ECONOMIC RATIONALES, LEARNING, AND REGULATORY POLICY INSTRUMENTS

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European governments have adopted policy instruments for regulatory appraisal, oversight, ex-post evaluation, and simplification in the context of the so-called ‘smart regulation agenda’. In this article we compare the two most important instruments, that is, regulatory impact assessment (RIA) and the standard cost model (SCM). We answer the following questions: What are the economic rationales that, at least in principle, should make the SCM and RIA work? What are the learning models that, yet again in principle, allow the two instruments to produce effects? The RIA economic rationale is grounded in welfare economics. The SCM economics is rudimentary: one can hardly make an economic case for the SCM. With regard to learning models, RIA draws on rational-synoptic models, whilst the SCM is inspired by experience-based learning. We then discuss economic rationales and learning models jointly, thus explaining the different implementation patterns of the two instruments and exposing the ambiguities in the relationship among instruments, ideas, and behavioural change.

INTRODUCTION

Over the last decade, the analysis of regulatory reform agendas (Lodge 2008) has added to the established literature on policy instruments (Salamon 2002; Hood and Margetts 2007; Lascoumes and Le Galès 2007). Across Europe, governments and international organizations have invested in the so-called ‘smart regulation agenda’ (European Commission 2010; OECD 2012). Consequently, there has been an explosion of research projects on the diffusion, implementation, and effects of instruments for ‘smart regulation’ across Europe (for a comprehensive review, see Turnpenny et al. 2009). In this article we compare the two main instruments on the European ‘smart regulation’ agenda: that is, the standard cost model (SCM) and regulatory impact assessment (RIA).

A common observation in the literature is that policy instruments are carriers of causal ideas and economic theories (Lascoumes and Le Galès 2007). When policy-makers adopt and use a given policy instrument, they are also socialized into ways of seeing policy problems through certain cognitive and normative lenses (for applications to policy appraisal, see Morgan 2003; Owens et al. 2004). This is because policy instruments are contingent on presuppositions and conjectures about the relationship between public policy and the economy. Drawing on organizational theory, Brunsson (2006), although not directly interested in policy instruments, has made the important point that organizations can be smart and intelligent in different ways. It depends – he argues – on the learning model they pursue, given that there is a variety of ways in which organizations can learn.

This background provides the motivation for the article. We compare RIA and the SCM by considering jointly the economic theories and the learning models embedded in the two instruments. By doing so, we shed light on the wider effects and ambiguities in the relationship connecting ideas, instruments, and behavioural change. Our comparison also explains a recurrent finding in previous projects about ‘smart regulation’, i.e. the different outcomes of RIA and SCM.

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Before we start, however, we must clarify that international organizations and governments use the expression ‘smart regulation’ in ways that differ from the academic debate. Baldwin (2005) has shown that instruments like RIA would not necessarily be considered smart regulation according to academic standards. Helm (2006) argues that the SCM would not stand up to a classic scientific scrutiny of the basis of efficiency and other justifications for (academic) smart regulation. Here we are concerned with the two main instruments adopted by European governments and the European Commission to foster what they define as ‘smart’ or ‘high quality regulation’ (see Lodge and Wegrich 2009 on the various meanings). Another caveat is that when we say ‘European’, throughout the article we make reference to the EU (European Union) Member States but also to countries outside the EU such as Norway and Switzerland (on the latter, see Allio 2011a).

The organization of the article is as follows: in the next section we present a short overview of the literature leading to our research questions and our comparative research design. We deal with economic models (more precisely the economic justification of RIA and SCM) in the third section, whilst the fourth section is dedicated to learning models. The final section discusses our empirical and theoretical contribution, acknowledges the limitations of this study, and makes some policy recommendations.

LITERATURE, RESEARCH QUESTIONS, AND DESIGN

The European Commission and European governments have engaged with ‘better regulation’, ‘smart regulation’, and ‘high quality regulation’ agendas since the second half of the 1990s (OECD 2002, 2009; Lodge and Wegrich 2009; European Commission 2010). The thrust of this agenda is to promote the diffusion of institutions and policy instruments that enable governments to appraise and manage regulation through its entire life-cycle. Another characteristic of this agenda is that it provides benchmarks and standards of regulatory quality independently of the specific policy sector – this is what is often called in the OECD documents a ‘whole of government’ approach. Among the policy instruments diffused over the last 15 years or so throughout Europe are risk-based approaches to inspections, regulatory simplification programmes, consultation techniques, and of course RIA and the SCM. In terms of diffusion of institutions, several countries and the European Commission have created new regulatory oversight bodies, like the Impact Assessment Board of the European Commission, the Regulatory Policy Committee in the UK, Actal in the Netherlands, the Swedish Better Regulation Council, and the Nationalen Normenkontrollrat in Germany.

The literature has initially explained the transfer of regulatory reform agendas from the USA to Europe (Wiener 2006) and subsequently focused on the usages and effects of policy instruments, especially policy appraisal tools (Turnpenny et al. 2009). Other studies have captured the broad governance direction of this regulatory agenda: Black (2007) and Morgan (2003), for example, have exposed the socio-legal implications of reform, by referring to this phase of regulatory change as the ‘inner stage of the regulatory state’ or ‘meta-regulation’. Coglianese (2008) has examined another aspect of these reforms, that is, rhetoric – his point being that there is tendency to exaggerate the effects of reforms that, when implemented, have limited impact on real-world regulation.

Drawing on diffusion theory, De Francesco (2012) has argued that transnational communication channels have fuelled the adoption of new regulatory policy instruments like RIA. Indeed, most of the work carried out in the last decade is about specific policy instruments. As mentioned, we are interested in two instruments that are very prominent
in the policy mixes deployed by European governments, that is, RIA and the SCM. RIA is a standard template for the analysis of regulatory proposals. It is a process of problem definition, consultation, definition of alternative feasible options, economic analysis of the options, and a final choice that meets some criteria established ex ante, such as ‘the benefits justify the costs’ or ‘maximization of social welfare’ or, in simpler versions, ‘minimization of compliance costs’. RIA should also be used to probe alternatives to traditional ‘command and control’ regulation and experiment with less intrusive forms of regulatory policy.

The SCM is a technique concerned with the minimization of a type of regulatory costs, that is, costs arising out of administrative obligations imposed on firms or citizens. The SCM can be used in the preparation of regulatory proposals or to simplify the existing regulatory environment. The greatest usage of the SCM has been so far ex-post, to drive burdens reduction programmes across government departments. The SCM starts with a baseline measurement of administrative obligations in existing regulatory sectors. For each obligation, an estimate of the cost occurring to a typical firm is provided, often by interviewing a sample of firms in the chosen sector. Once baseline measurement is completed, the government sets targets for the reduction of burdens across sectors and/or departments during a period of \( n \) years. Handbooks and protocols about the SCM are stored on a public website, http://www.administrative-burdens.com/.

The literature on RIA has produced systematic reviews of its economic effects in the USA (Hahn and Tetlock 2008), the political properties (Turnpenny et al. 2009 on the European scene), its utilization (Nilsson et al. 2008; Hertin et al. 2009; Schrefler 2010), the potential for joined-up government (Russell and Jordan 2009 on the UK), and its implications for governance models (Radaelli 2010). On balance, these studies point to widespread formal adoption of RIA and poor or at least uneven implementation (De Francesco et al. 2012). There are similarities between RIA and SCM: when the latter is used ex-ante, it is a test (on administrative obligations arising out of new regulation) within the more complex economic analysis provided by impact assessment. However, following Lodge and Wegrich (2009), RIA appeals to those reformers who want to limit the role of politics in regulatory decisions by appraising proposals with economic analysis and evidence-based policy – in short, technocratic aspirations to the maximization of economic welfare (Lodge and Wegrich 2009). By contrast, the SCM appeals to reformers seeking deregulation and regulatory cost compression, even if this is not welfare maximizing.

Although RIA and SCM have diffused rapidly across Europe, implementation patterns have been uneven. In major European countries such as France, Germany, Spain, and Italy (with the exception of regulatory agencies, which use RIA relatively effectively), the production of regulation is not anchored to robust economic appraisal. The situation does not change when we move to smaller dynamic OECD European economies like Denmark, Finland, and Norway.

What about the countries that have gone further than perfunctory adoption, and have actually implemented RIA? De Francesco et al. (2012) examine different stages of implementation and find that only a minority of countries produce and publish RIAs, although some of these countries formally adopted RIA a decade ago – so they have had plenty of time to move beyond the pilot stage. Other studies point to two problems affecting countries where impact assessments are carried out on a routine basis (as opposed to pilot projects). One is a problem of the quality of economic analysis, either concerning cost–benefit estimates or lack of correct problem identification and examination of alternatives to ‘command and control’.
The other problem concerns utilization. Economic analysis contained in RIA is not used to inform decision-making. Impact assessment is used for other purposes, such as controlling regulators or symbolic aims. To sum up, poor economic analysis and poor utilization constitute the twin blind spots revealed by the literature on RIA implementation (Nilsson et al. 2008; Hertin et al. 2009; Russel and Jordan 2009; Radaelli 2010; Staronova 2010). Another important element of the empirical picture is that in most European countries the engagement of the business community with RIA is limited: when federations of business and Chambers of Commerce have talked about it, they have done so to expose the symbolic features of cost–benefit calculations and to criticize the government departments and agencies for not taking seriously the guidelines on impact assessment.

This stands in contrast with what we know about the diffusion of the SCM, which has been endorsed by the business community since its early days in the Netherlands and the UK. At the European level, business has obtained direct representation on matters concerning the pan-European strategy to reduce red tape, with the creation of the Stoiber high-level group of stakeholders. In a number of European countries the adoption of the SCM has gone hand in hand with the creation of regulatory oversight bodies that keep the ‘war on red tape’ high on the agenda – the prototype of these bodies was Actal in the Netherlands, established in the year 2000.

Even in countries with limited implementation of RIA, such as Italy, the Netherlands, Denmark, and Norway, the business community has latched on to the logic of the burdens reduction programmes. This is evidenced by the participation of major federations of business in the baseline estimation of administrative obligations across sectors, the time and willingness of firms to participate in the SCM exercise, and the overall positive and dialogic reaction provided by employers’ organizations and their think tanks. Interestingly, whilst some European countries have adopted RIA with a legalistic approach, that is, by setting requirements for impact assessment in legislation (e.g., France and Italy), the SCM has been endorsed politically without the need to adopt a specific law. Actually one of the drivers for the wide diffusion of the model is its pragmatism (Weigel 2008). To sum up then, if there is something that has triggered regulatory conversations (Black 2002) in the domain of ‘smart regulation’, this is arguably the SCM rather than RIA.

Table 1 provides some indicators on the formal adoption and implementation of RIA and SCM. It shows a pattern of diffusion where the SCM has gone further than RIA. If we consider the columns on implementation of RIA (as opposed to the first two columns on formal requirements, based on OECD data), a pattern of uneven and overall poor RIA implementation emerges (additional data on the EU-15, except Greece, are available at http://www.oecd.org/gov/regulatorypolicy/betterregulationineuropeluxembourg.htm).

We have to be careful in dealing with the message provided by the empirical evidence in table 1, however. We are not saying that the SCM has reduced administrative burdens and created a better business environment. There are reasons to be sceptical about claims by the government departments regarding total reductions. The reductions actually ‘felt’ by firms are much smaller according to the surveys we have available (NAO 2008; Allio 2011b; and Coletti’s interviews in Denmark in 2010). Further, we do not know if by reducing an obligation, departments also reduce the benefit (for firms) associated with the request for information (Helm 2006; Wiener 2006). The overall agenda of attacking red tape seems to confuse quality with quantity. In the context of RIA, regulations are passed through a cost–benefit test. Instead, the targets chosen by European governments to reduce burdens by 25 per cent in a given period assume a priori that there is excess of
<table>
<thead>
<tr>
<th>Country</th>
<th>System level RIA requirements Index 0–100</th>
<th>Extent of RIA processes Index 0–100</th>
<th>Individual RIAs are carried out systematically 1 = yes 0 = no</th>
<th>Individual RIAs are published with supporting analysis available</th>
<th>Explicit programme to reduce administrative burdens 1 = yes 0 = no</th>
<th>Programme to update and repeat burden measurement 1 = yes 0 = no</th>
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<td><strong>UK</strong></td>
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**Notes:**
(a) OECD (2010): ‘There has nevertheless been progress. There is now an integrated impact assessment form, and it is being filled out more or less completely. The culture is slowly taking hold, but much remains to be done’ (p. 52) (http://www.oecd.org/gov/regulatorypolicy/betterregulationineuropeluxembourg.htm).
System requirements for RIA processes used by central governments (OECD 2009): ‘Our index is calculated as percentage of the top OECD country (UK = 100 per cent)’.
Extent of RIA processes (OECD 2009): ‘Our index is calculated as percentage of the top OECD country (UK = 100 per cent)’.
administrative obligations – possibly because bureaucracies tend to generate obligations without economic justification (Helm 2006). To put it differently, for RIA the benchmark is regulatory quality, and for the burdens reduction programmes the benchmark is quantity – or the belief that reducing quantity is a way to achieve quality (in the next section we shall be dealing with the different rationales more explicitly).

There are reservations about the economics of SCM. This is the methodological backbone of burdens reduction programmes (Weigel 2008; Den Butter et al. 2009; Nijsen et al. 2009). Most observers are left wondering whether baseline measurements of administrative burdens mean anything at all, since they are often not based on representative samples of firms, and rely on the notion of a ‘typical’ firm that may not be the median firm in sectors with high variability (by type of firm). In consequence, the direction and size of measurement bias is not known. We can also raise questions about the logic of attacking one category of costs (that is, costs generated by obligations to provide information to public administration) in an era when information technologies can easily cope with these costs. These are regulatory costs that are more important in labour-intensive sectors typical of less advanced economies. Yet another problem is that the underlying SCM assumption of full compliance with obligations imposed by rules contrasts sharply with the behaviour of economic agents.

Empirical research shows that the success of the wars on red tape waged across Europe varies markedly even by the official standards set by the ministers and governments championing better regulation. The Netherlands is a case of success (OECD 2007a), but Denmark and even more so Sweden (Swedish Better Regulation Council 2010) have experienced difficulties (compare also data in Coletti 2011), and so has the European Commission with its grandiose plan to identify and eliminate 25 per cent of burdens arising out of EU legislation. Briefly, the SCM story across Europe is one of success in engaging the stakeholders in dialogic relationships, and variability in terms of achieving the official economic goals.

To recap, there are several studies looking at the diffusion of the two instruments and their implementation. In relation to RIA, they point to limited engagement with cost–benefit measurement – and more generally economic analysis – and problems of utilization. In relation to the SCM, they show that the reduction of administrative burdens is not felt on the ground. However, there are signs that the SCM has stimulated a phenomenon of positive engagement with the business community and dialogic encounters between public officers and firms that are somewhat absent from the accounts of RIA.

The literature has examined the diffusion of regulatory reform instruments in Europe by using three modes of analysis. One is the classic implementation study, showing how results fall short of initial expectations or how unforeseen patterns of utilization emerge. Studies in the first category are grounded in theories of learning and knowledge utilization (e.g. Nilsson et al. 2008; Schrefler 2010). The second is the analysis of the accuracy of economic data contained in RIA and the SCM (e.g. Fritsch et al. 2012). The third is the diffusion study (qualitative: Wiener 2006; or quantitative: De Francesco 2012).

Taken together, these studies make up a puzzle: within the same reform agenda, we have two instruments that have both been successful in terms of adoption, yet they differ markedly in their outcomes. One way to explain the puzzle is to look for variation across countries, shedding light on how context, administrative capacity, and political priorities shape implementation. This is the template followed by De Francesco et al. (2012) and, for the analysis of context, Radaelli (2005). On political priorities, Lodge and Wegrich (2009) note that RIA is reminiscent of ‘technocratic aspirations’ whilst the SCM sits squarely on...
deregulation ideologies. However, if instead of trying to capture cross-country variation we want to explain the trend in outcomes (i.e. poor implementation results for RIA, more success for SCM), we need a different framework.

We start from the observation that RIA and the SCM are two cases in the wider family of policy instrumentation. A common proposition in the literature is that instruments are carriers of policy ideas. Policy ideas are typically embedded in the economic rationale used to justify a given instrument. This rationale shows the economic justification for a certain tool, and why its usage should bring about more efficiency. These economic rationales are based on cause–effect relationships – and more generally worldviews – about how the economy works. By adopting instrument X – the literature on the tools of government argues – policy-makers become biased towards idea or worldview Y (Owens et al. 2004; Lascoumes and Le Galès 2007).

However, instruments are more than containers for economic ideas. Since they are not abstract entities, but tools that supposedly are used by policy-makers, they are also intimately connected to a logic of usage. As shown by a wide range of studies, this logic is captured by different modes of learning. As May argued convincingly in his highly-cited 1992 article, learning is a classic aim of most policy interventions. In particular, governments adopt new policy instruments because they expect officers to learn something new. There are also wider learning effects which can involve the business community as well as officers in terms of new ways of looking at policy problems (May 1992). In short, we challenge the conventional association between a policy instrument and its economic rationale by arguing that instruments are both carriers of economic ideas and contain a learning model.

By examining two sets of ideas – about the economy and about learning – we are able to expose ambiguities that are obfuscated in the one-to-one correspondence between a given instrument and a given (economic) idea. In particular, we manage to explain the puzzle of different outcomes by claiming that RIA has a relatively robust economic rationale but fails in terms of learning logic, whilst the SCM, although rudimentary in its economics, brings about a more effective process of learning. To substantiate our propositions about learning, we will make use of organizational theory, in particular Brunsson’s ideas about how organizations learn (Brunsson 2006).

We will consider first economic rationales and subsequently turn to learning. Then we will discuss the two together, noting that ‘good economic’ ideas produce ‘bad’ results, whilst poor economic ideas perform better in terms of dialogic regulation (we will qualify ‘good’ and ‘bad’ throughout the discussion).

Data for this article were collected by Radaelli in the context of his ALREG project and by Coletti in her dissertation on the implementation of the standard cost model across Europe. Additional data were gathered via our participation in the project European Network for Better Regulation (funded by the European Commission and led by CEPS, Brussels) and Radaelli’s input to the comparative project on RIA led by Dr Lorenzo Allio for the Swiss federal government (Allio 2011a).

THE RATIONALES FOR IMPACT ASSESSMENT AND THE STANDARD COST MODEL

The economic case for impact assessment is rooted in regulatory economics. Basically, the argument is that new regulation should be justified by a comparison of costs and benefits. There are different approaches to this basic statement, the gold standard being
that the chosen option (regulatory or not) should be the one that provides the higher net benefits to the community. This rationale is drawn from welfare economics. Indeed, the logic of impact assessment is informed by cost–benefit analysis (CBA). It is CBA that enables RIA to achieve its welfare-maximizing effects. If properly conducted, CBA is superior to financial analysis because it does not make the mistake of double counting a cost for one operator or one sector and the equal benefit for another sector. The logic, indeed, is one of general equilibrium in macro-economic models. RIA falls in the rubric of applied macro-economic analysis (as opposed to micro-analyses that look at one sector only). Consultation adds evidence from sources other than government departments: this way, regulators can benefit from a wider information set when calculating the net present value of alternative options.

The various CBA guides published by governments insist on measuring a wide range of expected impacts of proposed regulations in different sectors for a large number of stakeholders. It follows that the main advantage of CBA-informed RIA is to provide a single template to measure effects beyond the individual sector considered by the regulation. Economic analysis should be carried out both on the chosen option and on other feasible options, with the aim of measuring the expected performance of both regulatory options (such as ‘command and control’) and alternatives to classic regulation (such as information campaigns, codes of conduct, and labelling).

The economic roots of the SCM are far less robust. There is no general equilibrium or welfare-enhancing rationale for this instrument. The rationale for the standard cost model echoes the literature on the costs of regulation, but it arises out of pragmatic considerations rather than economic theory (Cavallo et al. 2007). Essentially, the SCM prescribes that officers find out the administrative obligations contained in a given regulation. They measure the cost of complying with the obligation for a typical firm by relying on consultants that interview firms. In fact the information obligation costs deriving from regulation are estimated on the basis of a number of interviews to enterprises to determine the annual costs, the time involved, and the type and salary range of personnel responsible to provide mandatory information. Thus, the SCM analysis focuses on rough measures of administrative burdens. This is a micro approach when compared to the RIA, with no attempt to achieve general equilibrium efficiency.

The SCM is based on a belief that administrative burdens imposed by public administration affect the overall cost efficiency of private companies since productive resources are used for compliance with obligations rather than for producing outputs. Helm (2006) rightly notes that the efficiency implications of this belief are not straightforward in terms of economic analysis.

It has also been argued, yet again without robust economic foundations, that the differences in administrative burdens across European Member States affect the international competitiveness of domestic enterprises. There is an assumption that savings deriving from simplification can be somewhat redeployed by enterprises to raise productivity (Craft 2006). Yet again several authors (Torriti 2007; Weigel 2008) have raised serious objections. However, this connection between red tape and competitiveness has been stressed in the official endorsements of the SCM. Tang and Verweij (2004) and Kok (2005) have calculated the total amount of administrative burdens in percentage of the GDP. This type of calculation is fraught with causality problems that are far from being solved (Helm 2006).
In this section we take a different perspective on the two instruments and we ask the question: What is the learning logic of the two instruments? We argued above that a given regulatory instrument contains both an economic rationale and a learning model, or a ‘logic’ of how and what constellations of actors learn by using the instrument. Essentially, we replicate the previous analysis of the economic rationale for RIA and the SCM, but this time we zoom in on the learning models contained in the two instruments. We will argue that RIA is grounded in a model of rational-synoptic learning, whilst the SCM is based on experience-based learning. The two are very different.

In rational-synoptic models, the learner sets out the goals, then examines in detail several options and chooses the most efficient one. We think before we act, and we act to achieve a future outcome that we have identified and matched with the goals. In experiential learning, instead, to borrow from Nils Brunsson’s Mechanisms of Hope, we act before we think. Thus, ‘We experiment: We do something and then we reflect upon the action and its consequences. If we like the consequences, we continue to act in the same manner, or we stop acting that way because we are already satisfied. Experience-based learning can be highly intelligent, but it is neither intentional nor rational’ (Brunsson 2006, p. 14).

There is nothing wrong with rationality. Indeed, it produces learning when the real world matches some criteria about reasonable information costs. The problem is that, as almost 60 years of organizational research since Lindblom and Simon have demonstrated, the real world often violates these criteria. Regulators consider a few options rather than a full range of options; in RIA they often consider only the status quo and the chosen option – or the chosen option sandwiched between an undesirable status quo and a highly unrealistic option.

Officers and their organizations do not follow maximizing criteria, but ‘satisficing principles’, to use Herbert Simon’s terminology. The appraisal of future events is not based on strict probability logic and evidence, but on clues, heuristics, and rules of thumb. Preferences in a process of policy formulation, especially if complex and political, are not clear and change more than once. Goals are either trivial (such as ‘increasing compliance with the law’) or too politically sensitive to be written down in numbers. Means are dissociated from goals and are highly political in rulemaking, thus making it impossible to separate out a stage of ‘hot’ political discussion of goals followed by a ‘cool’ technical appraisal of the means. Rational reforms like RIA can succeed only if it is possible to mobilize central control to implement a cross-departmental programme of cost–benefit analysis – but, as Brunsson notes in relation to other rational reforms, if this control is already present, there is no need to embark on rational-synoptic reforms (Brunsson 2006, pp. 46–47).

All the same, reforms like RIA are very efficient in describing a process, in this case rulemaking. As Brunsson notes, they are efficient at ‘talk’ – that is, they provide good presentations of what the organization does (or is supposed to do) in the rulemaking process, making it look simple and rational. Departments and regulatory authorities have to present themselves to the public: ‘They have audiences to which they must present themselves’ (Brunsson 2006, p. 38). This leads to the well-known phenomenon, documented by academics as well as auditing bodies like the National Audit Office (see the NAO annual reports on RIA in the UK), of hypocritical RIAs. For Brunsson, hypocrisy is about decoupling organizational reality from its official presentation, or separating...
actions from ‘talk’ and ‘decisions’. Similarly, we have chaotic processes of rulemaking that deviate from the standard of rationality in a major way, yet the RIA document lays out facts and evidence in a convenient rational format for public consumption.

When the ambitious goals of RIA (welfare maximization, separation of technical considerations from political goals, effective control of politicians on bureaucracies) do not materialize, reformers tend to change ends with the means. Means become the end, so that we can keep having faith in the particular reform (Brunsson 2006). The initial difficulties of achieving the economic effects promised by RIA have been followed by a shift to producing the RIA as the main goal. For many years the only indicator used in the UK was compliance of departments with the obligation to carry out the RIA. The government proudly reported that this indicator was well in excess of 90 per cent – thus deviating attention from the fact that RIAs should be relevant for their consequences on decision-making and the efficiency of regulation. Another mechanism to maintain hope in RIA is to argue that the regulators do not carry out proper cost–benefit analysis, hence they have to be retrained or provided with a new set of guidelines to specify their obligations in more detail. Either way, this insistence on RIA as major reform of rulemaking has produced frustration and hostile reactions among policy-makers (Radaelli 2009). The gap between the rulemaking process described in the RIA guidelines and the reality of rulemaking remains large.

This is not to say that RIA is uniformly bad across countries or has always been met with hostility. There are examples of good European RIAs and success stories. Indicators show that the UK and the European Commission have taken RIA obligations seriously (Fritsch et al. 2012). Our point is simply that although RIA has a better economic rationale than the SCM, it has been more efficient in producing ‘talk’ instead of ‘action’ and real change.

The SCM, by contrast, is grounded on experience-based learning. In the Netherlands, the SCM was a pragmatic way to respond to the failure of early simplification strategies. The foundational or prototypical version of the SCM, called Mistral, sought to attack red tape with a theoretically sound approach. Implementation, however, showed the limitations of this approach as well as resistance from regulators. The government decided to scale down on ambition whilst trying to improve on consensus-building around a softer version of Mistral (den Butter et al. 2009). This led to the idea of tackling only information obligations. Whilst the ambition of RIA was to climb the regulatory mountain from the top, with a comprehensive analytical approach, the SCM emerged as an attempt to attack the mountain from the foothills so to speak. There was no ambition to produce a theoretically sound instrument; indeed, our interviews with Dutch policy officers and experts confirm that the intention was to provide something useful, pragmatic, and less ambitious.

This pragmatic approach was combined with a focus on administrative burdens. The latter is a concept that might look elusive to social scientists (Helm 2006), but is much less controversial among policy officers and stakeholders. Thus, the ingredients for a successful export product were put in place. A promotional campaign led by the Dutch and the UK Finance Ministers in 2004–05 led several other European countries and the European Commission to add the SCM to the regulatory reform toolbox.

Since the model does not make any assumption about the presence of analytical skills within public administration, the SCM was also adopted by countries with low confidence in their own reform capacity (on SCM diffusion, see Wegrich 2009). For these latecomers, often frustrated with the skills requirements imposed by RIA, the SCM was a much easier way to enter the club of ‘smart regulation’. It provided a large number of European
governments with something to offer to the business community: a clear message (the war on red tape) based on an apparently uncontroversial narrative (administrative burdens hinder business operations) and a target of burdens reduction.

The adoption of a simple tool to tackle a complex problem such as competitiveness was very attractive during a decade in which the whole of the European Union was concerned with its flagship Lisbon agenda for growth and jobs (European Commission 2005). As mentioned, the model has weaknesses when viewed through the lens of economic theory. Even in the Netherlands, the champion country, measurements were initially based on a limited sample of firms to establish the time and cost incurred in addressing administrative obligations – below the threshold for representative sampling. However, both regulators and stakeholders responded to this innovation positively, and generated some unexpected results.

The process of implementing the SCM across Europe has triggered new ways of establishing communication between stakeholders and public administration, often with the support of major federations of employers. The SCM was a way to rediscover or re-launch consultation pathways that had become ossified or simply tangled. Some dialogic effects have appeared even in countries with low administrative capacity such as Italy. In the various SCM processes across Europe, representatives from enterprises were consulted to inquire about timing to cope with regulations, to validate results, and to share reduction proposals (OECD 2007b; Coletti 2011). The Belgian Secretary of State for Administrative Simplification, Vincent Van Quickenborne, launched a wide consultation to collect and manage suggestions from the general public and the business community (Kafka project, see www.kafka.be).

Within confederations of enterprises, units have been set up to follow the progress of red tape reduction. In the Netherlands, the Commission on Administrative Burdens chaired by the chief of the Dutch confederation of enterprises was established to provide advice to government about simplification policy. It gained a prominent position in proposing inputs for simplification and critical suggestions to the government. Consultation has been strengthened even in countries that have used the SCM only in limited sectors. The classic pathway in these countries has been to involve enterprises and their federations in the preliminary identification of the most burdensome areas of regulation.

Another related outcome was the creation of hearing portals, a limited but not trivial breakthrough in countries with low potential for dialogic regulation. This has also embedded the SCM in larger programmes for e-government, thus benefitting from major investment in new ICT infrastructure. In turn, ICT has been extended from burdens measurement to wider plans for the simplification of the regulatory environment. Burdens reduction has become an item on the government agenda and the European Council. Departments for simplification have been created in some European countries (e.g. Belgium, Italy, Norway) to give a signal of political engagement. Moreover, external independent bodies have been established in the Netherlands, Sweden, and Germany to check government progress with the reduction of red tape. Thus, the goal of measuring administrative obligations has also triggered institutional innovation with the emergence of new types of oversight bodies.

More importantly still, the quantitative approach of assigning a number to an information obligation (typical of the early stage in the Netherlands, the UK, and Denmark) gradually shifted to a qualitative approach based on understanding how firms are coping with administrative requirements. In some cases, the idea is no longer to measure the burdens, but to use the SCM measurements to learn more from innovative firms about
effective ways to reduce administrative costs and use the SCM network to diffuse best practice (OECD 2007b). This is a small Copernican revolution for the SCM: from an emphasis on the typical firm and the normally efficient business unit (necessary to measure the burden) to a focus on non-typical firms that provide repertoires of innovative practice.

Reflections on experience stimulated the adaptation of the tool to a broader approach to tackle costs; hence, the Netherlands started to measure wider compliance and enforcement costs (this was called SCM 2.0). A further elaboration of the model – a prototype called Regulatory Cost Model – was developed by the Bertelsmann Foundation in 2009. Further, in order to look in detail at the difficulties experienced by enterprises, Denmark started a project called Byrde-Jægerne Methoden based on visits to enterprises (MindLab, 2007). To map the burdens for enterprises, to hear about their difficulties, to get out of the ‘ivory tower’ of public administration and encounter firms are steps in the direction of more dialogic relations with the business community.

Occasionally the pressure put on departments to analyse and reduce burdens has triggered responses that bring back a cost–benefit logic into the ‘war on red tape’. The Netherlands is a case in point. The implementation of the SCM generated resistance in the Dutch ministry for welfare. The latter responded to the SCM by elaborating an alternative method, called the ‘Balanced Model’, to highlight the benefits arising from administrative obligations (for example, when a firm or a citizen obtains monetary advantage or a welfare provision by sending information to public administration).

In terms of international diffusion, the exchange of experience among countries has been supported by an international SCM network of adopters (with its own website and meetings), widely popular in Europe, and by the European Union’s dedicated structures. The popularity of the model has generated sub-projects on consultation, portals, measurement techniques, sampling and so on. SCM diffusion has thus triggered a wave of initiatives that have been compared in OECD working parties, the European Commission, the SCM network, and major annual conferences of the Bertelsmann Foundation. The jury is still out in terms of the results of these mushrooming initiatives, but clearly the interaction between officers and federations of business across countries has intensified – from practically none, at least in Europe, in the early 2000s, to systematic interaction today.

**DISCUSSION AND CONCLUSIONS**

This article has examined RIA and the SCM by examining the literature on regulatory policy instruments. This literature has drawn attention to the causal model of the economy enshrined in a policy instrument. The latter becomes a vehicle for economic ideas to travel into policy choices – for regulatory appraisal tools, this claim has been made by Morgan (2003) and Owens *et al.* (2004). The findings suggest that to understand these two regulatory policy instruments, we need to consider both economic theory (in our case, the economic rationales for RIA and the SCM) and policy learning models. Although it is customary to observe that policy instruments contain theories – sometimes explicitly, sometimes implicitly – we are not aware of other studies that have looked at the interplay between economics and learning within a single policy instrument.

All too often we tend to assume that there is ‘one’ causal model behind or ‘inside’ an instrument. This pre-judges the level of coherence of a policy instrument. By contrast, our approach can cope with low coherence and ambiguity at the level of ideas informing instruments. One way to look at our results is to say that the ‘good’ economic model of RIA produces poor learning results, whilst the ‘bad’ economic idea of the SCM generates
learning. Analytically, we have shown the pay-offs generated by a joint consideration of economic and learning models, in contrast to previous studies of regulatory policy instruments, which have focused only on either economics or learning. This is our contribution to the literature concerned with regulatory reform and policy instrumentation.

We have looked at the logic of learning. We can, however, now consider a slightly different perspective to relate our conclusions to the classic question in the field of policy learning of who learns what and to what effect (Bennett and Howlett 1992). Our evidence suggests that policy officers and business federations are the subject of learning in the SCM. They have learned how to establish dialogic relations and expand the administrative burdens reduction programmes to other tasks (that is, they have learned how to produce task expansion). There is less to say about RIA, given its implementation problems. As for the ‘to what effect’ question, we cannot point to clear economic effects, neither for RIA nor for the SCM.

These remarks come with limitations of course: we have not commented on why some European countries implement RIA relatively well and others do not (De Francesco et al. 2012) and why the SCM has not delivered in some countries (Coletti 2011). We have not addressed the case of countries using both policy instruments relatively well, or equally mismanaging them. More fine-grained research on implementation across countries is certainly needed.

What about the policy implications? Arguably, one lesson implicit in our analysis is that the question for regulatory reformers is not whether to insist on ‘more’ RIA or ‘more’ administrative burdens reduction plans. Our suggestion is to think about regulatory management in a comprehensive way, calibrating the reform efforts between ex-ante and ex-post.

Thinking of possible future steps, policy-makers may think of options that are less contingent on rational-synoptic models. RIA could evolve towards an instrument used by regulators to think about problem definition, to widen the peripheral vision of regulators, to generate dialogue with the stakeholders, and to monitor regulation – instead of being eminently concerned with goal-setting and ex-ante prediction of effects that depend in large part on how regulations will be implemented and enforced. The SCM could also evolve from the current propagandistic usage (i.e. its signalling function cast in the language of wars on red tape, bonfires, and deregulation czars; Lodge and Wegrich 2009) towards integrated programmes for e-government, administrative simplification, and the recalibration of processes such as licensing and permits.

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