	Valuing health and longevity in regulatory analysis: current issues and challenges <i>Lisa A. Robinson and James K. Hammitt</i>	411
31	Process-oriented regulation: conceptualization and assessment <i>Sharon Gilad</i>	423

PART IX CIVIL REGULATION

32	Certification as a mode of social regulation <i>Tim Bartley</i>	441
33	Regulation of professions <i>Nuno Garoupa</i>	453
34	Varieties of private market regulation: problems and prospects <i>Frans van Waarden</i>	469
35	Codes as hybrid regulation <i>Mirjan Oude Vrielink, Cor van Montfort, and Meike Bokhorst</i>	486
36	Voluntary approaches to regulation – patterns, causes, and effects <i>Annette Elisabeth Töller</i>	499

PART X REGULATORY GOVERNANCE IN THE EUROPEAN UNION

37	European regulatory governance <i>Sandra Eckert</i>	513
38	Towards a European model of regulatory governance? <i>Matthias Finger</i>	525
39	The changing nature of European regulatory governance <i>Paul James Cardwell</i>	536
40	Regulatory governance in the European Union: the political struggle over committees, agencies and networks <i>Martijn Groenleer</i>	548

PART XI GLOBAL REGULATION

41	Regulating in global regimes <i>Colin Scott</i>	563
----	--	-----

viii *Handbook on the politics of regulation*

42	The geography of regulation <i>Michael W. Dowdle</i>	576
43	Global governance and the certification revolution: types, trends and challenges <i>Axel Marx</i>	590
44	Global regulation through a diversity of norms: comparing hard and soft law <i>Sylvia I. Karlsson-Vinkhuyzen</i>	604
45	Money laundering regulation: from Al Capone to Al Qaeda <i>Brigitte Unger</i>	615
46	Regulatory approaches to climate change mitigation <i>Ian Bartle</i>	629
47	After the fall: regulatory lessons from the global financial crisis <i>John W. Cioffi</i>	642
48	The regulatory state and regulatory capitalism: an institutional perspective <i>David Levi-Faur</i>	662
	<i>Name index</i>	673
	<i>Subject index</i>	677