

“Mapping Self- and Co-regulation Approaches in the EU Context”

Explorative Study for the European Commission, DG Connect

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Executive Summary

This report presents a first mapping or inventory of the different approaches to self- and co-regulation (SCR) that can be found within the EU context, in a number of Member States (MS) and international organizations. The report consists of four sections. Whereas the first section provides an introduction to the study, Section 2 provides a detailed overview of the EU approaches to self- and co-regulation. It reflects on the extent to which the Commission considers the use of SCR as a suitable option to improve the quality of European legislation and policy-making, and contribute to achieving the goals of the Better Regulation and Smart Regulation policies. This section also explores the definitions given to SCR under these policies as well as the conditions that are set for their use. Where possible, conclusions are drawn as of whether these policies reflect a changing approach to the use of SCR.

Following the review of the EU approach, the report provides a preliminary overview of the existing self and co-regulatory approaches in the global and national regulatory context. More specifically, Section 2.2. analyses the institutional viewpoint of six well-known international organisations on the definitions of self- and co-regulation, as well as the use of these mechanisms as a part of ‘good governance’ (i.e. the Organisation for Economic Co-operation and Development (OECD); World Bank; the Council of Europe; the International Monetary Fund (IMF); the International Chamber of Commerce (ICC) and the United Nations (UN)). It is interesting to note that whereas the OECD and the World Bank take an institutional approach and elaborate intensively on the role of self and co-regulatory mechanisms in a system of good governance; the IMF, ICC, UN and the Council of Europe have only briefly referred to these mechanisms while focusing in particular sectors only. For example, the IMF mainly refers to the role of self- and co-regulation in the financial sector, whilst the Council of Europe encourages the use of self-regulation in the regulation of illegal or harmful content on new communications and information services.

In a similar vein, the analysis of the SCR approaches at the national level (Section 2.3) emphasize also that countries rely on these approaches to a different degree. A first exploration of existing approaches towards SCR in a limited number of MS shows that, whereas for instance in the UK and Netherlands, self-regulatory arrangements occupy a relatively exposed position within the national regulatory contexts, the regulatory traditions in other European legal cultures (such as Austria, France or Italy) show a significantly stronger reliance on the traditional command-and-control regulation. Nordic EU member states, on the other hand, such as Denmark and Sweden for example, seem to be relatively experienced in the use of alternative forms of regulation, such as SCR, especially in the field of consumer protection, media management and regulating good market behaviour. As far as permitted by the data, this Section also provides a short typology of SCR arrangements at national level.

Section 3 of this report provides a more comprehensive overview as to what conceptualizations, definitions and typologies of SCR have been developed so far. These analyses derive from a broad review of the legal and regulatory theory. To establish whether theories in literature bear a close resemblance to each other, Section 3 provides a mapping (categorization) of various regulatory typologies, which include: no regulation, self-regulation (private regulation), co-regulation (private-public regulation) and public regulation. Building upon the theoretical review and categorization of regulatory typologies, it has been possible to chart a regulatory continuum between the fully private option on the one hand and the fully public/hard legislation option on

the other. This chart presents a visual impression as to where the identified typologies of SCR can actually be located on this continuum between private and public forms of intervention. Co-regulation (or public-private regulation) is found to encompass many hybrid forms of private-public regulation. To systemize the broad spectrum of private-public regulation, a typology has been introduced which is based on three distinct analytical factors, including: *the stages within the regulatory process in which public involvement can be located, the nature of public involvement in the regulatory process and the intensity of public involvement in the regulatory process.*

Section 4 provides preliminary analysis of the various regulatory regimes (or initiatives) that exist in the database on self and co-regulation, which was established in 2008 by the Single Market Observatory of the European Economic and Social Committee (EESC). This Section reflects in particular in what policy areas and sectors these initiatives have occurred and what information is provided in this database with regards to various SCR regimes in EU. The EESC database involves over 130 self and co-regulatory initiatives in a variety of policy fields. These include, the areas of product safety and sustainability, food hygiene, professional services, e-commerce, internet and media services, intellectual property rights, financial markets, social policy and environmental protection. Given that the information in the EESC database is not complete and is currently being updated, no conclusive observations can be made as to where to locate the different regulatory initiatives on the regulatory continuum. However, after exploring the existing SCR initiatives in the EESC database, some recommendations are made as to how the database could be further improved. Section 5 concludes this study and highlights a number of issues that require further attention and could contribute to the good functioning of SCR. The report also contains a detailed annex, presenting a visual overview of the mapping of the regimes that currently exist in the EESC database.

1. Introduction

The present explorative study on approaches to SCR in the EU-context has been carried out upon the request of DG Connect of the European Commission and within the framework of the Community of Practice on Better Co- and Self-regulation it set up in 2013.

This report does not aim to give a comprehensive overview, but rather to present a first mapping or inventory of the different approaches to SCR that can be found within the EU context, in a number of Member States and in a number of international organizations, including in particular the OECD. It has been considered how SCR are defined and understood in those contexts; the typologies they distinguish; whether any databases or repositories have been set up; and how SCR has possibly been positioned within broader better, smart or good governance policies (Section 2). Furthermore, legal and regulation theory has been scrutinized as to what conceptualizations, definitions and typologies of SCR have been developed at that level. On the basis of those findings, it has been possible to chart a regulatory continuum between the fully private/no regulation option on the one hand and the fully public/hard legislation option on the other. This chart presents a visual impression as to where the identified typologies of SCR can actually be located on this continuum between private and public forms of intervention. It also presents a three-dimensional perspective on the private-public forms of regulation that have been found (Section 3). On this basis, a preliminary analysis has been carried out of the self- and co-regulatory regimes as they are contained in the database of the Single Market Observatory of the EESC, so as to see amongst others in what policy areas these occur and what connection there is to public authority in those regimes. Given that the information in the database is not complete, no conclusive observations can be made as to where to locate them precisely on the regulatory continuum. Yet, it has been possible to give an impression of the SCR regimes that emerge in various policy areas, as well as to identify relevant problematic aspects and recommendations as to how the database could be further improved (Section 4). The report concludes with a number of issues that have appeared as problematic in carrying out the research and that would require further reflection with a view to building further knowledge on the good functioning of SCR (Section 5).

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2. The EU Approach towards SCR vis-à-vis Global and National Approaches

2.1. The EU Approach

The potential use of non-traditional regulatory instruments, including self- and co-regulation, has been an important consideration of the policies of the EU aimed at improving the quality of regulation and removing unnecessary bureaucracy at the European level.

This section provides an overview of all key Commission documents, including those related to its Better Regulation, Smart Regulation and Regulatory Fitness and Performance Programme (REFIT) policies. It reflects on the extent to which the Commission considers the use of self- and co-regulation as a suitable option to achieve the goals of these policies. In particular, the section reflects on the definitions given to self- and co-regulation under these policies as well as the conditions that are set for their use.

2.1.1. The White Paper on European Governance and the Inter-Institutional Agreement on Better Lawmaking

The White Paper on European Governance (2001) marks the initial steps of the Commission towards the development of a better regulation policy for the EU. The White Paper proposed a renewal of the Community method,¹ stipulating that *“the Community method following a less top-down approach and complementing its policy tools more effectively with non-legislative instruments”*. In light of the aims of improving the quality of legislation, speeding up the legislative progress and creating greater flexibility in the way that rules are implemented on the ground, the Commission submitted that it will *“promote greater use of different policy tools”*, including co-regulatory mechanisms. According to the Commission, effective decision-making involves *“combining policy instruments for better results”* and depends on seven factors. Two of these factors relate directly to the use of self- and co-regulation. Firstly, legislation is part of a broader solution that combines formal rules with other non-binding tools, *“such as recommendations, guidelines, or even self-regulation within a commonly agreed framework”*. Secondly, *“under certain conditions, implementing measures may be prepared within the framework of co-regulation”*. This document therefore indicates that at this onset of the reform of the European Union’s policies and legislation, the use of a combination of legislative and non-binding solutions, including self- and co-regulation, is explicitly considered as a method to improve European regulation.

Subsequently, in 2003, the Commission, Council and European Parliament adopted the Interinstitutional Agreement on Better Law-making (IIA),² recognising that it may be necessary to use, in suitable cases or where the Treaty does not specifically require the use of a legal instrument, alternative regulatory mechanisms. These mechanisms include self-regulation and co-regulation. The IIA includes the following definitions of self-regulation and co-regulation:

Self-regulation: *“Self-regulation is defined as the possibility for economic operators, the social partners, non-governmental organisations or associations to adopt amongst themselves and for themselves common guidelines at European level (particularly codes of practice or sectoral agreements).”*³

¹ European Commission, 2001, *European Governance – a white paper*, COM(2001) 428 final.

² European Parliament, Council and the Commission, 2003, *Interinstitutional Agreement on Better Lawmaking*, OJ C 321/01.

³ Ibid. Point 22.

Co-regulation: “Co-regulation means the mechanism whereby a Community legislative act entrusts the attainment of the objectives defined by the legislative authority to parties which are recognised in the field (such as economic operators, the social partners, non-governmental organisations, or associations).”⁴

In addition, the IIA sets out the procedures for the notification and use of self- and co-regulation. First, the IIA indicates that voluntary initiatives under self-regulation do not imply that the institutions adopt any particular stance, including the initiatives which are undertaken in areas not covered by the Treaties or in areas which the Union has not hitherto legislated.⁵ Secondly, the IIA states that the Commission will scrutinize self-regulation practices to verify that they comply with provisions of the EC Treaty.⁶

The IIA also emphasizes that the Commission must notify the European Parliament and the Council of self-regulation practices which it regards:

- on the one hand, as contributing to the attainment of the EC Treaty objectives and as being compatible with its provisions; and,
- on the other, as being satisfactory in terms of the representativeness of the parties concerned, sectoral and geographical cover and the added value of the commitments given.

Furthermore, the IIA states the Commission must consider the possibility of putting forward a proposal for a legislative act, in particular at the request of the competent legislative authority or in the event of a failure to observe the above practices.⁷

For the procedure for co-regulation, the IIA requires that co-regulation is used on the basis of criteria defined in the legislative act so as to enable that the legislation is adapted to the problems and sectors concerned, to reduce the legislative burden by concentrating on essential aspects and drawing on the experience of the parties concerned.⁸ According to these criteria:

- a) the legislative act must abide by the principle of proportionality defined in the EC Treaty, and agreements between social partners must comply with the provisions laid down in Articles 138 and 139 of the EC Treaty.
- b) in the explanatory memoranda attached to its proposals, the Commission must explain to the competent legislative authority its reasons for proposing the use of this mechanism.⁹ The basic legislative act sets out the framework within which the parties affected by that act may conclude voluntary agreements for the purpose of determining practical arrangements.
- c) these draft agreements must be forwarded by the Commission to the legislative authority. The Commission must verify whether or not those draft agreements comply with EU law (in particular, with the basic legislative act).
- d) at the request of the Parliament or the Council, on a case-by-case basis and depending on the subject, the basic legislative act may include a provision for a two-month period of grace following notification of a draft agreement to the European Parliament and the Council.
- e) during this period, the institutions may suggest amendments if it is considered that the draft agreement does not meet the objectives laid down by the legislative authority, or object to the

⁴ Ibid. Point 18.

⁵ Ibid. Point 22.

⁶ Ibid.

⁷ Ibid. Point 23.

⁸ Ibid. Point 18.

⁹ Ibid. Point 19.

entry into force of that agreement and, possibly, ask the Commission to submit a proposal for a legislative act.¹⁰

The Annual Reports on Better Lawmaking set out the actions taken by the Commission to improve regulatory quality. The reports covering the years 2004 to 2006 refer explicitly to the use of self- and co-regulation. For instance, in the 12th Report on Better lawmaking that was issued in 2004,¹¹ the Commission noted that it had “*prepared an inventory of the co-regulation mechanisms in place by the Union and the forms of self-regulation with a Community dimension*’. Furthermore it mentioned that the “*inventory [would] be used as a basis for the first report on the possibilities of growing use of regulatory alternatives.*”¹² The 13th Report that was issued in 2005¹³ noted that “*policy-makers should always strive to explore a range of legislative and non-legislative options*”¹⁴ that could meet their objectives. In line with this arguments, the Commission also indicated that the database on European self- and co-regulation, which was set up in 2006,¹⁵ would “*increase awareness and contribute to a more favourable environment for the use of alternative regulatory instruments*”.¹⁶ However, the Commission stated also that caution should be made when proceeding with regulatory alternatives since , “*in many cases, regulations remain the simplest way to reach EU objectives.*”¹⁷ A similar warning was included in the 14th Report on Better lawmaking that was issued in 2006, even though during this period the Commission acknowledged that “*a number of important self- and co-regulatory mechanisms were set up*”¹⁸ The 14th Report included also an overview of legislative acts adopted in 2006 that provided for more co-regulation with interested parties.¹⁹

Whereas the above mentioned reports on Better Law-making explicitly mention the potential use of self- and co-regulation as a method to improve the quality of European regulation, later reports on Better Lawmaking (such as the subsequent 15th²⁰, 16th²¹ Reports on Better Lawmaking, and the later 20th²² Report on Subsidiarity and Proportionality for example) remain virtually silent on the use and potential of legislative and non-legislative regulatory options, including self- and co-regulation. Incidental references to self- and co-regulation are made to self- and co-regulation in other documents and communications, such as those related to the better regulation policy for example. The First (2006)²³ and Second (2008)²⁴ Strategic Reviews of Better Regulation in the EU state that systematic and routine review of a wide range of options, both regulatory and non-regulatory, including self- and

¹⁰ Ibid. Point 20.

¹¹ European Commission, 2005, *Report from the Commission “Better lawmaking 2004” (12th report)*, COM(2005) 98 final.

¹² Ibid. p. 4.

¹³ European Commission, 2006, *Report from the Commission “Better lawmaking 2005” (13th report)*, COM (2006) 289 final.

¹⁴ Ibid. p. 5.

¹⁵ The database was a joint effort between the European Economic and Social Committee (EESC) and the European Commission to work together in gathering knowledge and information on the self and co-regulatory initiatives undertaken within the EU. For more information on the database please see Section 4 of this report.

¹⁶ Ibid. p. 5.

¹⁷ Ibid.

¹⁸ European Commission, 2007, *Report from the Commission “Better lawmaking 2006” (14th report)*, COM 286 final, p. 5.

¹⁹ European Commission, 2007, *Commission Staff Working Paper Annex to the Report from the Commission “Better Lawmaking 2006”*, COM(2007) 286 final, p. 7 – 9.

²⁰ European Commission, 2008, *Report from the Commission on Subsidiarity and Proportionality (15th report on Better Lawmaking, 2007)*, COM(2008) 586 final.

²¹ European Commission, 2009, *Report from the Commission on Subsidiarity and Proportionality (16th report on Better Lawmaking covering the year 2008)*, COM(2009) 504 final.

²² European Commission, 2013, *Report from the Commission Annual Report 2012 on Subsidiarity and Proportionality*, COM(2013) 566 final.

²³ European Commission, 2006, *Communication from the Commission to the European Parliament, the Council, the European Social and Economic Committee and the Committee of the Regions, Second strategic review of Better Regulation in the European Union, A strategic review of Better Regulation*, Brussels, COM(2006) 689 final, p. 8.

²⁴ Ibid. p. 2.

co-regulation, forms part of impact assessments performed by the Commission. However, the Third Strategic Review (2009)²⁵ does not contain such a consideration.

2.1.2. From Better Regulation to Smart Regulation to REFIT

In 2010, the Commission Communication on Smart Regulation in the EU marked the transition from a ‘Better Regulation’ program to a ‘Smart Regulation’ program.²⁶ The key difference between the two programs was marked by a change of focus on mainly new policy proposals to existing legislation. The Better Regulation agenda led to an improvement in the way the Commission makes policy and proposes to regulate, by focusing more on *new policy proposals*.²⁷ Whilst the Impact Assessment (IA) system had led to improvements for new legislation, the Commission considered that under Smart Regulation similar efforts had to be made for the body of existing legislation to ensure that it delivered its intended benefits.²⁸ Therefore, Smart Regulation concerned the whole policy cycle: from the design of a piece of legislation, to implementation, enforcement, evaluation and revision.²⁹ The Commission stated that achieving this aim of the Smart Regulation program would require “*a greater awareness by all actors of the fact that implementing existing legislation properly and amending it in the light of experience is as important as the new legislation*”.³⁰ The ex post evaluation of regulation is considered a key tool in the Smart Regulation approach.³¹ As emphasized at the Commission’s Communication, the evaluation of the effectiveness and efficiency of existing EU legislation may lead to improvements in the quality of policy-making, help identifying new opportunities that would simplify legislation and reduce administrative burdens.³² The simplification effort was further defined under the REFIT program.

The REFIT program screens all existing EU legislation and identifies opportunities to reduce regulatory burdens and simplify existing laws. According to the Commission, simplification under REFIT can take a number of forms, including changes to existing law (revision, repeal, review, codification and recasting of existing EU legislation), replacing directives with regulations, withdrawal of proposals and finally, *self-regulation and co-regulation*.³³ Communications concerning REFIT indicate that the focus of this program is mainly on the codification, recasting and review existing legislation/regulation in order to streamline existing legislation/regulation and reduce regulatory burdens.³⁴ This does not mean that in recent years, the use of alternatives to regulation (such as self- and co-regulation) has fallen entirely outside of the scope of policies intended to improve the quality of EU legislation. For example, in the 2014 Communication concerning the State of Play and Outlook for REFIT³⁵, the Commission notes that it considers it part of its “*good*

²⁵ European Commission, 2009, *Communication from the Commission to the European Parliament, the Council, the European Social and Economic Committee and the Committee of the Regions, Third strategic review of Better Regulation in the European Union*, COM (2009) 15 final.

²⁶ European Commission, 2010, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Smart Regulation in the European Union*, COM(2010) 543 final.

²⁷ Ibid. p. 2.

²⁸ Ibid. p. 3.

²⁹ Ibid. p. 2.

³⁰ Ibid. p. 3.

³¹ Ibid.

³² Ibid.

³³ European Commission, “Simplification under REFIT”, 2014, for more information please see: http://ec.europa.eu/smart-regulation/refit/simplification/index_en.htm. (accessed 9 March 2015).

³⁴ European Commission, 2013, *Communication from the Commission to the European Parliament, the Council, the European Social and Economic Committee and the Committee of the Regions, Regulatory Fitness and Performance Programme (REFIT): Results and Next Steps*, COM(2013) 685 final, p. 1.

³⁵ European Commission, 2014, *Communication from the Commission to the European Parliament, the Council, the European Social and Economic Committee and the Committee of the Regions, Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook*, Brussels, COM(2014) 368 final.

*legislative management to withdraw proposals that do not advance in the legislative process, in order to allow for a fresh start or for alternative ways to achieve the intended legislative purpose.*³⁶

The European Parliament also holds certain opinions on the use of self- and co-regulation. The EP admits that alternatives to traditional regulation, including self- and co-regulation, hold potential as instruments through which policy objectives can be achieved.³⁷ In addition, it suggests that European institutions consider both legislative and non-legislative instruments when concluding what actions to take.³⁸ The main concern of the Parliament with regards to regulatory alternatives seems to relate mostly to fact that the Parliament (and the Council) are less involved (if at all) in the process of adopting non-legislative instruments and other alternative regulatory measures. This continues to remain so besides its rights to control such voluntary / non-legislative practices.³⁹

2.1.3. Implementation of the use of Self- and Co-regulation via the Impact Assessment Tool

Impact Assessments (IA) are methods through which the Commission has tried to achieve the goals of the Better Regulation policies. The IA Guidelines issued in 2002⁴⁰, 2005⁴¹, 2009⁴² and 2014⁴³ all provide for the consideration of alternative policy options and instruments to achieve relevant policy objectives.

For instance, the 2005 IA Guidelines provide that alternative policy options, such as self-regulation, voluntary agreements and information/education campaigns should be taken into account by the Commission when reviewing which options are feasible for achieving the policy objectives.⁴⁴ The Guidelines emphasize that alternative policy options may force policy-makers to think ‘out of the box’, offering therefore greater transparency to policymakers and stakeholders as to why certain policy choices have been made.⁴⁵ All options should be ranked and presented in a transparent and understandable manner in order to enable political decision-makers to make a balanced appraisal so as to maximize opportunities for a ‘win-win’ outcome.⁴⁶ The 2005 IA Guidelines also note that the chosen instrument should be flexible, as frequently changing instruments can be quite costly.⁴⁷ The 2009 IA Guidelines⁴⁸ and the 2014 Draft IA Guidelines⁴⁹

³⁶ Ibid. p. 3.

³⁷ European Parliament, 2007, *Resolution on institutional and legal implications of the use of "soft law" instruments*, PA_TA(2007)0366: “[...]each EU institution, including the European Council, must consider both legislative and non-legislative options when deciding, on a case-by-case basis, what action, if any, to take.”

³⁸ Ibid. “[...]each EU institution, including the European Council, must consider both legislative and non-legislative options when deciding, on a case-by-case basis, what action, if any, to take.”

³⁹ See: European Parliament, 2004, *Resolution on the Commission communication on simplifying and improving the Community's regulatory activity*, (P5_TA(2004)0155): “5. Demands that the Commission always consult the legislative authority when it deems self-regulation to be useful; 6. Stresses Parliament's right to call on the Commission to submit a draft legislative act in connection with the latter's consideration of self-regulation practices; 7. Stresses Parliament's right to oppose the implementation of any self-regulation practice; 8. Defends Parliament's right to oppose the entry into force of any draft voluntary agreement in the context of co-regulation; 9. Considers it essential that the Commission should not be able to override opposition expressed by Parliament or the Council to any voluntary practice in the context of self-regulation or co-regulation”.

⁴⁰ European Commission, 2002, *Communication From The Commission On Impact Assessment*, COM(2002)276 FINAL.

⁴¹ European Commission, 2005, *Impact Assessment Guidelines*, SEC(2005)791.

⁴² European Commission, 2009, *Impact Assessment Guidelines*, SEC(2009) 92.

⁴³ European Commission, 2014, *2014 Revision of the European Commission Impact Assessment Guidelines - Public Consultation Document*. For further information please see: http://ec.europa.eu/smart-regulation/impact/commission_guidelines/commission_guidelines_en.htm , Accessed 9 March 2015.

⁴⁴ European Commission, 2005, *Impact Assessment Guidelines*, SEC(2005)791, p. 24.

⁴⁵ Ibid. p. 23.

⁴⁶ Ibid. p. 44.

⁴⁷ Ibid. p. 8.

⁴⁸ European Commission, 2009, *Impact Assessment Guidelines*, SEC(2009) 92, p. 31.

⁴⁹ European Commission, 2014, *2014 Revision of The European Commission Impact Assessment Guidelines Public - Consultation Document*, p. 37 – 38.

contain similar provisions, indicating that an extensive list of possible options should be drawn up and, which includes alternative approach to ‘classical’ forms of regulation.⁵⁰

The 2009 Guidelines however add that initiatives in ‘new areas’ of existing policy fields will likely cover a larger set of policy options than those in older policy fields.⁵¹ When setting out what policy options may be considered, the 2009 Guidelines add co-regulation to the list of options, alongside the:

- ‘no policy change’ baseline scenario,
- ‘no EU action’ (e.g. discontinuing existing EU action), where legislation already exists,
- improved implementation/enforcement, perhaps with additional guidance and international standards where these exist.⁵²

The role of non-legislative initiatives seems to be narrowed down to “[setting] *out commitments for future legislative action*”.⁵³ The role of co- and self-regulation is further defined in the annexes to these guidelines. Self-regulation is considered preferable compared to a legislative proposal “*where voluntary agreements already exist and are sufficient to achieve the objectives set out in the Treaty and do not create competition problems.*”⁵⁴ The annexes of the 2009 Guidelines also emphasize that the Commission can also suggest, using a Recommendation, that voluntary agreements can be “*concluded by the parties concerned to avoid having to use legislation, without ruling out the possibility of legislating if the agreement[s] prove insufficient or inefficient.*”⁵⁵ Regulation in the form of legislative acts thus forms a ‘safety net’ for when self-regulation fails. The annexes consider co-regulation to combine the advantages of binding legislation with a flexible self-regulatory approach. They also mention the drawback co-regulation specifically, which is the need to set up monitoring arrangements.⁵⁶

The 2014 Guidelines are fairly prescriptive when it comes to the consideration and selection of alternative policy approaches. These Guidelines suggest that policy makers consider both alternative policy approaches and alternative policy instruments, including non-regulatory alternatives (such as co- and self-regulation).⁵⁷ It should be noted, however, that all versions of the IA Guidelines seem to agree on the point that a combination of alternative regulatory measures (including self- and co-regulation) and instruments should be considered as a possible option for achieving relevant policy objectives.

2.1.4. Enhancing Good Practice of Self- and Co-regulation

In its Communication on “A renewed EU strategy 2011-14 for Corporate Social Responsibility”, the Commission adopted an action plan which included the launch of “*a process in 2012 with enterprises and other stakeholders to develop a code of good practice for self- and co-regulation exercises, which should improve the effectiveness of the SCR process.*” This action led to the

⁵⁰ European Commission, 2009, *Impact Assessment Guidelines*, SEC(2009) 92, p. 30 and European Commission, 2005, *Impact Assessment Guidelines*, 15 June 2005, (SEC(2005) 791), p. 23.

⁵¹ European Commission, 2009, *Impact Assessment Guidelines*, SEC(2009) 92, p. 15.

⁵² *Ibid.* p. 31.

⁵³ *Ibid.* p. 15.

⁵⁴ European Commission, 2009, *Part III Annexes to Impact Assessment Guidelines*, p. 24.

⁵⁵ *Ibid.* p. 24.

⁵⁶ *Ibid.* p. 27.

⁵⁷ European Commission, 2014, *2014 Revision of The European Commission Impact Assessment Guidelines Public - Consultation Document*, p. 13.

adoption of “Principles for better self- and co-regulation”⁵⁸ and the set-up of a Community of practice for better self- and co-regulation.⁵⁹ The Principles for Better Self- and Co-regulation are evidence-based best practice principles. The Principles govern both the conception and implementation of self- and co-regulation.

The following principles are related to the conception of self- and co-regulation:

- i. Participants, who “*should represent as many as possible of potential useful actors in the field concerned, notably those having capacity to contribute to success*”⁶⁰,
- ii. Openness, as “*envisaged actions should be prepared openly*”⁶¹,
- iii. Good faith, as participants are expected to act in good faith both in developing and executing self- and co-regulatory actions,⁶²
- iv. Legal compliance, meaning that “*initiatives should be designed in compliance with applicable law and fundamental rights as enshrined in EU and national law*”.⁶³

For the implementation of self- and co-regulation, the following principles are set out:

- i. Iterative improvements, the action should incorporate accountability and a process of “learning by doing”.⁶⁴ “*Annual progress checks should be made, against the chosen objectives and indicators, as well as any available broader background data*”⁶⁵
- ii. Monitoring, in conducted “*a way that is sufficiently open and autonomous to command respect from all interested parties*”⁶⁶
- iii. Evaluation, which will allow “*participants to assess whether the action may be concluded, improved or replaced.*”⁶⁷
- iv. Timely resolving of disagreements, possibly through a confidential procedure.⁶⁸

This Community of Practice aims to own, promote and enhance the Principles. It gathers practitioners of self- and co-regulation that recognize that it is an evolving art and need to be constantly and reflexively assessed, if it is to be effective. It stimulates a maturing debate, where the articulation and complementarity between hard regulation, on the one hand, and self- and co-regulation, on the other is explored in various ways.

2.2. International Organizations

This section will set out the institutional viewpoint of six well-known international organisations on the definitions of self- and co-regulation, as well as the use of these mechanisms as a part of ‘good governance’. As we shall see in the coming paragraphs whereas some organisations (such as the Organisation for Economic Co-operation and Development and the World Bank) have elaborated

⁵⁸ European Commission, “Principles for Better Self- and Co-Regulation” 11 February 2013, http://ec.europa.eu/information_society/newsroom/cf/dae/document.cfm?action=display&doc_id=1628 (accessed: 9 March 2015).

⁵⁹ European Commission, “The Community of Practice for better self- and co-regulation”, 26 February 2015, <https://ec.europa.eu/digital-agenda/en/communities/better-self-and-co-regulation> (accessed 9 March 2015)

⁶⁰ European Commission, “Principles for Better Self- and Co-Regulation” 11 February 2013, http://ec.europa.eu/information_society/newsroom/cf/dae/document.cfm?action=display&doc_id=1628 (accessed: 9 March 2015), p. 1.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid. p. 2.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

intensively on self and co-regulatory mechanisms, other organizations (such as the International Monetary Fund, Council of Europe and the United Nations for example) have only briefly referred to these mechanisms while focusing in particular sectors or have not taken an institutional approach. Where relevant, the viewpoint of the international organisations will be compared to the views expressed in the European documents on the role of self- and co-regulation discussed above. This comparison is done in order to see the similarities that may exist between the EU opinion and that of internationally orientated organisations concerning potential role of self- and co-regulation and the necessary guarantees surrounding the use of these mechanisms.

2.2.1. The Organisation for Economic Co-operation and Development (OECD)

A 2006 OECD Report on Alternative to Traditional Regulation⁶⁹ provides the following definitions of self- and co-regulation:

Self-regulation: *“Self-regulation involves a group of economic agents, such as firms in a particular industry or a professional group. This group voluntarily develops rules or codes of conduct that regulate or guide the behaviour, actions and standards of its members. The group is responsible for the development, monitoring, compliance with and enforcement of self-regulatory instruments”.⁷⁰ [...] “there may be government involvement in the development of self-regulatory arrangements, taking the form of advice or participation by officials in the discussions establishing the scheme. However, there is no formal legislative backing or government responsibility for the scheme”.⁷¹*

Co-regulation: *“The regulatory role is shared between government and industry. Typically (a large proportion of) industry participants formulate a code of practice in consultation with the government. The code of practice is usually effected through legislative reference or endorsement of a code of practice. Breaches of the code are usually enforceable via sanctions imposed by the industry or professional organisations rather than the government directly”.⁷²*

2.2.1.1. Implementation of self- and co-regulation through Checklists and Guidelines

The OECD considers alternative regulatory instruments as key principles of good decision-making.⁷³ Self-regulation forms part of the broad regulatory definition that the OECD employs, indicating that regulation *“include[s] laws, formal and informal orders and subordinate rules issued by all levels of government, and rules issued by non-governmental or self-regulatory bodies to whom governments have delegated regulatory powers.”⁷⁴*

The OECD has developed checklists which are intended to improve the effectiveness and the efficiency of governmental regulation. Checklists developed either by the OECD itself or in cooperation with other international organisations, as well as reports produced under the auspices of the OECD, often contain remarks related to the use of alternative policy instruments, including self- and co-regulation. For instance, the 1995 Checklist for Regulatory Decision-making⁷⁵ indicates that a comprehensive overview of various regulatory and non-regulatory policy instruments, including self-regulation, are important steps that need to be considered by decision-makers when they develop new

⁶⁹ OECD - Regulatory Policy Division, 2006, *Alternatives to Traditional Regulation*.

⁷⁰ Ibid. p. 34.

⁷¹ Ibid. p. 35.

⁷² Ibid. p. 137.

⁷³ Ibid. p. 15.

⁷⁴ OECD, 1997, *The OECD Report on Regulatory Reform: Synthesis*, p. 6.

⁷⁵ Ibid.

regulations or review existing regulations.⁷⁶ The 2002 Guidelines emphasize also that a periodic review of economic regulations should take place, in part to ensure that alternative arrangements cannot equally meet the objectives of regulation with less effect on competition.⁷⁷

In addition the 2005 integrated APEC-OECD checklist also emphasizes the importance of assessing regulatory alternatives when regulatory policies are reviewed.⁷⁸ It emphasizes that a systematic consideration of regulatory alternatives is amongst the key steps for strengthening regulatory efficiency and for helping policy makers to choose policy tools (regulatory and/or non-regulatory) effectively.⁷⁹ These provisions are similar to the ones contained in the European IA Guidelines concerning the drawing and /or selection of an extensive list of policy options to force policy makers to think ‘out of the box’ and overcome automatic use of traditional regulations (see Section 2.1.3)

The 2005 Guiding Principles for Regulatory Quality and Performance⁸⁰ provide that economic regulations should be designed to stimulate competition and efficiency, or, that these economic regulations should be eliminated if this is the best way to serve broad public interests.⁸¹

The 2012 Recommendation of the OECD Council on Regulatory Policy and Governance is a Recommendation which is directly related to the question as to how an actual Impact Assessment should be designed.⁸² It notes that the aim of Regulatory Impact Assessments (RIAs) is to improve “*the design of regulations by assisting policy makers to identify and consider the most efficient and effective regulatory approaches, including the non-regulatory alternatives before they make a decision*”⁸³, which must be done to overcome the government culture of “*regulate first, ask questions later*”.⁸⁴ This culture is somewhat apparent in earlier EU documents related to Better Regulation, and especially in the Annual Reports on Better Lawmaking, in which the Commission “*recognizes that, in many cases, regulations remain the simplest way to reach EU objectives.*”⁸⁵ In a similar way to the earlier EU documents (see Section 2.1.1), the OECD also states that the use of self- and co-regulatory initiatives should be made with caution. The 2012 Recommendation contains a critical point, stating that care must be taken when using light-handed approaches, such as self-regulation, to ensure that policy objectives are attained.⁸⁶

This cautionary approach is also found in the EU IA Guidelines, which advice against ruling out the possibility of regulating where self-regulation fails. The position of the EP reflects this as well, indicating that it is “*against abandoning necessary legislation in favour of self-regulation or co-regulation or any other non-legislative measure; (it) believes that the consequences of such choices should be subject to careful examination in each case, in accordance with Treaty law and the roles of the individual institutions.*”⁸⁷ Therefore, it can be argued that both the EU institutions and the OECD acknowledge the potential of self- and co-regulatory mechanisms, and at the same time emphasize

⁷⁶ OECD, 1995, *The OECD Reference Checklist for Regulatory Decision-Making*, question 3, and OECD, 1995, *Background Note To The OECD Reference Checklist For Regulatory Decision-Making*, point 20.

⁷⁷ OECD, 2002, *Guiding Principles for Regulatory Quality and Performance*.

⁷⁸ APEC-OECD, 2005, *APEC-OECD Integrated Checklist On Regulatory Reform*, p. 19.

⁷⁹ *Ibid.* p. 28.

⁸⁰ OECD, 2005, *OECD Guiding Principles For Regulatory Quality And Performance*, p. 6

⁸¹ *Ibid.* p. 6.

⁸² OECD, 2012, *Recommendation of the Council on Regulatory Policy and Governance, Annex*.

⁸³ *Ibid.* p. 25.

⁸⁴ *Ibid.* p. 26.

⁸⁵ *Ibid.* p. 5.

⁸⁶ OECD, 2012, *Recommendation of the Council on Regulatory Policy and Governance, Annex*, p. 27.

⁸⁷ European Parliament, 2010, *Resolution of 9 September 2010 on better lawmaking – 15th annual report from the Commission pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality*, (P7_TA(2010_0311)).

that policy-makers should proceed with caution when using these mechanisms so as to justify their in light of the policy objectives that must be achieved.

2.2.1.2. Evaluative Criteria

In addition to the use of regulatory alternatives in checklists, guidelines and recommendations, the OECD also provides various suggestions on how policy makers can assess and evaluate the appropriateness of regulatory instruments in reports.⁸⁸ The OECD criteria indicate, amongst others, that:

- the instrument or approach chosen to address a policy issue should be ‘effective’ in terms of addressing the identified problem, and that
- a clear specification of the policy objective, as well as a response targeted to deal with the underlying issue and not just the symptoms thereof, is deemed necessary for effectiveness.⁸⁹

The EU IA Guidelines point in this direction as well, with the 2005 IA Guidelines specifying that the first step to be taken is the identification of the problem, which “*should not be defined as a ‘lack of something’*. This could bias the definition of objectives and ultimately the choice of policy instruments.”⁹⁰ The options must be integrated and consistent with other regulation.⁹¹ At the EU level, this is reflected most clearly in the IIA, which sets out procedures through which the Commission must ensure that self- and co-regulation mechanisms are in line with the Treaty provisions.

Other OECD criteria relate to ex ante evaluation of relative effectiveness, compliance and enforcement, although this may be difficult at times.⁹² OECD points that the chosen approach should also be ‘efficient’ in terms of minimising costs and maximising benefits.⁹³ A final criterion concerns the fairness and equity of the regulatory instrument. The distribution (or perceived distribution) of the benefits and costs, should also be considered.⁹⁴

The current and past EU IA guidelines provide an extensive set of criteria through which the list of policy options, which can include self- and co-regulation, can be screened. The guidelines emphasize also that the effectiveness, which includes the extent to which addressees are likely to accept/comply with regulatory requirements (i.e. compliance) of these options should be also assessed.⁹⁵ Whereas the 2005 and 2009 EU IAs do not specifically mention effectiveness (defined as in the 2005 IA Guidelines as “*the extent to which options can be expected to achieve the objectives of the proposal*”⁹⁶) in relation to self- and co-regulation, the EU Commission⁹⁷ emphasizes specifically that transparency on the benefits and costs of different policy alternatives, (including self- and co-regulation), should be provided to keep EU intervention as simple and effective as possible.

⁸⁸ OECD, 2006, *Alternatives to Traditional Regulation*, p. 18.

⁸⁹ Ibid. p. 18.

⁹⁰ European Commission, 2005, *Impact Assessment Guidelines*, SEC(2005)791, p. 17.

⁹¹ OECD, 2006, *Alternatives to Traditional Regulation*, p. 19.

⁹² Ibid. p. 18.

⁹³ This can be analysed through e.g. cost benefit analysis and cost effectiveness analysis.

⁹⁴ OECD, 2006, *Alternatives to Traditional Regulation*, p. 20.

⁹⁵ See: European Commission, 2005, *Impact Assessment Guidelines*, (SEC(2005) 791), p. 25 and European Commission, 2009, *Impact Assessment Guidelines*, SEC(2009) 92, p. 31.

⁹⁶ European Commission, *Impact Assessment Guidelines*, (SEC(2005) 791), p. 25.

⁹⁷ European Commission, *Impact Assessment Guidelines*, 15 June 2005, (SEC(2005) 791), p. 38 and European Commission, 2009, *Impact Assessment Guidelines*, SEC(2009) 92, p. 6.

Reports published by the OECD frequently refer to regulatory alternatives, including self- and co-regulation, as part of efficient and effective policy action.⁹⁸ The OECD seems to agree that there are both real and perceived risks attached to the adoption of non-regulatory approaches. A 2002 Report on Regulatory Policies in OECD Countries⁹⁹ explains that perceived risks may arise since non-regulatory approaches may be ‘new’. Real risks come when the regulatory alternatives are not well-understood or lack an “*extensive track-record*” in dealing with a particular policy issue.¹⁰⁰ This is especially true when the policy maker decides to switch from traditional command-and-control regulatory approach to a non-regulatory approach.¹⁰¹

Risks, both perceived and real, are implicitly recognised at the EU level in the IA Guidelines. For example, the 2005 EU IA Guidelines note that “*frequent change of policy instruments may indeed be quite costly*”¹⁰², although they provide that if a change in the overall policy objective of existing legislation is envisioned, it is necessary to review the capacity of existing legislation in dealing with these changes.¹⁰³ If this is not the case, alternative options will need to be assessed in their capacity to meet these objectives.¹⁰⁴ A cautious approach is also implied in the 2009 IA Guidelines, which state that the list of policy options for initiatives in ‘new areas’ of existing policy fields will likely cover a larger set of policy options.¹⁰⁵ These aforementioned citations indicate that the IA Guidelines leave scope for change, but also emphasize that policy makers should proceed with caution.

Other concerns with the use of regulatory alternatives are also raised in the 2002 OECD Report. The 2002 OECD Report noted that many parties, including governments, firms, citizens and NGOs had expressed concerns about the use of regulatory alternatives.¹⁰⁶ More specifically, these parties were concerned that:

- these regulatory instruments – which are seen as “soft” regulatory options – are inclined to lead to regulatory capture;
- these instruments are not enforceable; and
- the transaction costs, especially for smaller firms, may be high when learning how to implement these alternatives.¹⁰⁷

In addition to the above mentioned concerns and risks, the 2002 OECD Report also indicated that innovative approaches to policy instruments may also focus on complementing traditional legislation with other instruments.¹⁰⁸ By breaking down regulatory issues into component problems and identifying policy tools to address these components, a combinations of policies may arise which can improve the effectiveness and efficiency of policy instruments in achieving policy objectives.¹⁰⁹

The EU documents discussed in Section 2.1.3 also note that they consider the combination of policy instruments as a possibility to respond effectively to relevant issues. For instance, the White Paper on European Governance indicated that achieving improvements for better and faster regulation would involve “*combining policy instruments for better results*”.¹¹⁰ The IIA also notes that co-regulation

⁹⁸ OECD, 2002, *Regulatory Policies in OECD Countries From Interventionism to Regulatory Governance*, p. 52.

⁹⁹ Ibid.

¹⁰⁰ Ibid. p. 53.

¹⁰¹ Ibid.

¹⁰² European Commission, 2005, *Impact Assessment Guidelines*, (SEC(2005) 791), p. 8.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ European Commission, 2009, *Impact Assessment Guidelines*, SEC(2009) 92, p. 15.

¹⁰⁶ OECD, 2002, *Regulatory Policies in OECD Countries from Interventionism to Regulatory Governance*, p. 55.

¹⁰⁷ Ibid. p. 56.

¹⁰⁸ Ibid. p. 53.

¹⁰⁹ Ibid. p. 55.

¹¹⁰ European Commission, *European Governance – a white paper*, COM(2001) 428 final.

may take place within a legal framework - on the basis of criteria defined in the legislative act - so as to enable the legislation to be adapted to the problems and sectors concerned, reduce the legislative burden by concentrating on essential aspects and draw on the experience of the parties concerned.¹¹¹ Along the same lines, the IA Guidelines dating from 2005¹¹², 2009¹¹³ and 2014¹¹⁴ indicate that regulatory problems and objectives could be solved effectively through ‘bundles’ or ‘packages’ containing both traditional and alternative policy options.

2.2.2. World Bank

The Better Regulation for Growth Program (BRG) is a key program that provides an overview of the opinion of the World Bank. The main objective of the BRG is to review and synthesize experiences with regulatory governance initiatives in developing countries, so that practical tools and guidance can be developed to help design and implement effective regulatory governance systems.¹¹⁵ According to a 2010 Report¹¹⁶, a well-functioning regulatory governance system consists of four building blocks, such as regulatory policy, regulatory institutions, regulatory quality tools and processes, as well as regulatory policy instruments and outputs.¹¹⁷ The last building block names the type and quality of regulatory and non-regulatory instruments as an important quality component. These instruments “range from very prescriptive regulatory interventions to tools such as various degrees of self-regulation”.¹¹⁸ In the context of the BRG Program, the World Bank has also set out the requirements for a so-called Regulatory Impact Assessment Light (RIA-light)¹¹⁹ for Developing Countries. The RIA Light does not contain “a requirement to systematically consider alternatives”¹²⁰, but regulators are required to consider all different regulatory policy options when undertaking a RIA to approach policy issues for the first time.¹²¹ No full impact analysis of these options is necessary; however unrealistic options can be discarded immediately. RIA Light can be applied to a legal instrument (law or regulation) or to a policy proposal.¹²² Notably, the World Bank employs the same definition of regulation as the OECD, in the sense that it encompasses in the definition of regulation the rules developed by non-governmental or self-regulatory bodies to whom governments have delegated regulatory powers.¹²³ Akin to the EU and the OECD, the World Bank considers alternative

¹¹¹ European Parliament, Council and the Commission, *Interinstitutional Agreement on Better Lawmaking*, OJ C 321/01, point 18.

¹¹² European Commission, 2009, *Impact Assessment Guidelines*, SEC(2009) 92, p. 23.

¹¹³ *Ibid.* p. 29.

¹¹⁴ European Commission, 2014, *2014 Revision of the European Commission Impact Assessment Guidelines - Public Consultation Document*, p. 40.

¹¹⁵ Investment Climate Advisory Services - World Bank Group, 2010, *Regulatory Governance in Developing Countries*, p. 2.

¹¹⁶ Investment Climate Advisory Services - World Bank Group, 2010, *Regulatory Governance in Developing Countries*.

¹¹⁷ *Ibid.* p. 7.

¹¹⁸ *Ibid.* p. 25 – 26.

¹¹⁹ World Bank, 2010, *Better Regulation for Growth Program, Making It Work: ‘RIA Light’ for Developing Countries*, p. ix. This report explains that RIA-light consists of set of minimum requirements for a well-functioning RIA-light system that is tailored to meet the requirements of developing countries. The report sets out five key requirements that have to be in place for a function RIA-light system: “1) political commitment, to establish and operate an effective and self-sustaining RIA process. 2) A unit or group of regulatory reformers – preferably based in a central area of government – which oversees, comments and reports on the quality of regulatory proposals before decisions are made about regulation. 3) Clear and consistently applied criteria and rules employed to screen regulatory proposals. 4) A transparent regulatory policy development process, which includes consultation with stakeholders. 5) A capacity building program, involving preparation of guidelines; training of officials preparing RIA and facilitating the required cultural changes, and establishing monitoring, evaluation and reporting systems.”

¹²⁰ World Bank, 2010, *Better Regulation for Growth Program, Making It Work: ‘RIA Light’ for Developing Countries*, p. ix.

¹²¹ *Ibid.* p. 25.

¹²² *Ibid.*

¹²³ *Ibid.* p. 45. See also: World Bank, 2010, *Better Regulation for Growth - Tools and Approaches to Review Existing Regulations*, p. 38.

policy options, including co- and self-regulation, to be part of an effective regulatory governance system.

2.2.2.1. The Conceptualization of SROs in World Bank Research Papers

The World Bank does not provide organisation-wide accepted definitions of self-regulation. Two Policy Research Working Papers which are intended to encourage the exchange of ideas on financial development issues do mention the term *self-regulatory organisation* (SRO).¹²⁴ These papers are related mainly to the topic of Finance and Financial Sector Development. Formal self-regulation is carried out through a SRO, which has the power to regulate its own members (i.e. “to organize and control an activity or process by making it subject to rules or laws”).¹²⁵

SROs are private institutions. They are usually responsible for specific market regulation and member regulation functions. The responsibility to regulate is shared with the government authority that also supervises the SRO.¹²⁶ Under the most complete form of self-regulation, SROs have the authority to establish rules of conduct for its members or participants, supervise their compliance with, as well as enforcement with those rules. The authority of SROs is usually based on law and delegation of power by a statutory regulator, but it can also be based on contracts with regulated firms. Full-fledged SROs have the following three main functions:

- i. Rule-making: establishing rules and regulations governing the conduct of member firms and other regulated persons;
- ii. Supervision: supervising members and markets to monitor compliance with the rules, and
- iii. Enforcement: enforcing compliance with the rules by investigating potential violations and disciplining individuals and firms that violate them.

However, the SRO can only perform one or two of these functions.¹²⁷ The enforcement jurisdiction of an SRO is normally limited to those individuals/firms within the SROs’ membership.¹²⁸ SROs are accountable to their members/shareholders.

Supervising regulators (e.g. a securities commission or a similar government financial regulator) are responsible for oversight of SROs. Oversight should not extend to directing or managing SRO operations unless regulatory failure occurs. SROs also have a broader responsibility to all stakeholders in the capital markets, especially investors. Many SROs have express “*public interest obligations*”, which reflect their broad, quasi-public mandates. Such mandates may be set out in law, regulation and / or in the SRO’s corporate charter or by-laws.¹²⁹ SROs do not feature prominently in the EU approach to self- and co-regulation.

¹²⁴ See: Carson, J., *Self-regulation in securities markets* and Carson, J., *Conflicts Of Interest In Self-Regulation: Can Demutualized Exchanges Successfully Manage Them?*

¹²⁵ Carson, J., *Self-regulation in securities markets*, p. 5.

¹²⁶ Ibid. p. 32.

¹²⁷ Ibid. p. 5: “An SRO can perform only one or two of those functions. For example, an SRO can focus on supervising compliance with regulations set by a statutory regulator. SROs in civil code countries have a lesser role in rule-making due to legal limitations or the government’s ability to delegate regulatory powers as well as the need for explicit statutory authority. Also, an SRO’s responsibilities for supervision and enforcement may cover only its own rules, or may extend to supervising compliance with securities laws and regulations to which its members are subject.”

¹²⁸ Ibid.

¹²⁹ Ibid. p. 6.

2.2.3. The Council of Europe

A key document of the Council of Europe on self-regulation is a Recommendation dating from 2001.¹³⁰ The Recommendation concerns cyber content, and specifically self-regulation and user protection against illegal or harmful content on new communications and information services. In this Recommendation, the Council states its desire to strengthen self-regulation and user protection against such illegal or harmful content. It emphasizes that member states should encourage both the establishment of organisations representative of internet actors and the creation of regulatory mechanisms within the remit of these organisations, in particular with regard to the establishment of codes of conduct and the monitoring of compliance with these codes. The Council states that those organisations in the media field should be encouraged to apply these standards, as far as possible, to the new communications and information services. The EU has employed a similar attitude to the use of self- and co-regulation in the light of illegal or harmful content. This is evidenced by the setting up of a Community of Practice for Better Co- and Self-regulation, which also focuses on the role of self- and co-regulation in addressing the challenges related to new technologies and hyper-connectivity.¹³¹ Self-regulation is also one of the instruments of the EU Strategy to create a better internet for children.¹³² The CEO Coalition to make a Better Internet for Kids (BIK Initiative) was launched in December 2011.¹³³ Companies that are signatories to the coalition commit themselves to take positive action in the following five areas:

- i. Simple and robust reporting tools for users
- ii. Age-appropriate privacy settings
- iii. Wider use of content classification
- iv. Wider availability and use of parental controls
- v. Effective takedown of child sexual abuse material¹³⁴

The Commission has also established the Audiovisual Media Services Directive, which explicitly encourages the use of self- and co-regulation by Member States to regulate linear and on-demand broadcasting.¹³⁵

2.2.4. The International Monetary Fund (IMF)

The International Monetary Fund has not taken an institutional position concerning the role and definition of self- and co-regulation. The IMF Staff Position Notes¹³⁶, which showcase the latest policy-related analysis and research being developed by individual IMF staff, mention self-regulation in light of financial regulation. A note published in 2009 indicates a critical position towards self-regulation following the financial crisis. The position was taken because the regulatory framework hinged on self-regulation to provide oversight to the unregulated sector meaning “*regulators had limited powers to constrain the build-up of such risks*”¹³⁷. Therefore, for certain parts of the financial

¹³⁰ Council of Europe, Committee of Ministers, *Recommendation no. R (2001) 8 of the Committee of Ministers to Member States On Self-Regulation Concerning Cyber Content (Self-Regulation And User Protection Against Illegal Or Harmful Content On New Communications And Information Services)*, 5 September 2001, 762nd meeting of the Ministers' Deputies, Rec(2001)8.

¹³¹ European Commission, ‘The Community of Practice for better self- and co-regulation’. For further information, please see: <https://ec.europa.eu/digital-agenda/en/community-practice-better-self-and-co-regulation-0> , Accessed 9 March 2015.

¹³² European Commission, “Self-regulation a Better Internet for Kids”, 2 March 2015, <http://ec.europa.eu/digital-agenda/en/self-regulation-and-stakeholders-better-internet-kids>, (accessed 9 March 2015)

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Directive 2010/13/EU, article 4 (7).

¹³⁶ IMF, “Staff Discussion Notes”, 2015. For further information please see:

<http://www.imf.org/external/pubs/cat/createx/Publications.aspx?page=sdn> (accessed 9 March 2015)

¹³⁷ IMF Staff Position Note, Carvajal, Dodd, Michael Moore et al. *The Perimeter of Financial Regulation*, SPN/09/07, p. 6.

sector, self-regulation alone was insufficient to prevent risks stemming from unregulated companies and vehicles. These unregulated companies and vehicles could then “assume both credit risks and significant liquidity risks, funding poor-quality, long-term securities by short-term borrowings with high degrees of leverage”.¹³⁸ Another position note on the financial crisis was published in 2010¹³⁹, which also criticises the role of self-regulation in causing the financial crisis. The note states that “short-term incentive structures, which relied excessively on self-regulation also encouraged outsized risk taking.”¹⁴⁰ Working papers, which are designed to make research by individual IMF staff members available to a wide academic audience, also discuss self-regulation at times.¹⁴¹ Similar to the position notes, these papers criticise the role of self-regulation in light of the financial crisis.¹⁴² Therefore, it is safe to assume and conclude that staff members of the IMF remain generally critical to the use of self-regulation as an instrument for regulating the financial sector.

2.2.5. The International Chamber of Commerce (ICC)

The International Chamber of Commerce has specifically considered self-regulation in light of ethical marketing and advertising communications practices¹⁴³, but has not adopted an institutional position. The ICC considers self-regulation an efficient, cost-effective approach to ethical marketing and advertising communications practices.¹⁴⁴ The ICC bases this conclusion on its opinion that the world’s most effective self-regulatory systems have their voluntary codes enforced by a SRO.¹⁴⁵ According to the ICC, depending on the country, SROs provide the following (or some of the) services to their communities: respond to complaints, monitor advertising, initiate their own investigations and / or give copy advice. These services are all aimed to efficiently help communities to prevent and correct problems.¹⁴⁶ An example provided is the European Advertising Standards Alliance (EASA) is a non-profit organization comprised of SROs representing the advertising industry in Europe.¹⁴⁷

2.2.6. The United Nations (UN)

The United Nations has not adopted an institutional position on the use and definition of self- and co-regulation. There is a Recommendation¹⁴⁸ in which the UN Centre for Trade Facilitation and Electronic Business (CEFACT) sets out the viewpoint of CEFACT on the use self-regulation in relation to e-commerce. CEFACT notes that self-regulation can take different forms (e.g. adopting a code of conduct or participating in a national or international trustmark scheme) and that states may play an important role in the creation of SR instruments by:

- i. promoting and facilitating the development of such instruments, and

¹³⁸ Ibid. p. 4.

¹³⁹ IMF Staff Position Note, Kodres and Narain, *Redesigning the Contours of the Future Financial System*, SPN/10/10.

¹⁴⁰ Ibid. p. 7.

¹⁴¹ See, for example: Carvajal and Elliott, *Strengths and Weaknesses in Securities Market Regulation: A Global Analysis*, WP/07/259, p. 18 – 19 and Amadou, *The Systemic Regulation of Credit Rating Agencies and Rated Markets*, WP/09/129, p. 24 – 26.

¹⁴² Ibid.

¹⁴³ International Chamber of Commerce, Marketing and Advertising Commission, “Consolidated ICC Code of Advertising and Marketing Communication Practice”, 2011, <http://www.iccwbo.org/Data/Policies/2011/ICC-Consolidated-Code-of-Advertising-and-Marketing-2011-English/> (accessed 9 March 2015).

¹⁴⁴ ICC, “Self-regulation”, 2014, <http://www.codescentre.com/about-us/self-regulation.aspx>, (accessed: 20 February 2015).

¹⁴⁵ ICC, “Self-regulation”, 2015, <http://www.iccwbo.org/advocacy-codes-and-rules/areas-of-work/marketing-and-advertising/self-regulation/>, (accessed: 9 March 2015).

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ UN, *Recommendation 32, E-commerce Self-Regulatory Instruments (Codes of conduct)*, adopted by seventh session of the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), Geneva, March 2001, ECE/TRADE/277.

- ii. adopting themselves codes of conduct for e-commerce and complying with certain rules of conduct that govern the electronic communications between businesses and government.¹⁴⁹

2.3. Member States

2.3.1. Introduction

There hardly exists any general data, which would allow us to draw conclusions on the potential role of co- and self-regulation within the national regulatory traditions. Research has so far revealed that systematic analyses of national regulatory traditions, with regards to the role of co- and self-regulation, seem to be relatively rare within the scientific discourse.¹⁵⁰ Questions relating to the role of co- and self-regulatory arrangements at the national level have primarily been addressed on a policy-context specific and anecdotal basis.¹⁵¹ In a similar vein, Latzer and his colleagues (2003), have also observed that there is a lack of scientific research on the role of co- and self-regulation in the national regulatory context. In this context, it has been concluded that “*there are hardly any systematic and/or comparative empirical analyses of self and co- regulation. Empirical evidence is mostly limited to the description of randomly picked, best practice or failed examples of self or co-regulation, or it is limited to special sub-sectors (e.g. advertising, press, e-commerce, telecommunications).*”¹⁵² Similarly, Porter and Ronit (2006) conclude that existing studies have “*focused on self-regulation in particular industries or policy fields and have not tried to draw general conclusions about it.*”¹⁵³ However, what can be observed is a relatively strong discrepancy among European Member States when it comes to the respective importance, application and acceptance of co- and self-regulatory approaches at national level.¹⁵⁴ Accordingly, in the final report of the Advertising Round Tables, which was organized by the DG Health and Consumers in October 2005, January 2006 and May 2006, it has been noticed - (with specific emphasises on the advertising sector) - that “*there are wide national differences across the EU as regards the use of self- and co-regulation and statutory regulation. A number of countries use and promote self-regulation; others allow a limited role for SROs and in others the co-regulatory structure dominates the system.*”¹⁵⁵

Drawing on these discrepancies regarding the general stance of national regulatory traditions towards the use of alternatives, such as co- and self-regulation, Jourdan (2007) further ascertained that self-regulation as a regulatory principle “*has been largely unknown in Continental European countries where legal systems generally demonstrate a preference for ‘written law’ on a take it or leave it basis.*”¹⁵⁶ Whereas in the UK the self-regulatory arrangements occupy a relatively exposed position within the national regulatory contexts, the regulatory traditions in most continental European legal

¹⁴⁹ Ibid. p. 2

¹⁵⁰ Porter, Ronit, *Self-regulation as policy process: The multiple and criss-crossing stages of private rule-making*, p. 42; Latzer et al., *Regulation Remixed: Institutional Change through Self- and Co-Regulation in the Mediamatics Sector*, p. 133-134.

¹⁵¹ See, *inter alia.*: Rodriguez, *Self-regulation as a regulatory strategy: The Italian legal framework*, p.140–156.; Rouvière, Caswell, *From punishment to prevention: A French case study of the introduction of co-regulation in enforcing food safety*, p. 246-254; Garcia Martinez et al., *Co-regulation as a possible model for food safety governance: Opportunities for public-private partnerships*, p. 299–314; Latzer et al., *Regulation Remixed: Institutional Change through Self- and Co-Regulation in the Mediamatics Sector*, p. 127-157; Lund and Berg, *Denmark, Sweden and Norway: Television Diversity by Duopolistic Competition and Co-Regulation*, p. 19-37.

¹⁵² Latzer et al., *Regulation Remixed: Institutional Change through Self- and Co-Regulation in the Mediamatics Sector*, p. 133-134.

¹⁵³ Porter and Ronit, *Self-regulation as policy process: The multiple and criss-crossing stages of private rule-making*, p. 42.

¹⁵⁴ Scott, Cafaggi and Senden, *The Conceptual and Constitutional Challenge of Transnational Private Regulation*, p. 5.

¹⁵⁵ European Commission, DG Health and Consumer Protection, 2006, *Self-Regulation in the EU Advertising Sector: A report of some discussion among Interested parties*, available from:

http://ec.europa.eu/dgs/health_consumer/self_regulation/docs/report_advertising_en.pdf (accessed 9 March 2015)

¹⁵⁶ Jordan and Hughes, *Which Way for Market Institutions? The Fundamental Question of Self-Regulation*, p. 213.

cultures (such as France or Italy¹⁵⁷) show a significantly stronger reliance on the traditional command-and-control regulation.¹⁵⁸ More specifically, in these countries there is “*either formal governmental regulation or there is no regulation; the half-way house of self-regulation, whether by continuance of traditional practices, tacit or overt delegation of authority, or ‘sharing’ of regulatory responsibility with a government regulatory body, is not part of the modern Continental European legal culture.*”¹⁵⁹ However, the validity of such a general conclusion has to be relativized insofar as a more differentiated consideration of specific policy fields often reveals strong reliance on co- and self-regulatory alternatives also in certain continental European member states. In that respect, some Nordic EU member states, such as for example Denmark and Sweden, are considered to be relatively experienced on the use of alternative forms of regulation, such as co- and self-regulation, especially in the field of consumer protection, media management¹⁶⁰ and regulating good market behaviour.¹⁶¹

Interestingly, such discrepancies in national approaches towards the consideration of regulatory alternatives have also been addressed by the report of the Regulatory Policy Committee of the OECD from 2009.¹⁶² This Report provides a chart presenting the data for 30 OECD member countries on countries’ provision of justification for traditional regulation and consideration of regulatory alternatives. The chart reveals that – when considering EU member states only – Poland, the Netherlands, Germany, UK and Ireland - have adopted the highest requirements for justifying traditional regulatory actions.¹⁶³ These findings lead to conclusions about the general acceptance towards “*alternative policy instruments (regulatory and non-regulatory) before adopting new regulation*”¹⁶⁴ (See Annex 1).

Given these high discrepancies in national regulatory traditions among member states as well as the lack of systematic and/or comparative empirical data on the role of self- and co-regulation in national regulatory contexts, the following section is not intended to be an exhaustive and detailed delineation thereof. In view of the above circumstances, the following paragraphs can only provide for some preliminary insights on co- and self-regulatory arrangements in a limited selection of member states. Each of the following examples, provide a broad overview over the general stance of respective member states towards co- and self-regulation. Furthermore, as far as permitted by the data, a short typology of co- and self-regulatory arrangements is provided.

2.3.2. United Kingdom (UK)

As mentioned in the introductory part, the concept of private self-regulation has particularly strong roots in the British regulatory tradition and is “*well accepted and integrated into wider regimes of regulatory governance in the United Kingdom*”¹⁶⁵, compared to other EU member states, where “*the legitimacy of self-regulation is more fragile.*”¹⁶⁶

According to Bartle and Vass (2007), self-regulation has been promoted by the British state in two distinct ways. First, governmental organisations, such as the UK’s “Better Regulation Task Force”

¹⁵⁷ OECD, 2013, *Better Regulation in Europe: Italy 2012, revised edition, June 2013*, p. 84.; OECD, 2001, *Regulatory Reform in Italy, Government Capacity to Assure High Quality Regulation*, p. 28.

¹⁵⁸ Ibid. p. 213.

¹⁵⁹ Jordan and Hughes, *Which Way for Market Institutions? The Fundamental Question of Self-Regulation.*, p. 213.

¹⁶⁰ Lund and Berg, *Denmark, Sweden and Norway: Television Diversity by Duopolistic Competition and Co-Regulation*, p. 19-37

¹⁶¹ Nielsen, *Harmonisation of EU Marketing Law. Analysis of advantages and disadvantages of a regulation of marketing law in EU*, p. 32.

¹⁶² OECD, 2009, Regulatory Policy Committee, Indicators of Regulatory Management Systems.

¹⁶³ OECD, 2009, Regulatory Policy Committee, Indicators of Regulatory Management Systems, p. 58.

¹⁶⁴ Ibid, p. 59.

¹⁶⁵ Scott, Cafaggi and Senden, *The Conceptual and Constitutional Challenge of Transnational Private Regulation*, p. 5.

¹⁶⁶ Scott, Cafaggi and Senden, *The Conceptual and Constitutional Challenge of Transnational Private Regulation*, p. 5.

(BRTF) – (a governmental organization set up by the British government and which operated between 1997 and 2008 as advisory body) – has played a significant role in advocating the importance of co- and self-regulatory mechanisms as (better) alternatives to traditional “command-and-control” regulation. Secondly, the role of “self-regulation” has been significantly shaped in the UK by the adoption of legislative measures in a variety of sectors, such as advertising, energy and consumer protection.¹⁶⁷ In that context, one particular legislative document, which is often referred in the literature with regards to the conceptualization of co- and self-regulation within the British regulatory context is the so-called “Communications White Paper”¹⁶⁸. The White Paper was adopted by the UK’s government in 2000.¹⁶⁹ In this document the UK government highlights the importance of “co-regulation” as a promising regulatory alternative to regulation, which is explicitly considered as a form of de-regulation.¹⁷⁰ According to the White Paper „Co-Regulation” is qualified as a regulatory concept “*to indicate situations in which the regulator would be actively involved in securing that an acceptable and effective solution is achieved. The regulator may for example set objectives which are to be achieved, or provide support for the sanctions available, while still leaving space for self-regulatory initiatives by industry, taking due account of the interests and views of other stakeholders, to meet the objectives in the most efficient way. The regulator will in any such case have scope to impose more formal regulation if the response of industry is ineffective or not forthcoming in a sufficiently timely manner.*”¹⁷¹ The White Paper, which formed the basis for the reform of UK’s communications regulation through the adoption of the Communications Act in 2003¹⁷², further “*distinguished co-regulation from self-regulation on the basis that the former had an active involvement by the regulator to ensure that an acceptable and effective solution was achieved, for example through setting objectives or providing support for sanctions whilst leaving space for self-regulatory initiatives by industry.*”¹⁷³

Worth mentioning in this context is also the definition of self-regulation brought forward by the British National Consumer Council (NCC), which defines self-regulation as regulatory tool whereby „*rules which govern behaviour in the market are developed, administered and enforced by the people (or their direct representatives) whose behaviour is to be governed.*”¹⁷⁴

Turning now to the systematisation of different type of co- and self-regulatory mechanisms within the UK’s regulatory context, the 2003 report on “*Imaginative thinking for better regulation*” deserves specific attention. In this document, the “Better Regulation Task Force” established a regulatory spectrum, which distinguishes five alternative “types of regulatory tools”, which range from - *no formal governmental action* - to - *traditional command-and-control regulation* -, indicating different degrees of public/private involvement within the regulatory process. „Self-regulation“ is formulated as a distinct regulatory alternative, lying in between the two poles of „no intervention“ on the one hand and „classic regulation“ on the other. The two remaining categories „*information & education*“ and „*incentive based structures*“ are established as distinct regulatory mechanisms completing the

¹⁶⁷ Bartle and Vass, *Self-regulation and the regulatory state ~ a survey of policy and practice*, p. 891. Schulz and Held, *Regulierte Selbstregulierung als Form modernen Regierens*, C-5.

¹⁶⁸ UK Government, Department of Trade and Industry and Department of Culture, Media and Sport, 2000, *Communications White Paper*.

¹⁶⁹ Bartle and Vass, *Self-regulation within the regulatory state: towards a new regulatory paradigm?*, 885; Schulz and Held, *Regulierte Selbstregulierung als Form modernen Regierens*, A-4.

¹⁷⁰ Schulz and Held, *Regulierte Selbstregulierung als Form modernen Regierens*, C-5.

¹⁷¹ UK Government, Department of Trade and Industry and Department of Culture, Media and Sport, 2000, *Communications White Paper* cit. in Schulz and Held, *Regulierte Selbstregulierung als Form modernen Regierens*, C-5.

¹⁷² Bartle and Vass, *Self-regulation within the regulatory state: towards a new regulatory paradigm?*, p. 885.

¹⁷³ Prosser, *Self-regulation, co-regulation and the audio-visual media services directive*, p. 113.

¹⁷⁴ Nation Consumer Council, October 1999, *Models of self-regulation: an overview of models in business and the professions*, available from: http://www.talkingcure.co.uk/articles/ncc_models_self_regulation.pdf. (accessed: 20 February 2015)

regulatory spectrum. According to the BRTF self-regulation is characterized as the voluntary establishment of rules by private actors, which are most commonly adopted in the form of „codes of practice“, “voluntary standards” and “voluntary accreditation” schemes.¹⁷⁵ Similar to the regulatory model, which has been developed within the framework of the present research project, also the UK’s BRTF considered „co-regulation“ as being a subcategory of „self-regulation“. However, with regard to the conceptual distinction between the terms „co-regulation“ and „self-regulation“, the BRTF elucidates the “*statutory backing or other significant government involvement*”¹⁷⁶ of co-regulatory arrangements as a key distinguishing element. In a later report, the BRTF drew on that distinction and further stressed the fact that “*co-regulation involves some sort of legal underpinning and can therefore be described as self-regulation with a legislative back-stop.*”¹⁷⁷

Drawing on the above conceptualisations and empirical examinations of self-regulatory mechanisms in UK, Bartle and Vass (2007) developed their own typology of co- and self-regulatory mechanisms. To that end, a general distinction is made between “mandated” and “non-mandated” schemes of self-regulation, each entailing a series of sub forms. The authors considered the nature of public involvement in the self-regulatory process and the role of the statute as key distinguishing criteria for “mandated” and “non-mandated” self-regulation . While “mandated” self-regulation is characterised by an “*explicit involvement of the state with the specification of self-regulatory schemes in statute*“, “non-mandated” self-regulation is considered as a form of self-regulation, which is not specified in statute. “Mandated” self-regulation is further subdivided into three more specified categories, including:

- “co-operative”,
- “delegated”, and
- “devolved” self-regulation.

While “co-operative” forms of self-regulation are characterised by “*co-operation between regulator and regulated on the development and implementation of statutory regulation*”¹⁷⁸, “delegated” self-regulation implies “*delegation of the implementation of statutory duties by a public authority to self-regulatory bodies.*”¹⁷⁹ Whereas the former is described as the latter form of self-regulation, it is in practice often referred as “co-regulation”.¹⁸⁰ The third subcategory of ”mandated” self-regulation – “devolved” self-regulation-, comprises “*classic statutory self-regulation schemes*”, such as self-regulation of the professions, in which the self-regulatory schemes are specified in statute “*but devolved by government and parliament to self-regulatory bodies*”.¹⁸¹ As opposed to this form of “mandated” self-regulation, the former two subcategories are characterised by the involvement of an “*intermediate public body.*”¹⁸² Apart from these three main sub-categories of “mandated” self-regulatory schemes, reference is also made to the concept of “enforced” self-regulation”. The later form of self-regulation is described as the adoption, enforcement and compliance of detailed rules by private actors within the regulatory framework set by the government.¹⁸³

When it comes to the second analytical category of self-regulation, so-called “non-mandated” self-regulation-self-regulatory schemes, which are not explicitly specified by statute – further distinction

¹⁷⁵ Better Regulation Task Force, 2003, *Imaginative thinking for better regulation*, cit. in Bartle and Vass, Self-regulation within the regulatory state, a survey of policy and practice, p. 19-20.

¹⁷⁶ Ibid. p. 20.

¹⁷⁷ Better Regulation Task Force, *Routes to Better Regulation, A guide to alternatives to classic regulation*, p. 26. available from: http://www.eesc.europa.eu/resources/docs/routes_to_better_regulation.pdf. (accessed: 20 February 2015)

¹⁷⁸ Bartle and Vass, *Self-Regulation within the regulatory state: Towards a new regulatory paradigm?*, p. 891.

¹⁷⁹ Ibid. p. 891.

¹⁸⁰ Ibid. p. 893.

¹⁸¹ Ibid. p. 892.

¹⁸² Ibid. p. 892.

¹⁸³ Ibid. p. 892.

has been made between “facilitated” and “tacitly-supported” self-regulation. Whereas “facilitated” self-regulatory schemes are characterised as “*explicitly and pro-actively supported*”, promoted or otherwise accompanied by the state but (...) *not backed by statute*¹⁸⁴, in case of the later there is little or no explicit state involvement.¹⁸⁵ With that said, „tacitly-supported“ self-regulation is considered as closely related to „pure“ or „voluntary“ self-regulation insofar as the state plays only very marginal role within the regulatory process. However, the adoption and enforcement of rules set by private actors in cases of „tacitly-supported“ are not totally independent from state action, meaning that the state in fact has a slight impact on the regulatory process, as these self-regulatory schemes „*are (often implicitly) conditioned and constrained by state action.*“¹⁸⁶

2.3.3. Germany

Inferring from the existing literature, instruments of self- and co-regulation do not seem to be widely used in Germany. Anyhow, there are some approaches that can be identified, e.g.: Self-regulation has traditionally played an important role in Germany in setting professional standards and in managing social security schemes since the 19th century. In this context, professional chambers and cooperatives (governed by the members of specific professions) were mandated to set minimum standards for a specific sector and to enforce them.¹⁸⁷ Since the 1970s, self-regulation also played a major role in environment politics and the chemical sector.¹⁸⁸ Furthermore, there is a deep implementation of self-regulation in the field of protection of minors in the media.¹⁸⁹

According to the OECD’s Reviews of Regulatory Reform in Germany published in 2004, “*self-regulation is part of the German tradition. Many activities are already subject to the regulatory frameworks, which have been developed and are managed by representatives of the sector, albeit under the umbrella of comprehensive and efficient competition law and authority. These include professional services, the electricity and gas sector, and public procurement.*”¹⁹⁰ Further reference is made to the governmental programme published by the Federal Government in 1999 under the headline “*Modern State – Modern Administration*”, which vaguely refers to the importance to promote the cooperation between private actors and the public legislator by means of self-regulation.¹⁹¹ In the follow-up report of the OECD from 2010 on Better Regulation in Europe, which evaluates the progress made since the publishing of the OECD’s Review of Regulatory Reform in Germany, „co-regulation“ has been identified as one important alternative to traditional “command and control” legislation in Germany.¹⁹² Both aforementioned OECD country reports mention a checklist for identifying opportunities for regulatory alternatives attached to the federal government’s Joint Rules of Procedure of Federal Ministries, which already laid down “*clear formal obligations on*

¹⁸⁴ Ibid. p. 891.

¹⁸⁵ Ibid. p. 891.

¹⁸⁶ Ibid. p. 891.

¹⁸⁷ Collin, Bender, Ruppert, Seckelmann and Stolleis, *Regulierte Selbstregulierung in der westlichen Welt des späten 19. Und frühen 20. Jahrhunderts*, p. 6 et seqq.

¹⁸⁸ Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety, 2011, *Selbstverpflichtungen im Umweltschutz*, available from: <http://www.bmu.de/themen/wirtschaft-produkte-ressourcen/wirtschaft-und-umwelt/selbstverpflichtungen/> (accessed: 6 March 2015); Paschen von Flotow, Johannes Schmidt, *Evaluation von Selbstverpflichtungen der Verbände der chemischen Industrie*, available from: http://www.sbi21.de/fileadmin/user_upload/AP_36.pdf (accessed: 6 March 2015).

¹⁸⁹ Hahn and Vesting, *Rundfunkrecht*, 3rd edition 2012, § 1 JMStV.

¹⁹⁰ OECD, 2004, *Reviews of Regulatory Reform, Germany, Consolidating Economic and Social Renewal*, p. 60.

¹⁹¹ Kabinettsbeschluss der Bundesregierung, *Moderner Staat – Moderne Verwaltung, Leitbild und Programm der Bundesregierung*, p. 7, available from:

https://www.bmi.bund.de/SharedDocs/Downloads/DE/Broschueren/nichtinListe/1999/Moderner_Staat_-_Moderne_Id_1447_de.pdf?__blob=publicationFile, (accessed: 6 March 2015).

¹⁹² OECD, 2010, *Better Regulation in Europe, Germany*.

regulators to consider alternatives to regulation, such as self-regulation.”¹⁹³ Paragraph 43 (1) (3) of the Joint Rules of Procedure of Federal Ministries in principle requires the Federal Government in its reasoning for legislative initiatives to assess the suitability of alternative regulatory solutions, such as private self-regulation. Appendix 5 to that provision entails the said checklist for the assessment of opportunities for self-regulation (“*Prüfkatalog zur Feststellung von Selbstregulierungsmöglichkeiten*”).¹⁹⁴ This checklist comprises of questions, which have to be considered when assessing the suitability of private self-regulation as regulatory solution in a particular context.¹⁹⁵

In a relatively recent cross-sectoral study on the role self-regulation in the German private law, Buck-Heeb and Dieckmann (2010)¹⁹⁶ brought forward a systematisation of different forms of self-regulation under German private law. The authors establish an analytical distinction of self-regulatory schemes according to the respective degree of governmental involvement in rulemaking and enforcement processes. To this end, two distinct manifestations of self-regulatory mechanisms under German private law have been elaborated.

A first group of self-regulatory mechanisms has been labelled as “autonomous“ or „true“ self-regulation (“*autonome oder echte Selbstregulierung*“)¹⁹⁷, which is characterised as system of rulemaking and enforcement, which lies fully in the hands of private actors, without any explicit legal mandate or other forms of public involvement, such as the imposition of specific requirements or limitations on private actors.¹⁹⁸ Given the lack of governmental involvement, this type of self-regulatory arrangements has also been referred as “voluntary self-regulation” (“*freiwillige Selbstregulierung*”). Furthermore, “*autonomous self-regulation*“ – as it is framed by the authors – does not imply any delegation of legislative powers, but it comprises various forms of voluntary rules set in the form of codes of conduct or private contracts, which have been established by private actors in response of the reluctance of the state to regulate in a specific area.¹⁹⁹

As a second analytical category of self-regulatory arrangements under German private law, Buck-Heeb and Dieckmann (2010) distinguish so-called “heteronormativ“²⁰⁰ or „regulated“ self-regulation (“*heteronorme oder staatlich gesteuerte Selbstregulierung*”). The key characteristic of this category of self-regulation is that the state provides a general legislative framework – containing aspects of the legislative content, the key objectives and the regulatory purpose – within which private actors are entitled to adopt specified rules. These particular forms of private self-regulation are often subsumed under the terms of “regulated self-regulation” or “controlled self-regulation”, with the former being of particular prominence in the German scientific discourse.²⁰¹ Regarding the conceptual positioning of “regulated self-regulation”, these regulatory tools are considered as filling the gap between government regulations on the one hand and fully private self-regulation on the other.²⁰² The authors

¹⁹³ OECD, 2004, *Reviews of Regulatory Reform, Germany, Consolidating Economic and Social Renewal*, p. 60..

¹⁹⁴ Die Bundesregierung, *Gemeinsame Geschäftsordnung der Bundesministerien*, (German Federal Government, Joint Rules of Procedure of Federal Ministries), available from: http://www.bmi.bund.de/SharedDocs/Downloads/DE/Veroeffentlichungen/ggo.pdf?__blob=publicationFile, (accessed: 20 February 2015).

¹⁹⁵ Ibid.

¹⁹⁶ Buck-Heeb and Dieckmann, *Selbstregulierung im Privatrecht*, p. 33-34.

¹⁹⁷ Ibid, p. 33.

¹⁹⁸ Ibid, p. 33.

¹⁹⁹ Ibid, p. 33-34..

²⁰⁰ According to the authors, the German term „heteronom“, as it is used within the context of self-regulation, implies that the regulatory initiative is not based on the free will of private actors – as it would be the case in so-called “autonomous“ or „true“ self-regulation – but on the explicit legislative mandate. (Ibid. p. 35)

²⁰¹ The term „regulated self-regulation“ (*regulierte Selbstregulierung*) has been introduced into the German scientific debate by Wolfgang Hoffmann-Riem. (Wolfgang Hoffmann-Riem, *Multimedia-Politik vor neuen Herausforderungen, Rundfunk und Fernsehen* 1995, p. 125-138; Wolfgang Hoffmann-Riem, *Regulating Media*, p. 326.)

²⁰² Buck-Heeb and Dieckmann, *Selbstregulierung im Privatrecht*, p. 33.

highlight the terminological link to the concept of “co-regulation“ (“Co-Regulierung“), by emphasising the cooperative interactions between private and public actors²⁰³, which accords with one of the fundamental assumptions of the present research concerning the conceptual overlap between co- and self-regulation.

Since 2008, the issue of self- and co-regulation in the information economy has become a major point of public discussion in Germany, especially in the areas of data protection and consumer protection.²⁰⁴ As a consequence of this discussion, the non-profit association “*Self-Regulation Information Economy*” (“*Selbstregulierung Informationswirtschaft*”) was founded in 2011 by German and international companies of the digital economy as well as the ICT-association BITKOM. Its main objectives are to promote consumer protection and data protection through self and co-regulation, and to serve as a platform for the development, implementation, enforcement, and evaluation of codes of conduct and other activities.²⁰⁵ By now, one code of conduct related to geo-data-services, the Geodatenkodex, was developed and implemented successfully.²⁰⁶ Aiming for an improvement of the legislative framework for self- and co-regulation in Germany and the EU, SRIW has initiated a discussion with politicians and other stakeholders.²⁰⁷ On behalf of SRIW, Prof. Dr. Gerald Spindler and Prof. Dr. Christian Thorun will finalize a study on the necessary measures to effectively use co-regulation as an additional pillar of digital regulatory policy by May 2015.²⁰⁸

2.3.4. The Netherlands

The use of co- and self-regulation as alternative regulatory strategies for traditional government regulation has been widely recognised to play a prominent role in the Dutch legislative policy.²⁰⁹ In a White Paper of the Dutch government on “*View on Legislation*” (“*Zicht op wetgeving*”), which dates back to the early 1990s, the concept of “self-regulation” has been identified as one alternative to the traditional legislation aiming to improve the quality of legislation and mitigate regulatory shortcomings.²¹⁰ In the White Paper it is also stipulated that “*the legislator can sometimes suffice with providing a framework and checking the outcome afterward. It is necessary to strike a proper balance between government regulation, as an expression of government responsibility, and self-regulation by the people and by social organisations within this framework: legally structured and conditioned self-regulation.*”²¹¹ Other than that, the only official documents, which explicitly refer to self-regulation are the “*Guidelines for Legislative Drafting*” (“*Aanwijzingen voor de Regelgeving*”), adopted in 1992

²⁰³ Buck-Heeb and Dieckmann, *Selbstregulierung im Privatrecht*, p. 36.

²⁰⁴ See Weichert, *Regulierte Selbstregulierung beim Datenschutz*, available from: https://www.datenschutzzentrum.de/allgemein/regulierte_selbstregulierung.htm (accessed: 9 March 2015); von Braunmühl, *Selbstregulierung im Datenschutz – Chancen, Grenzen, Herausforderungen*, DIVSI Magazin 2/2013, p. 11 et seqq., available from: <https://www.divsi.de/publikationen/magazine/divsi-magazin-ausgabe-22013/> (accessed: 9 March 2015); Schaar, *Selbstregulierung im Datenschutz – Chancen, Grenzen, Risiken*, DIVSI Magazin 2/2013, p. 8 et seqq., available from: <https://www.divsi.de/publikationen/magazine/divsi-magazin-ausgabe-22013/> (accessed: 9 March 2015); Frankfurter Allgemeine Zeitung, *Scharfe Kritik an Online-Netzwerken im Bundestag*, available from: <http://www.faz.net/aktuell/technik-motor/computer-internet/datenschutz-scharfe-kritik-an-online-netzwerken-im-bundestag-11503424.html>. (accessed: 9 March 2015)

²⁰⁵ Statute of the SRIW, § 2, available from: <http://sriw.de/images/pdf/Satzung-do.pdf> (accessed: 9 March 2015)..

²⁰⁶ For further information please see: <http://www.geodatendienstekodex.de/> (accessed: 9 March 2015).

²⁰⁷ For further information please see: <http://sriw.de/index.php/9-aktuelles/95-sriw-diskutiert-mit-politik-ueber-thesen-zur-digitalen-ordnungspolitik> (accessed: 9 March 2015).

²⁰⁸ Forthcoming; preliminary results:

http://sriw.de/images/pdf/20140925_Thesenpapier_Eckpunkte_digitale_Ordnungspolitik.pdf.

²⁰⁹ Eijlander, *Possibilities and Constraints in the Use of Self-regulation and Co-Regulation in Legislative Policy: Experiences in the Netherlands – Lessons to Be Learned for the EU?*, p. 2.

²¹⁰ Van Heesen-Laclé, Meuwese, *The legal framework for self-regulation in the Netherlands*, p. 119. Eijlander, *Possibilities and Constraints in the Use of Self-regulation and Co-Regulation in Legislative Policy: Experiences in the Netherlands – Lessons to Be Learned for the EU?*, p. 2.

²¹¹ Dutch Government White Paper, cit. in Eijlander, *Possibilities and Constraints in the Use of Self-regulation and Co-Regulation in Legislative Policy: Experiences in the Netherlands – Lessons to Be Learned for the EU?*, p. 2.

by the Dutch prime minister. However, these guidelines have only the legal status of “policy rules” and are therefore only of advisory nature.²¹² In summary, with regard to the role of co- and self-regulation within the Dutch regulatory landscape in general, as Van Hessen-Laclé and Meuwese (2007) note there is a “*clear desire on the part of the Dutch Government to implement forms co-regulation (often still called ‘self-regulation’)*.”²¹³

As regards the systematisation of self-regulatory schemes observable within the Dutch regulatory landscape, Van Hessen-Laclé and Meuwese (2007) provide for some interesting insights. They distinguish between “pure self-regulation” (“*zuivere zelfregulation*”) on the one hand and co-regulation (“*coregulering*”) on the other, with the latter commonly referred to as “statutorily conditioned self-regulation” (“*wettelijk geconditioneerde zelfregulering*”) in the Dutch regulators context.²¹⁴ As regards the conceptual differentiation between these two regulatory mechanisms, it has been pointed out by the authors that while the former is characterised by a private initiative and a neutral role of the public legislator, forms of co-regulation imply a regulatory framework adopted by the legislators setting certain preconditions for private actors when exercising their powers regarding the implementation of the statutory framework.²¹⁵ The state regularly exercises only supervisory and/or scrutiny tasks in order to oversee the regulatory outcome.²¹⁶ Along the same lines, Eijlander (2005) qualifies the aspect of “co-operation between the public and the private actors in the process of creating new rules”²¹⁷ as the key feature of co-regulatory arrangements. In contrast, pure forms of “self-regulation” are defined as “*regulation by organisations or associations in a field of society*”, which do not only create their own rules, but “*also monitor compliance with these rules and enforce them against their own members.*”²¹⁸

Further guidance regarding the conceptualisation of co- and self-regulatory schemes is given by Eijlander (2005). Although no explicit clarification is made if the typology established by Eijlander (2005) reflects the Dutch regulatory system in particular or is to be considered as a rather generally applicable typology, a close connection with the Dutch approach can at least be assumed. Drawing on the distinction between public and private motives for using self-regulatory schemes, Eijlander distinguishes three main categories of self-regulation.²¹⁹

- As a first category, “*free or pure self-regulation*” describes a self-regulatory scheme which is carried out by private initiatives without any involvement on the part of the government. Public authorities are only involved insofar as they have to accept “*the result as long as it is not against certain general rules such as those on fair competition.*”²²⁰
- Secondly, Eijlander distinguishes so-called “*substitute or alternative self-regulation*”, which consist of a private regulatory initiative accompanied by the government watching the rule-making process “*in order to safeguard the public interest that may be at stake*”²²¹, e.g. in the field of consumers rights.
- Finally, a third category, labelled as “*conditioned or enforced self-regulation*”, comprises

²¹² Van Heesen-Laclé, Meuwese, *The legal framework for self-regulation in the Netherlands*, p. 118.

²¹³ *Ibid.* p. 119.

²¹⁴ *Ibid.* p. 119.

²¹⁵ *Ibid.* p. 119.

²¹⁶ *Ibid.* p. 119-120.

²¹⁷ Eijlander, *Possibilities and Constraints in the Use of Self-regulation and Co-Regulation in Legislative Policy: Experiences in the Netherlands – Lessons to Be Learned for the EU?*, p.3.

²¹⁸ *Ibid.* p. 2.

²¹⁹ Typology introduced by Geelhoed, *Deregulering, herregulering en zelfregulering*, in Eijlander, Gilhuis and Peters (eds.), *Overheid en zelfregulering. Alibi voor vrijblijvendheid of prikkel tot actie?*, p. 33-52.

²²⁰ Eijlander, *Possibilities and Constraints in the Use of Self-regulation and Co-Regulation in Legislative Policy: Experiences in the Netherlands – Lessons to Be Learned for the EU?*, p. 3.

²²¹ *Ibid.* p. 3.

self-regulatory regimes in which “*public and private rules are intertwined*”²²² Self-regulation in this category is considered to be subject of the government’s oversight.²²³

2.3.5. Denmark

The literature review on the general approach towards co- and self-regulation in Danish regulatory context has revealed a rather ambivalent picture. While Denmark has been in general described as “*relatively experienced in the use of alternatives to traditional regulation, including a range of economic instruments and voluntary and co-regulatory approaches*”²²⁴, the Danish Consumer Ombudsman Henrik Øe has pointed out, at the third plenary meeting of the “Community of Practice (CoP) for better self- and co-regulation” in November 2014, that self-regulation has only a limited tradition in Denmark and is concentrated on specific sectors only.²²⁵ In a similar vein, also Hagen Joergensen, a former Danish Consumer Ombudsman, has clearly stated, in a speech held in 2001²²⁶, that the “*Nordic experience indicates that co-regulation - not self-regulation - is the way forward.*”²²⁷ However, according to the country profile provided for by the Danish national consumer organisations published on the European Commission’s website²²⁸ - “*in Denmark, self-regulation is seen as an efficient and flexible alternative to regulation.*”²²⁹ The guidelines on the advertising of alcoholic beverages are highlighted as one successful example of self-regulation in that respect.²³⁰

Of particular importance when it comes to the conceptualisation of co- and self-regulation within the Danish regulatory context are the – guidelines on the “use of alternative regulatory instruments”, These guidelines were established by the Danish Ministry of Economic and Business Affairs in 2000, and have also been referred to by the 2010 OECD report on Better Regulation in Denmark.²³¹ They provide for a list of possible alternatives to traditional “command and control” regulation, which explicitly refers to co-regulation or “divided regulation” (“*opdelt regulering*”) and self-regulation (“*selvregulering*”) as possible regulatory alternatives.²³²

The concept of co-regulation or “divided regulation” – has been characterised as a regulatory approach in which regulatory powers are shared between public authorities on the one hand and private associations and interest groups on the other. The public legislator sets a regulatory framework within which more detailed rules are required to be elaborated by private actors in cooperation with public authorities.²³³ As crucial benefits of this particular type of regulation it has been identified:

- firstly, the use of expertise through greater involvement of private stakeholders; and

²²² Ibid. p. 3.

²²³ Ibid. p. 3.

²²⁴ OECD, 2000, *Regulatory Reform in Denmark, Government Capacity to Assure High Quality Regulation*, p. 6.

²²⁵ Presentation of the Danish Consumer Ombudsman Henrik Øe at the third plenary meeting of the “Community of Practice (CoP) for better self- and co-regulation”, November 2014, available from http://ec.europa.eu/information_society/newsroom/image/discussion_am_-_henrik_oe_8066.pdf (accessed: 9 March 2015).

²²⁶ Speech held by former Consumer Ombudsman Hagen Joergensen in 2001, available from:

<http://www.consumerombudsman.dk/Public-Relations/so/jurisdictionandpowers/softlaw> (accessed: 9 March 2015).

²²⁷ Ibid.

²²⁸ National Consumer Organisations, Country profile on Denmark, 2010, published on the website of the European Commission, p. 5 available from:

http://ec.europa.eu/consumers/eu_consumer_policy/consumer_consultative_group/national_consumer_organisations/docs/national-consumer-organisations_da_listing.pdf (accessed: 9 March 2015).

²²⁹ Ibid. p. 5.

²³⁰ Ibid. p. 5.

²³¹ OECD, 2010, *Better Regulation in Europe, Denmark*, p. 88.

²³² Erhvervsministeriet, 2000, *Brug af alternative reguleringsinstrumenter* (Danish Ministry of Trade and Industry, Use of Alternative Instruments of Regulation) available from:

<https://www.evm.dk/resources/oem/static/publikationer/html/altregu/kap1.htm#link13>, (accessed: 9 March 2015).

²³³ Erhvervsministeriet, 2000, *Brug af alternative reguleringsinstrumenter* (Danish Ministry of Trade and Industry, Use of Alternative Instruments of Regulation) available from: available from:

<https://www.evm.dk/resources/oem/static/publikationer/html/altregu/kap22.htm#link221>, (accessed: 9 March 2015).

- secondly, guaranteeing compliance with certain professional and ethical standard in a particular area or industry.²³⁴

In contrast, self-regulation has been characterized as the establishment of rules “*that are designed by the company or an industry possibly in cooperation with consumer organizations and other stakeholders.*”²³⁵ These rules are enforced by private actors themselves, without any involvement of public authorities. They may initiate self-regulation by inviting stakeholders to design rules in an area where there is a need for regulation, but not necessarily regulation of an “command and control” nature.²³⁶

2.3.6. France

Similarly to the findings in the aforementioned sections, in France the question related to the (general) institutional and constitutional embeddedness of co- and self-regulatory arrangements has attracted a rather limited attention in the scientific debate. The literature review reveals that issues of co- and self-regulation within the French regulatory context has been primarily addressed on a policy-context specific basis²³⁷, allowing only marginal insights into the general regulatory approach in France. However, according to the OECD country report on “Better Regulation in Europe”²³⁸ it can at least be concluded that self-regulation as an alternative to traditional “command-and-control” regulation plays a relatively subordinated role in the French legal order. While self-regulatory practices can be observed in certain professions, the OECD report comes to the conclusion that “*the idea that firms can be trusted to propose rules and accept self-discipline and that the market can be trusted to sanction practices contrary to these rules is not very widespread in France.*”²³⁹ In this context, it has been further noted that co- and self-regulatory arrangements are primarily used in technical areas by delegating regulatory competences to professional associations while keeping – in most cases – some sort of supervision in the hands of the public authorities.²⁴⁰ According to the OECD report, such delegation of limited regulatory powers by French law to private bodies can be observed in two principal fields, that is professional bodies and sporting federations.²⁴¹ The public authorities keep a very strong role as the private bodies hold only very limited regulatory responsibilities, which may be exercised “*only insofar as the law allows them to do so and subject to control by the administrative courts. With regard to these authorities, ministers and their departments exercise various types and degree of prerogatives depending upon the bodies involved: power to appoint leaders, presence of a government representative in the management structures, power to approve regulations.*”²⁴²

²³⁴ Ministeriet for Familie- og Forbrugeranliggender, Forbrugerstyrelsen, 2005, *Markedsføring og prisoplysning, Betænkning afgivet af udvalget vedrørende revision af markedsføringsloven og prismærkningsloven*, (Danish Ministry for Family and Consumer Affairs, Consumer Authority, *Marketing and pricing information, report submitted by the Committee on the review of the Marketing Act and pricing law*), p. 200., available from: http://dokumenter.forbrug.dk/betaenkning_markedsfoering_prisoplysning/kap09.htm. (accessed: 9 March 2015).

²³⁵ Erhvervsministeriet, 2000, *Brug af alternative reguleringsinstrumenter*, available from: <https://www.evm.dk/resources/oem/static/publikationer/html/altregu/kap22.htm#link225>. (accessed: 9 March 2015).

²³⁶ Erhvervsministeriet, 2000, *Brug af alternative reguleringsinstrumenter* (Danish Ministry of Trade and Industry, *Use of Alternative Instruments of Regulation*) available from: <https://www.evm.dk/resources/oem/static/publikationer/html/altregu/kap22.htm#link225>. (accessed: 9 March 2015).

²³⁷ See, inter alia, Bonnaud and Coppalle, *Co-regulation in Practices: The Hygiene Package in French Slaughterhouses*, p. 479–495; Rouvière, Caswell, *From punishment to prevention: A French case study of the introduction of co-regulation in enforcing food safety*. p. 246-254;

²³⁸ OECD, 2010, *Better Regulation in Europe, France*, p. 114.

²³⁹ Ibid. p. 114.

²⁴⁰ Ibid. p. 114.

²⁴¹ Ibid. p. 114.

²⁴² Ibid, 114.

2.3.7. Austria

A limited research has been conducted on the general role and application of co- and self-regulatory arrangements and its institutional embedding within the Austrian regulatory framework. Along the same line, the country specific report of the OECD on “Better Regulation in Europe”²⁴³ from 2010, emphasizes also that the role of co- and self-regulatory arrangements with the Austrian regulatory context can in general be considered as rather limited in the sense that its application has been qualified as “*not very common in Austria*.”²⁴⁴ However, the same report attest also that Austria – as expression of the corporatist nature of the Austrian regulatory system – “*has considerable experience*”²⁴⁵ when it comes to co-regulatory arrangements with semi- and/or non-governmental entities.²⁴⁶ The use of co-regulation takes the form of delegation of regulatory functions to public law chambers, industry associations and public corporations, which has to be explicitly provided for by law.²⁴⁷

Despite a lack of systematic data, interesting preliminary conclusions regarding the use of self-regulatory regimes in Austria can be inferred from an empirical analysis of co- and self-regulatory mechanisms within the Austrian mediamatics sector conducted by Latzer et al. (2002).²⁴⁸ Based on examples from the Austrian regulatory landscape, Latzer et al. (2002) distinguish two distinct forms of “*institutionalisation of co-regulation*.”²⁴⁹

- firstly, “*top-down*” approaches are characterized by a legislative framework adopted by the legislative authorities, which lays down general aims as well as rules on controlling and application of the regulatory provisions. Private actors are entrusted to implement and enforce this ex-ante set framework legislation.²⁵⁰
- in contrast, a second category, referred to as “*bottom-down*” approach, is characterised by voluntarily concluded agreements among private actors, which later become transposed into a legislative framework and/or institutionalised by the legal establishment of self-regulatory bodies.²⁵¹

2.3.8. Italy

In one of the very few horizontal analyses, conducted by Rodriquez (2007), on self-regulatory mechanisms within the Italian regulatory landscape, it was found that “*self-regulation by itself is not a topic in Italian legal literature*” and “*the debates usually focus on specific sectors in which the self-regulatory technique is applied*.”²⁵² As co- and self-regulation have only been addressed as a “*sector-orientated concept*”²⁵³ among Italian legal scholars, there is a considerable lack of horizontal, cross-sectoral conceptualisation and systematisation of these forms of alternative instruments for traditional “command-and-control” regulation.

Although the general use of regulatory alternatives to traditional “command and control” regulation

²⁴³ OECD, 2010, *Better Regulation in Europe: Austria 2010*.

²⁴⁴ *Ibid.*, p. 95.

²⁴⁵ *Ibid.*, p. 93.

²⁴⁶ *Ibid.*, p. 105.

²⁴⁷ *Ibid.*, p. 105.

²⁴⁸ Latzer, Just, Saurwein and Slominski., *Selbst- und Ko-Regulierung im Mediamatiksektor. Alternative Regulierungsformen zwischen Staat und Markt*.

²⁴⁹ *Ibid.* p. 83.

²⁵⁰ *Ibid.* p. 83-84.

²⁵¹ *Ibid.* p. 83-84.

²⁵² Rodriquez, *Self-regulation as a regulatory strategy: The Italian legal framework*, p. 154.

²⁵³ *Ibid.* p. 154.

has been qualified as “limited”²⁵⁴ according to the recent OECD report on “Better Regulation in Europe”²⁵⁵ published in 2013, “*the existence of different kinds of purely private self-regulation, ex post recognized by the State, and established in order to compensate the lack of public law rules (this has been the case concerning the advertising sector, where self-regulation has a long and powerful tradition), as well as fields in which there has been a radical transformation in the law-making process towards a sort of delegated self-regulation (this is the case, for instance, in labour law and the sport sector).*”²⁵⁶ Accordingly, self-regulatory practices have been established in wide range of sectors, including environmental policy,²⁵⁷ advertising, sports and professional orders.²⁵⁸ In this context, the Institute of Advertising Self Discipline (I.A.P), has been mentioned as “*the main example of self-regulatory body in Italy*”²⁵⁹

Concerning the constitutional embedding of self-regulatory arrangements within the Italian regulatory framework, Rodriquez (2007) further concludes that although the “*Italian Constitution does not deal directly with self-regulatory mechanisms (...) several constitutional provisions can be found which are able to indirectly affect recourse to self-regulation.*”²⁶⁰

Although the use of self-regulatory arrangement is qualified as limited, reference has also been made by the country related reports of the OECD to the guidelines concerning the regulatory impact assessments adopted under Italian law, which require, prior to the adoption of new regulation, an evaluation of possible regulatory alternatives.²⁶¹ The Directive of the President of the Council of Ministers²⁶², issued in 2000, provides for a list of potential alternatives to regulation and thereby explicitly refers to self-regulation as a possible option.

3. Analysing Theoretical Typologies

This section describes the theoretical regulatory typologies that were observed in literature. These typologies were taken from the legal and regulatory theory. The authors often drew the evidential background of these typologies from situations found within states. To establish whether theories in literature bear a close resemblance to each other, it was necessary to map these. This section will set out the categorisation of regulatory strategies by using broader categorisations and a set of key factors related, amongst others, to public-private regulation.

A broader categorisation of regulation involves four categories:

- i. no regulation,
- ii. self-regulation, or private regulation,
- iii. co-regulation, or private-public regulation

²⁵⁴ OECD, 2013, *Better Regulation in Europe: Italy 2012, revised edition, june 2013*, 84.; OECD, 2001, *Regulatory Reform in Italy, Government Capacity to Assure High Quality Regulation*, p. 28.

²⁵⁵ OECD, 2013, *Better Regulation in Europe: Italy 2012*.

²⁵⁶ Rodriquez, *Self-regulation as a regulatory strategy: The Italian legal framework*, p. 154.

²⁵⁷ OECD, 2001, *Regulatory Reform in Italy, Government Capacity to Assure High Quality Regulation*, p. 28;

²⁵⁸ Rodriquez, *Self-regulation as a regulatory strategy: The Italian legal framework*, p. 154.

²⁵⁹ National Consumer Organisations, Country profile on Italy, 2012, published on the website of the European Commission, available from: http://ec.europa.eu/consumers/eu_consumer_policy/consumer_consultative_group/national_consumer_organisations/docs/national-consumer-organisations_it_listing.pdf. (accessed: 9 March 2015).

²⁶⁰ Rodriquez, *Self-regulation as a regulatory strategy: The Italian legal framework*, p. 142.

²⁶¹ OECD, 2013, *Better Regulation in Europe: Italy 2012*, p. 84.

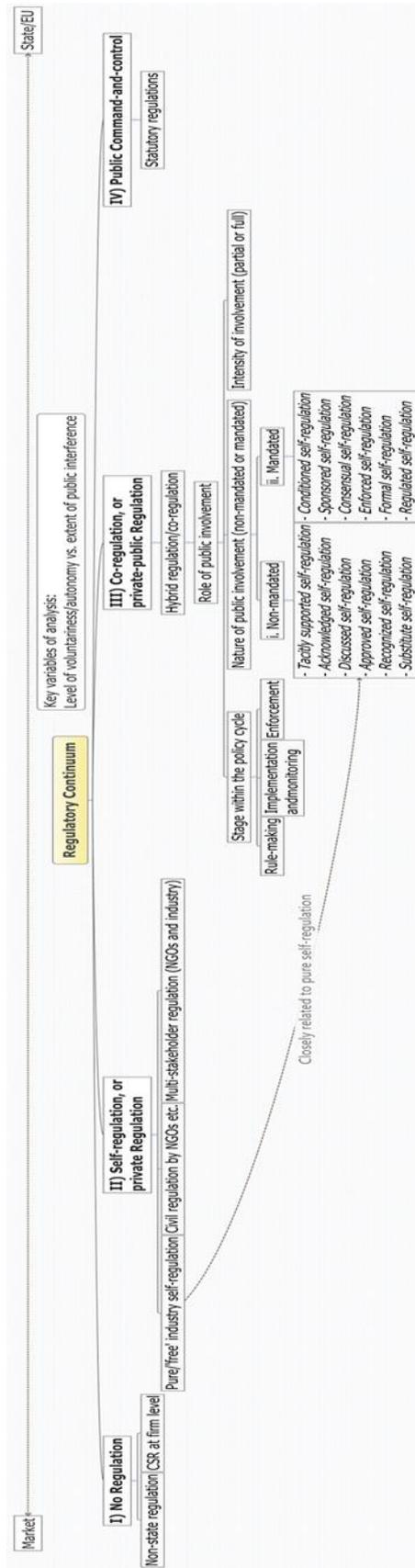
²⁶² Direttiva del Presidente del Consiglio dei Ministri (Directive of the President of the Council of Ministers), 27th of march, 2000, *Analisi tecnico-normativa e analisi dell'impatto e della regolamentazione*, available from: http://www.rgs.mef.gov.it/Documenti/VERSIONE-I/Utilit/Selezione_normativa/Direttive-/DPCM27-03-2000.pdf. (accessed: 9 March 2015).

iv. public regulation.

These four broad categories of regulation can be visualized on a 'Regulatory Continuum' (graph 1).

The continuum is based mainly on theoretical approaches found in the literature. The continuum is presented as a scale. The key criteria of analysis are the level of voluntariness/autonomy for market players versus the level of public interference. On the left, regulatory strategies with a high level of discretion for the market players are shown, starting with a state of 'no regulation'. When moving to the right on the continuum, the level of discretion for market players decreases, with full public regulation shown on the extreme right of the continuum. The regulatory strategies that fall under these forms of regulation were set out elaborately in the previous section.

Graph 1: Regulatory Continuum



In this report we focus only on two of the four categories: self- and co-regulation. These two categories will be discussed in greater detail in section 3.1 and 3.2. No regulation is used to refer to a situation where there is no regulation, or where initiatives are taken by firms themselves in their own self-interest (e.g. ‘pollution prevention pays’ where the efficient management of resources and avoids the implementation of costly environmental regulations).²⁶³ Other non-state initiatives, such as corporate social responsibility programs also fall under this category.

3.1. Self-Regulation (Private Regulation)

Private regulation encompasses all forms of regulation where individual organizations or groups of organizations regulate their own conduct. Rules are self-specified, self-monitored and self-enforced. Unlike regulation at firm level, the development of private regulation implies some form of collaboration between industry partners at various (sectorial, national, regional) levels and with various stakeholders (e.g. NGOs.)²⁶⁴

Three broad forms of private regulation can be distinguished:

- *Pure self-regulation*: the initiative to regulate rests with a group of stakeholders. Government treats the outcome neutrally, as long as it does not conflict with binding legislation.²⁶⁵ This form of regulation is also referred to as “free self-regulation”.²⁶⁶ Gunningham and Rees’ “voluntary self-regulation” also fits this type, as they note that rule-making and enforcement are both carried out privately by the firm or industry itself, independent of direct government involvement.²⁶⁷
- *Civil regulation by NGOs or other actors*: civil society actors actively participate in creating, monitoring and enforcing the rules. This form is often more politicized than pure self-regulation, as it usually emerges in response to social and environmental impacts of global firms and markets, especially in developing countries. NGOs tend to support civil regulations. This reflects a change in their strategies for interacting with businesses.²⁶⁸ The FSC certification standards, for example, emerged directly from the inability of NGOs to persuade governments to enact an effective international forestry treaty.²⁶⁹
- *Other forms of multi-stakeholder regulation* (NGOs and industry): these types of regulation involve a variety of stakeholders, including non-profit groups, who negotiate and develop standards, decision-making frameworks as well as processes for implementing these standards and/or frameworks (e.g. corporate codes developed by NGOs and presented to companies for adoption).²⁷⁰

²⁶³ Prosser, *Self-regulation, co-regulation and the audio-visual media services directive*, p. 113.

²⁶⁴ Sorsa, *Private-regulation in global value chain- a trade barrier or an opportunity for public-private co-operation?* p. 3-4.

²⁶⁵ Eijlander and Voermans, *Wetgevingsleer*, p. 71.

²⁶⁶ Eijlander, *Possibilities and Constraints in the Use of Self-regulation and Co-Regulation in Legislative Policy: Experiences in the Netherlands – Lessons to Be Learned for the EU?*, p. 4.

²⁶⁷ Gunningham and Rees, *Reforming The Workplace: A Study of Self-Regulation in Occupational Safety*, p. 10-11.

²⁶⁸ See: Vogel, *Private Global Business Regulation*, p. 261-282.

²⁶⁹ *Ibid.* p. 267.

²⁷⁰ Haufler, *New forms of governance: certification regimes as social regulations of the global market*, p. 238.

3.2. Co-regulation (Private-Public Regulation)

Private forms of regulation - and especially the purer forms thereof - are rarely found.²⁷¹ Co-regulation is used to refer to a “whole spectrum of regulatory set-ups between the two extremes of pure self-regulation and pure state regulation”.²⁷²

3.2.1. Categorizing Private-public Regulation - Three Factors

These hybrid forms of private-public regulation can be arranged according to the role of public involvement. Based on an in-depth analysis of existing typologies within the scientific debate on co- and self-regulation, three distinct analytical factors have been elaborated in order to systemize the broad spectrum of private-public regulation. The following three analytical criteria will be used to visualize the “three-dimensional typology of private-public regulation” illustrated by graph 2:

- **Stages within the policy cycle:** this assessment criterion refers to the respective stage within the regulatory process in which public involvement can be located. In this regard, three broad stages are distinguished:
 - a) early stages of the policy cycle concern *rule-making*;
 - b) later stages focus on *implementation, monitoring and enforcement*

The positioning of a co-/self-regulatory instrument on the horizontal axis depends on the stage within the policy-making cycle at which the public involvement takes place. Depending on the stage of the policy-making cycle at which the public actor fulfils a role, the respective self-regulatory instrument lies either on the left-hand side (reflecting public involvement at an earlier stage within the policy making-process, like rule-making) or the right-hand side (reflecting public involvement at a later stage within the policy making-process, like implementation, monitoring or enforcement.)

- **Nature of public involvement:** this criterion refers to the respective form of public delegation of regulatory tasks to private actors, going from “mandated” to “non-mandated” self-regulation. The basis of the takeover of the regulatory task by private actors may range from explicit delegation by official authorities to rather informal and often tacit forms of public commitment (e.g. no statutory backing but rather explicit or tacit expressions of political promotion, support or oversight).²⁷³

“Nature of public involvement”, as a second analytical factor of the three-dimensional typology of private-public regulation”, is reflected by the vertical axis in graph 2. While mandated forms of private-public regulation are placed in the top section of the graph, non-mandated forms of private-public regulation can be found in the bottom section.

- **Intensity of public involvement:** this criterion concerns the scope or intensity of public involvement, which may vary among the different sub forms of “private-public regulation” on a case-by-case basis. This variable may range from strong public involvement (e.g. the legislator setting out a detailed legal framework or public sanctioning of non-compliance) to lighter forms of government involvement (tacit support for industry-created standards).

²⁷¹ Bartle and Vass, *Self-regulation and the regulatory state ~ a survey of policy and practice*, p. 895.

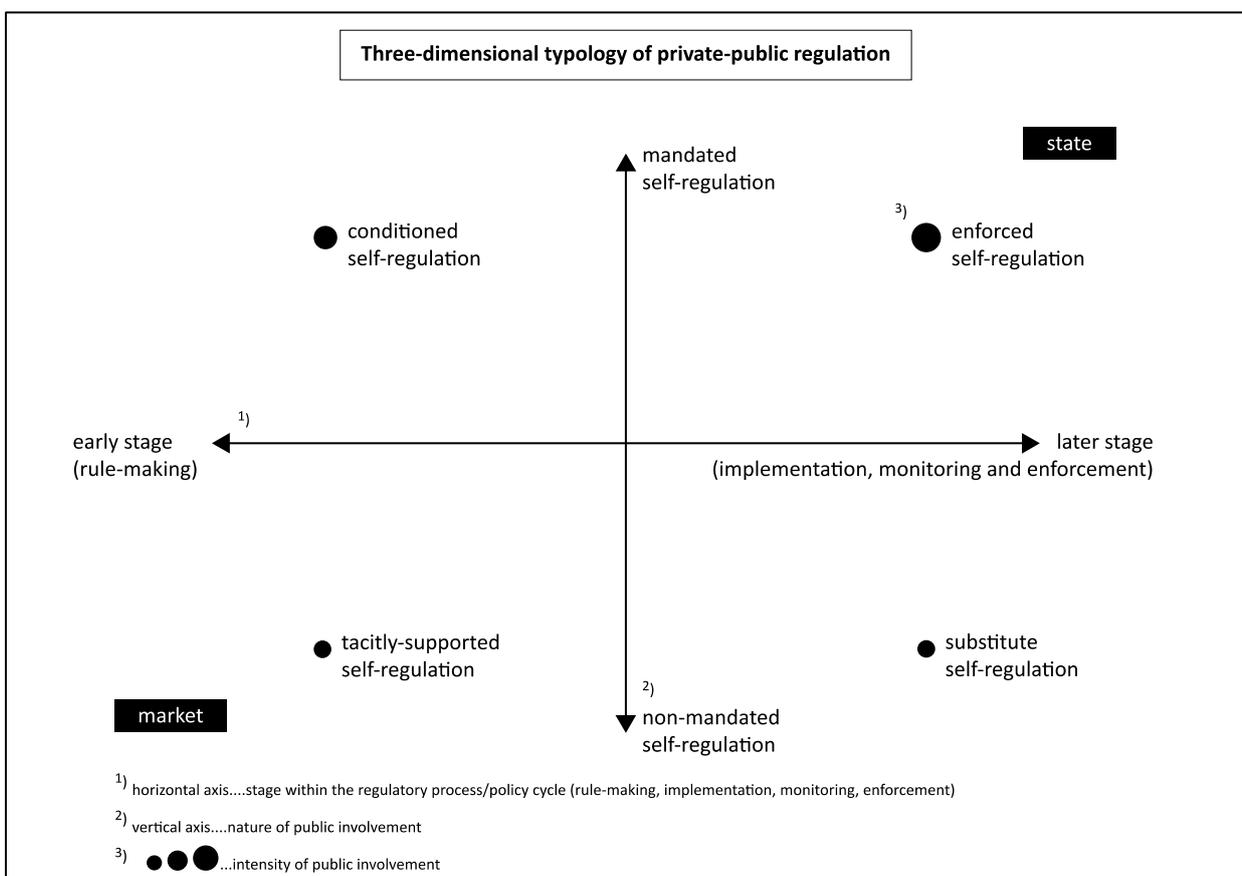
²⁷² Heremans, *Professional Services in the EU Internal Market – Quality regulation and self-regulation*, p. 81-82. See also: Maxwell, *Global Privacy Governance: A Comparison of Regulatory Models in the US and Europe, and the Emergence of Accountability as a Global Norm*, p. 67.

²⁷³ Bartle and Vass, *Self-Regulation Within The Regulatory State: towards a new regulatory paradigm?*, p. 885-905.

“Intensity of public involvement” is represented by the size of the dots. Smaller dots represent less intense forms of public involvement (tacit support for industry-created standards), whilst larger dots indicate stronger public involvement (e.g. the legislator setting out a detailed legal framework or public sanctioning of non-compliance).

By using these three distinct analytical factors a typology has been elaborated in order to systemize the different forms of private-public regulation. This is illustrated by graph 2, which visualizes how hybrid forms of private-public regulation can be arranged according to these analytical factors. The positioning of a co-/self-regulatory instrument within the three-dimensional typology of private-public regulation depends on (1) the stage of public involvement (reflected by the horizontal axis), (2) the nature of public involvement (reflected by the vertical axis) and (3) the intensity of public involvement (reflected by the dot size).

Graph 2: Three-dimensional typology of private-public regulation



As indicated by the black labels in the bottom left and top right corner, in addition to these three analytical criteria, self-regulatory regimes can further be arranged according to the key interests involved in the establishment of the respective regimes. While market interests – to some extent maybe also consumer preferences or social pressure – are likely to serve as the key driving force for the establishment of non-mandated forms of self-regulation, safeguarding public interests by an explicitly attributed role of the state remains a constitutive element for the adoption of mandated self-regulatory arrangements.

On the basis of these analytical distinctions, four broad categories of private-public regulation can be identified. As the third analytical criterion, “intensity of public involvement”, may vary on a case-by-

case basis, also depending on its empirical operationalization, the following categorisation is primarily based on the first two factors listed above. Thus, a distinction can be drawn between:

1. non-mandated self-regulation, with public involvement at a relatively “early” stage within the policy cycle;
2. non-mandated forms of self-regulation, with public involvement at a “later” stage within the policy cycle;
3. mandated self-regulation, with public involvement at an “early” stage within the policy cycle; and
4. mandated self-regulation, with public involvement at a “later” stage within the policy cycle.

In the following section, each of these broad categories is further illustrated by examples of particular self-regulatory arrangements extracted from existing typologies in the literature.

3.2.2. Four Categories of Co-regulation or Private-public Regulation

Drawing from a thorough review of theoretical regulatory typologies found in literature, we have come to the following categorisation of co-regulation. It must be noted that authors often use the term ‘self-regulation’ to refer to forms of regulation which involve both private and public actors at certain stages of the policy cycle. In the EU vocabulary, these categories would fall under ‘co-regulation’ as defined in the IIA.

1) Tacitly-supported self-regulation:

(Non-mandated self-regulation, with public involvement at a relatively “early” stage within the policy cycle, this category includes tacitly-supported self-regulation, acknowledged self-regulation, discussed self-regulation, approved self-regulation and recognized self-regulation).

- *Tacitly-supported self-regulation:* forms of privately initiated self-regulation without or with little explicit state involvement, but its implicit role can be influential (e.g. threat of shifting towards a public regulation). This type of self-regulation comes closest to self-regulation, such as “pure” or “voluntary” self-regulatory arrangements. However, it must be distinguished since in this form of regulation public involvement exists only in an implicit way (e.g. political support).²⁷⁴

Out of twelve theoretical ideal types of self- and co-regulation described by Marsden²⁷⁵, four types are closely related to tacitly-supported self-regulation, and include:

- acknowledged self-regulation, where there are discussions but no formal government recognition or approval;
- discussed self-regulation, where there is consultation at an early, ex ante phase informal consultation, but no sanction, approval or process audit;
- approved self-regulation, where there is informal negotiation with the government at an early stage with government recognition and approval; and
- recognized self-regulation, which concerns the recognition of the body and leaves an informal policy role for the government.²⁷⁶

Whilst the initiatives mentioned in this category carry the name ‘self-regulation’, we have placed them under co-regulation as the attainment of public interest objectives is entrusted to private actors.

²⁷⁴ Bartle and Vass, *Self-regulation and the regulatory state ~ a survey of policy and practice*, p. 69.

²⁷⁵ Marsden, *Internet co-regulation and constitutionalism: Towards European judicial review*, p. 215-216.

²⁷⁶ Ibid.

An implicit, but influential role is left for the government. One example is the imposition of a self-specified code of practice in the British newspaper and magazine publishing industry which was driven by the threat of the introduction of public regulation.²⁷⁷

2) Substitute self-regulation:

*(Non-mandated forms of self-regulation, with public involvement at a “later” stage within the policy cycle. Forms of substitute self-regulation leave the initiative on the side of the private actors, but government watches the process in order to safeguard the public interests that may be at stake).*²⁷⁸

3) Conditioned self-regulation:

(Mandated self-regulation, with public involvement at an “early” stage within the policy cycle, including conditioned self-regulation, sponsored self-regulation, consensual self-regulation and regulated self-regulation).

- *Conditioned self-regulation:* the legislator sets out (material and/or procedural) framework criteria, within which non-state actors are free to develop their own rules. Government has a prominent role in controlling the end result.²⁷⁹ For example, the legislator may prescribe that healthcare providers must organize themselves in such a way so that healthcare is reliable and that a system of quality controls is incorporated.²⁸⁰

Other forms of regulation that bear a close resemblance to conditioned self-regulation are:

- *Sponsored regulation:* the state, instead of producing norms itself, chooses to encourage the formation of norms by private parties. It does so by providing conditions for rule-making to private actors. The government can choose to set out only formal, or both formal and substantive conditions for rule-making by one or more parties.²⁸¹ Major models of sponsored regulation are set out by Huyse and Parmentier (1990).²⁸² Each subsequent model involves a decrease in the non-state actor’s ability to develop their own rules. The third model implies a change from private rules to binding legislation:
 - Subcontracting model: state limits itself to setting the formal (organizational and procedural) conditions for rule-making while leaving it entirely up to the party or parties to shape the content. This forms a delegation of state power, both in its legislative and judicial components.
 - Concerted action: state sets the formal and substantive conditions for rule-making by one or more parties, by designating institutions to be used and/or issuing guidelines for the content of the norms. Official authorities usually keep a close eye on the process.
 - Incorporation model: existing, but non-official, norms become part of the legislative order by insertion into statutes or by declaring the product of private negotiations generally binding for a whole sector.
- *Consensual self-regulation,* in which the legislative sets out general regulatory goals but the specific standards are achieved at ‘shop-floor level’. Consensus is achieved through open participation. Compliance with general regulatory objectives should primarily be achieved by agreement between employers and employees through consultation and negotiation. The

²⁷⁷ Bartle and Vass, *Self-Regulation Within The Regulatory State: towards a new regulatory paradigm?*, p. 895.

²⁷⁸ Eijlander, *Possibilities and Constraints in the Use of Self-regulation and Co-Regulation in Legislative Policy: Experiences in the Netherlands – Lessons to Be Learned for the EU?*, p. 4.

²⁷⁹ Geelhoed, *Deregulering, herregulering en zelfregulering*, p. 49.

²⁸⁰ Eijlander and Voermans, *Wetgevingsleer*, p. 72-73.

²⁸¹ Huyse and Parmentier, *Decoding Codes: the Dialogue between consumers and suppliers through codes of conduct in the European Community*, p. 258-260.

²⁸² *Ibid.*

consultation and negotiation stage must precede the issuance of formal regulations (e.g. codes of practice and guidance notes). A residual monitoring and enforcement role is left for the public agency.²⁸³

4) Enforced self-regulation:

(Mandated self-regulation, with public involvement at a “later” stage within the policy cycle, including enforced self-regulation and the scheme of “formal self-regulation” introduced in the World Bank’s Policy Research Working Papers).

- *Enforced self-regulation:* coined by Ayres and Braithwaite, enforced self-regulation is a form of subcontracting of regulatory functions (legislative, executive or judicial) to private actors. Retaining public enforcement (detection and punishment) of private standards is likely to be an important element in private self-enforcement.²⁸⁴ An example is the regulation of health and safety at work in Britain in which broad standards are set by government while detailed rules, enforcement and compliance are expected to be implemented by the companies themselves. These are closely overseen by the regulatory authorities with the possibility of increased intervention if necessary.²⁸⁵
- *Formal self-regulation:* closely related to this form is the scheme of “formal self-regulation” introduced by the World Bank, under which two out of the three regulatory functions (rule-making, supervision or enforcement) are delegated to a private self-regulatory organization.²⁸⁶

4. Existing Self and Co-Regulatory Initiatives in the EESC Database

This section provides an overview of the various regulatory regimes (or initiatives) that exist in the database on self and co-regulation, which was established in 2008 by the Single Market Observatory of the EESC.

To begin with, the EESC database involves over 130 self and co-regulatory initiatives in a variety of policy fields. These include, in particular, the areas of product safety and sustainability, food hygiene, professional services, e-commerce, internet and media services, intellectual property rights, financial markets, social policy and environmental protection (See Annex 2 and 3). The regimes range from codes of conduct to voluntary commitments and also include: industry and contractual agreements, framework agreements, autonomous agreements, standards, guidelines, guides, charters and good practices. The EESC database provides a short summary of the initiative followed by information related to *the sectors with which such initiatives are related* (e.g. employment sector, food sector, marketing sector, chemical sector, private security) (see Annex 2 and 4), *the evolution of the particular initiative* (i.e. emphasizing whether private initiative started firstly and were followed by a legal act of a legislative (or non-legislative) nature or vice versa) and *the geographical coverage of particular initiatives*. Furthermore, the database provides information about the stakeholders targeted by the initiatives as well as the methods used for monitoring and enforcement of self and co-regulation initiatives (Annex 2).

Given that the information in the EESC database is not complete and the content of the database is currently being updated²⁸⁷, no conclusive observations can be made as to where to locate the different

²⁸³ Ogus, *Rethinking Self-regulation*, p. 100–102.

²⁸⁴ Ayres and Braithwaite, *Responsive Regulation*, p. 103.

²⁸⁵ Bartle and Vass, *Self-regulation within the regulatory state: towards a new regulatory paradigm?*, p. 892. See also: Hutter, *Is Enforced Self-regulation a Form of Risk Taking? The Case of Railway Health and Safety*, p. 379–400.

²⁸⁶ World Bank, *Self-regulation in securities markets*.

²⁸⁷ It is important to note that updates in the content database may also influence in the mapping provided in Annex 2 and 4 (mainly for new initiatives to be added, and some to be put as obsolete cases).

regulatory initiatives on the regulatory continuum. However, after exploring the existing SCR initiatives in the EESC database (see Annex 2 and 4),²⁸⁸ it has been possible to give an impression of how the database could be further improved. A review of the regulatory regimes (or initiatives) in the EESC database reveals that the filtering of these initiatives into six categories (i.e. legislative acts; private acts; non-legislative acts; private acts and legislative acts; private acts and non-legislative acts; legislative acts, private acts and non – legislative acts) may occasionally create difficulties for the user to grasp why there are different acts accompanying a single self/ co-regulatory initiative. This difficulty can be overcome if the database provides a summary which includes more information on how different acts relate to each other and have initially impacted (or led to) the emergence of self/co-regulatory initiatives. Furthermore, this information could also make it easier for the user (as well as others interested in learning more about self and co-regulatory initiatives in Europe) to better understand when and how public actors started to get involved in these initiatives. In addition, the database in most initiatives does not provide sufficient and detailed information on how different initiatives are applied and defined at the European and/or national level. There is also no sufficient information on who is responsible for the enforcement of respective initiatives and whether compliance with such acts is sanctioned or mandatory. The provision of this information could be very useful for the user to understand what kind of self and co-regulatory regimes are there in the database (e.g. mandated self-regulation; voluntary self-regulation; and so forth), and what is the interaction between private and public actors in this regard.

5. Building Further Knowledge

Building on the findings of the aforementioned Sections there are several issues that draw attention and require further reflection. These include,

- *first and foremost*, the comparative studies on regulatory approaches amongst Member States (e.g. OECD reports) reveal that there is no comparative data published at national level, which allows systematic analyses of national regulatory traditions regarding the use and the general role of co- and self-regulatory arrangements within the national regulatory landscape;
- *second*, there is no data as of where different regimes fall in the regulatory continuum. To decide where the regime should be placed, incomplete evidential and circumstantial information on specific characteristics of the regime has to be used in order to categorise it. This may lead to incorrect categorisation of the regime. This could be improved by requesting that private and public actors provide clearer information on who is responsible, and to what extent, for rule-making, implementation, monitoring and enforcement.
- *third*, whereas current studies reflect and acknowledge that self-regulatory regimes have the potential to contribute in many spheres and regulatory sectors, no comprehensive and detailed analyses exist on the risks (including legitimacy risks) that these developments entail; and
- *finally*, a first exploration of the existing regulatory regimes (or initiatives) in the EESC database reveals that the database is very comprehensive in terms of the number of the SCR initiatives that it involves (over 130 initiatives) and policy areas that such initiatives cover (e.g. product safety and sustainability, food hygiene, professional services, e-commerce, internet and media services). However, the database could be improved by providing more (detailed) information, amongst others, on how different initiatives have been initiated and

²⁸⁸ Analysis in Annex 2 and 4 are based on the different SCR initiatives that exist in the EESC database, which is currently being updated.

when public actors started to get involved in these initiatives; whether the rules set by respective acts (e.g. code of conduct, guidelines, standards and so forth) should be applied (and by what means) at the national and European level; and which institutions/authorities are responsible for the enforcement of respective initiatives and whether compliance with such acts is sanctioned or mandatory.

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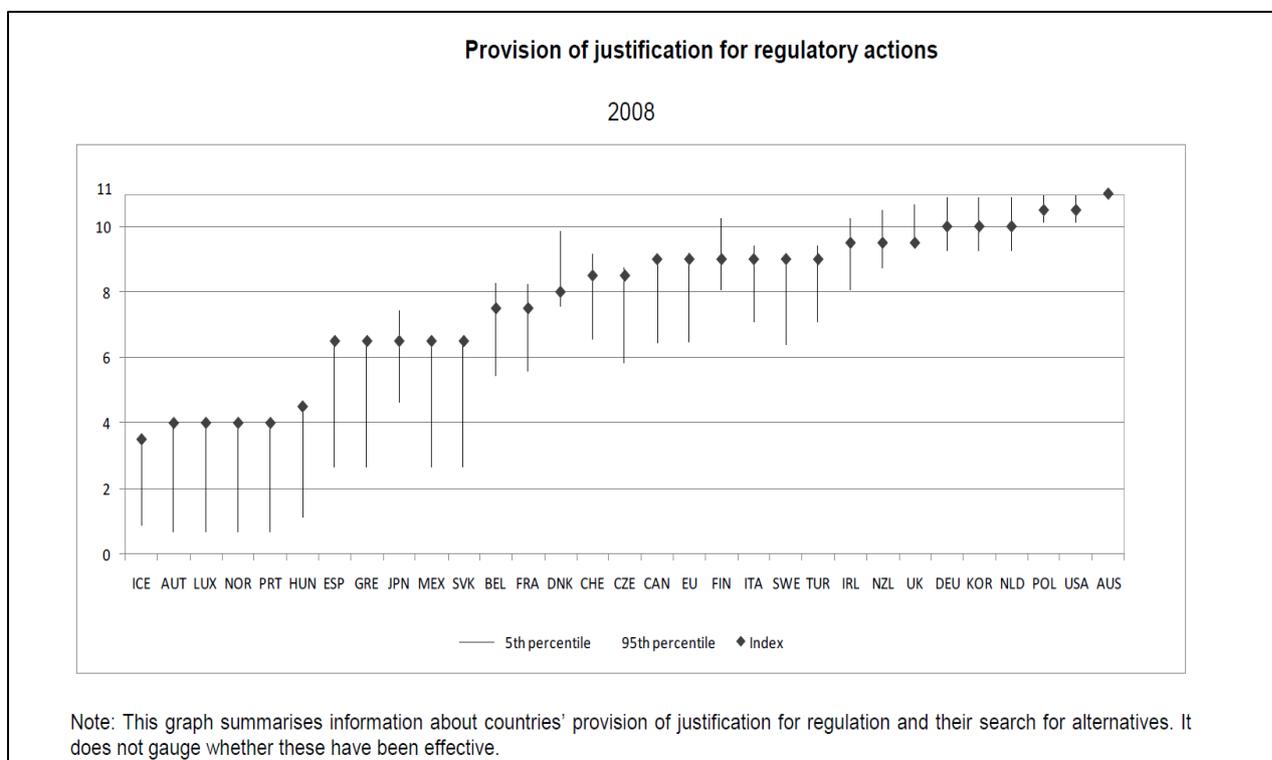
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Annexes

ANNEX 1: OECD – Provision of Justification for Regulatory Actions²⁸⁹



²⁸⁹ OECD, 2009, Regulatory Policy Committee, Indicators of Regulatory Management Systems, p. 59.

ANNEX 2: A mapping of the various regulatory regimes (or initiatives) that currently exist in the database on self and co-regulation²⁹⁰, established by the Single Market Observatory of the European Economic and Social Committee (EESC)²⁹¹

Legislative acts					
Name of the Initiative	Sector & Target Group	Type of the Initiative/ Type of Instrument/ Level	Type of monitoring	Type of Enforcement	Objective
Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs	Health and Consumers DG <i>Target Group:</i> Operators in the food sector from primary producers until retailers	Legislative Act <i>Type of Instrument:</i> Guidelines, codes of conduct and good practices. <i>Level at which rules are defined and applied:</i> Member State and EU	European Commission, National Public Authority and Private Regulator (code owner)	The use of the guides by operators is voluntary. When an operator claims to use the guide as his way of applying the requirements, he will be inspected/audited using the guide as reference document	Facilitate the practical implementation of food hygiene requirements in different establishments.
Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive	Health and Consumers DG <i>Target Groups:</i> Traders	Legislative Act <i>Type of Instrument:</i> Code of Conduct <i>Level at which rules are defined and applied:</i> Member State and EU	Not Specified	Not specified	The Directive recognises codes of conduct as a way to promote fair business practices
Regulation (EC) No 1831/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene	Health and Consumers DG <i>Target Group:</i> Operators in the feed sector.	Legislative Act <i>Type of Instrument:</i> Guidelines, codes of conduct and good practices <i>Level at which rules are defined and applied:</i> Member State and EU	Private regulator (code owner)	The use of the guides by operators is voluntary. When an operator claims to use the guide as his way of applying the requirements, he will be inspected/audited using the guide as reference document.	facilitate the practical implementation of feed hygiene requirements in different establishments. EU guides are often more general and may be directly applied or serve as a framework for more specific national guides.
Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety	Health and Consumers DG <i>Target Group:</i> Producers of Goods	Legislative Act <i>Type of Instrument:</i> Standards, codes of conduct <i>Level at which rules are defined and applied:</i> EU	Commission report every three years to the European Parliament and the Council on its programmes for setting the requirements and the mandates for standardisation.	Not specified	Develop European standards on product safety; Define how to assess safety in the absence of European standards, including codes of good practices
Decision No 854/2005/EC of the European Parliament and of the Council of 11 May 2005 establishing a multiannual Community Programme on promoting safer use of the Internet and new online technologies	Internal Market and Services DG <i>Target Group:</i> On-line internet service providers	Legislative Act <i>Type of Instrument:</i> Unspecified <i>Level at which rules are defined and applied:</i> Member State and the EU	Commission shall monitor the implementation of projects under the programme .. and shall report on the implementation of the actions .. to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions	Not specified	to fund programmes in particular "projects which aim to adapt rating systems and quality labels to take account of the convergence of telecommunications, audio-visual media and information technology and to self-regulatory initiatives to back up the reliability of self-labelling and services for assessing the accuracy of self-rating labels
Commission Directive 2004/72/EC of 29 April 2004 implementing Directive 2003/6/EC of the European	Internal Market and Services DG <i>Target Groups:</i> Financial	Legislative Act <i>Type of Instrument:</i> Accepted Market Practice <i>Level at which rules are</i>	The European Commission and The Committee of European Securities Regulators ¹	Compliance with AMPs is contemplated by the authorities merely to establish whether market manipulation has taken place (such compliance serves as a	Article 2 of the Commission Directive 2004/72/EC implementing MAD describes the non-exhaustive factors that a competent authority should take account

²⁹⁰ Analysis in Annex 2 are based on the different SCR initiatives that exist in the EESC database, which is currently being updated.

²⁹¹ For more information on the EESC database see: <http://www.eesc.europa.eu/?i=portal.en.smo-database> (last accessed March 2015).

Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities	market associations & companies developing Market Practices (MP); National authorities approving Market Practices; Committee of European Securities Regulators acts as a mediator at EU level	<i>defined and applied:</i> Member State		defence against market manipulation charges); At national level, private organisations establishing AMP may sanction disregard for AMPS.	of before deciding whether to accept a market practice.
Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights	Internal Market and Services DG Target Group: Trade or professional associations or organisations	Legislative Act <i>Type of Instrument:</i> Code of Conduct <i>Level at which rules are defined and applied:</i> Member State	EU Commission and National Authority . Specific measure to be put in place after entry into force of the legislative act; three years after entry into force Member States shall submit to the Commission a report on the implementation.	Not specified	Member States shall encourage the development by trade or professional associations or organisations of codes of conduct at Community level aimed at contributing towards the enforcement of the intellectual property rights, as well as the submission to the Commission of draft codes of conduct at national and Community level.
Commission Directive 2003/125/EC of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the fair presentation of investment recommendations and the disclosure of conflicts of interest	Internal Market and Services DG Target Group: Member States; Journalists.	Legislative Act <i>Type of Instrument:</i> Code of Conduct <i>Level at which rules are defined and applied:</i> Member State	European Commission and National Public Authority	Code owner (membership suspension/exclusion) Court System (judicial sanctions)	The Directive imposes a general requirement on Member States to put in place appropriate regulation of persons, who make investment recommendations ('appropriate regulation' shall mean any regulation, including self-regulation, in place in Member States).
Council Regulation (EEC) No 2077/92 of 30 June 1992 concerning inter-branch organizations and agreements in the tobacco sector	Agriculture and Rural Development DG Target Group: Inter-branch tobacco organisations.	Legislative Act <i>Type of Instrument:</i> Code of Conduct Level: The EU	European Commission and National Public Authority	Not Specified	The Council Regulation No 2077/92 of 30 June 1992 lays down the conditions for the recognition and activity of inter-branch organisations operating in the sector covered by the market organisation for tobacco.
Council Regulation (EC) No 104/2000 n the common organization of the markets in fishery and aquaculture products	Maritime Affairs and Fisheries DG Target Group: Fishermen and their representative organisations	Legislative Act <i>Type of Instrument:</i> Not Specified Level: Not Specified	European Commission and National Public Authority	Each producer organisation must draw up and forward to the competent authorities in the Member State an operational programme for the fishing year which includes: penalties to apply to members who infringe decisions that are taken	Extension of rules laid down by producer organisations: Where a Producer Organisation is representative of production and marketing in one or more landing places, the Member State may make various measures of that Producer Organisation compulsory for non-members marketing products in the same area. ⁱⁱ
Directive No 2004/12/EC of 11.02.2004 amending Directive No 94/62/EC on packaging and packaging waste	Environment DG Target Group: (Unspecified) economic	Legislative Act <i>Type of Instrument:</i> Contractual Agreements Level:	European Commission and National Public Authority	In cases of non-compliance with the agreements MS shall take legislative, regulatory or administrative measures	Directive No 2004/12/EC on packaging and packaging waste provides for the possibility for Member States to transpose specific provisions "by means of

	operators concerned	Member State			agreements between the competent authorities and the economic operators concerned", "provided that the objectives set out in the Directive are achieved"
Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment	Environment DG Target Group: Electrical and electronic equipment producers; recycling sector.	Legislative Act <i>Type of Instrument:</i> Contractual Agreements Level: Member State	European Commission and National Public Authority and International Public Authority Monitored regularly and reported to the competent authorities and the Commission. The competent authorities shall ensure that the progress reached is examined.	In cases of non-compliance with the agreements Member States shall take legislative, regulatory or administrative measures.	The aim of the Directive is to preserve, protect and improve the quality of the environment, protect human health and utilise natural resources prudently and rationally. Encourage the design and production of electrical and electronic equipment which take into account and facilitate dismantling and recovery, in particular the re-use and recycling of WEEE, their components and materials.
Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles	Environment DG Target Group: Producers of vehicle and recycling sector	Legislative Act <i>Type of Instrument:</i> Contractual Agreements Level: Member State	European Commission and National Public Authority Results must be monitored regularly and reported to the competent authorities and the Commission. The competent authorities shall ensure that the progress reached is examined.	In cases of non-compliance with the agreements MS shall take legislative, regulatory or administrative measures.	The Directive provides for the possibility for the Member States to transpose specific provisions "by means of agreement between the competent authorities and the economic operators concerned", "provided that the objectives set out in the Directive are achieved". Such agreements shall be enforceable. They must specify objectives with the corresponding deadlines.
Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of eco-design requirements for energy-using products	Enterprise and Industry DG; Energy DG Target Group: Energy Using Products in Industry	Legislative Act <i>Type of Instrument:</i> Code of Conduct in a Contractual Agreement Level: Member State	European Commission; Private Regulator (code owner) and Private Independent Party with a mandate (e.g. auditors)	Not Specified (The adopted framework does not create immediate obligations, but only sets the general principles and criteria for the establishment of eco-design requirements, leaving the development and adoption of implementing measures for individual products to the Commission assisted by a regulatory committee.) It also provides that the Commission shall refrain from adopting such implementing measures where the industry established alternative mechanisms and where such mechanisms are likely to deliver the policy objectives faster or less costly than mandatory requirements.	The objective of the Directive is to ensure the free movement of energy-using products in the Internal Market and to contribute both to environmental protection policy and to security of energy supply.
Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations	Enterprise and Industry DG Target Group: European standardisation bodies (CEN, CENELEC and ETSI)	Legislative Act <i>Type of Instrument:</i> European Standard, a technical specification approved by a recognised standardisation body for repeated or continuous application, with which compliance is not compulsory. Level:	The Commission reports every second year to the European Parliament, the Council and the European Social and Economic Committee National Public Authority (gives its opinion on standardisation	Not Specified	The Directive provides for procedures when national standard is likely to distort the free movement of goods. The Commission can request harmonisation of the standards at the European level by granting, after consultation with the MS, mandates to the European standardisation bodies. It provides a framework for the

		EU	requests prepared by the European Commission)		interested parties, and encourages consensus on standards.
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Legislative Act and Private Act

<p>Private Act: Voluntary Industry Agreement to improve the energy consumption of Complex Set Top Boxes within the EU</p> <p>Legislative Act: Report from the Commission to the European Parliament and the Council on the voluntary ecodesign scheme for complex set-top boxes (COM (2012) 684 of 22/11/212)</p>	<p>Energy DG and Enterprise and Industry DG</p> <p><i>Target Group:</i> Not-Specified</p>	<p>Legislative Act and Private Act</p> <p><i>Type of Instrument:</i> The voluntary agreement on complex set top boxes is considered as valid alternative to Commission mandatory regulation (i.e. Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009)</p> <p>Level: EU</p>	<p>Private independent party with a mandate (e.g. auditors)</p>	<p>The voluntary agreement on complex set top boxes is considered as valid alternative to Commission mandatory regulation. It has been recognised in the Report of the Commission to the Parliament and the Council COM 2012</p>	<p>The objective is to lay down eco-design requirements for complex set top boxes placed on the EU market.</p>
<p>Private Act: Industry voluntary agreement to improve the environmental performance of imaging equipment placed on the European market</p> <p>Legislative Act: Report from the Commission to the European Parliament and the Council on the voluntary ecodesign scheme for imaging equipment COM(2013) 23 final</p>	<p>Energy DG and Economic and Finance Affairs DG</p> <p><i>Target Group:</i> Not-Specified</p>	<p>Legislative Act and Private Act</p> <p><i>Type of Instrument:</i> The voluntary agreement on imaging equipment is considered as valid alternative to Commission mandatory regulation (i.e. Directive 2009/125/EC).</p> <p>Level: EU</p>	<p>Private independent party with a mandate (e.g. auditors)</p>	<p>The voluntary agreement on imaging equipment is considered as valid alternative to Commission mandatory regulation.</p>	<p>The objective is to lay down eco-design requirements for imaging equipment placed on the EU market.</p>
<p>Legislative Act: Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, Official Journal.</p> <p>Private Act: Council of European Geodetic Surveyors - Geometer Europas (CLGE - GE), Code of Conduct.</p>	<p>Internal Market and Services DG</p> <p><i>Target Group:</i> European Surveyors who are members of CLGE member associations</p>	<p>Legislative Act and Private Act</p> <p><i>Type of Instrument:</i> Unilateral code of conduct.</p> <p>Level: EU</p>	<p>The national liaisons groups gathering the member associations at the national level are in charge of the monitoring.</p>	<p>CLGE members are asked to transpose the Code of Conduct into their national frame. This national frame should provide the needed enforcement. We recognize Acknowledgment, Adoption or Transposition.</p>	<p>Improve and harmonize the quality of professional services provided by Surveyors in Europe.</p>
<p>Private Act: European Pet Food Industry Federation (FEDIAF), Guide to good practice for the manufacture of safe pet foods (Revision 8)</p> <p>Legislative Act: Regulation (EC) N°183/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for</p>	<p>Health and Consumers DG</p> <p><i>Target Group:</i> National pet food industry</p>	<p>Legislative Act and Private Act</p> <p><i>Type of Instrument:</i> Guide to Good Practice</p> <p>Level: Member states and EU</p>	<p>Private regulator (code owner)</p>	<p>The guide does not withhold any information on redress or sanctions for non-compliance.</p>	<p>To ensure that pet food is fit and safe for the purpose of feeding pets, whilst at the same time meeting the relevant requirements of European legislation</p>

feed hygiene					
<p>Private Act: FAMI-QS (Community Guide to Good Practice For Feed Additive and Pre-mixture Operators)</p> <p>Legislative Act: Regulation (EC) No 1831/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene.</p>	<p>Health and Consumers DG</p> <p><i>Target Group:</i> Feed Sector</p>	<p>Legislative Act and Private Act</p> <p><i>Type of Instrument:</i> Guide/Code of Practice.</p> <p><i>Level:</i> Member states and EU</p>	no performance monitoring or complaint handling.	There is no monitoring of performance, or complaint handling.	ensure safety of feed additives and pre-mixtures Enabling an operator to implement the objectives of the feed hygiene regulation 1831/2005/EC;
<p>Private Act: The European Cosmetic and Perfumery Association (Colipa), Guidelines on the Lifespan of Products</p> <p>Legislative Act: Directive 1976/768/EEC of the Council of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products. Has been amended seven times.</p>	<p>Health and Consumers DG</p> <p><i>Target Groups:</i> Cosmetic and perfume business</p>	<p>Legislative Act and Private Act</p> <p><i>Type of Instrument:</i> Guidelines.</p> <p><i>Level:</i> Members States and the EU</p>	Member States handle inspections and monitoring.	Enforcement differs from Country to Country	To enhance consumer information about how long a product remains usable.
<p>Private Act: Framework Agreement on Work-Related Stress</p> <p>Legislative Act: Article 154 and 155 of the TFEU.</p>	<p>Employment, Social Affairs and Inclusion DG</p> <p><i>Target Groups:</i> Social Partners in the Member States.</p>	<p>Legislative Act and Private Act</p> <p><i>Type of instrument:</i> Framework Agreement</p> <p><i>Level:</i> Members States and the EU:</p>	EU Commission and National Public Authority	Faming, Shaming and Blaming	to increase the awareness and understanding of employers, workers and their representatives of work-related stress, draw attention to signs that could indicate problems of work-related stress; provide employers and workers with a framework to identify and prevent or manage problems of work-related stress
<p>Legislative Act: Article 154 and 155 of the TFEU.</p> <p>Private Act: Framework Agreement on Telework</p>	<p>Employment, Social Affairs and Inclusion DG</p> <p><i>Target Groups:</i> Social Partners in the Member States</p>	<p>Legislative Act and Private Act</p> <p><i>Type of instrument:</i> Framework Agreement</p> <p><i>Level:</i> the EU</p>	EU Commission and National Public Authority and Private Regulator	Faming, Shaming and Blaming	The intention of the social partners' agreement is to define a general framework for the use of telework in such a way as to meet the needs of employers and workers.
<p>Private Act: Guidelines for Good Third Party Access Practice for Storage System Operators (GGPSSO).</p> <p>Legislative Act: Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the</p>	<p>Energy DG</p> <p><i>Target Group:</i> Storage System Operators (SSOs) and storage users.</p>	<p>Legislative Act and Private Act</p> <p><i>Type of instrument:</i> Voluntary – non-binding Agreement</p> <p><i>Level:</i> Members States and the EU</p>	ERGEG (the European Regulators Group for Electricity and Gas), set up by Commission Decision of monitors the implementation of the GGPSSO and reports back to the Madrid Forum	Faming, Shaming and Blaming	The GGPSSO lay down qualitative minimum requirements to be implemented by storage operators in order to allow access to storage facilities in line with Article 19 of Directive 2003/55/EC.

internal market in natural gas and repealing Directive 98/30/EC.					
<p>Private Act: Code of conduct for real estate professionals in the field of e-commerce</p> <p>Legislative Act: Directive 2000/31/EC of the European Parliament and the Council of 8 June 2000 on certain legal aspects of information society services.</p>	<p>Internal Market and Services DG</p> <p><i>Target Group:</i> Real estate professionals (property agents and property managers).</p>	<p>Legislative Act and Private Act</p> <p><i>Type of instrument:</i> Code of Conduct</p> <p><i>Level:</i> Members States and the EU</p>	Private regulator (code owner)	The Chamber of Discipline may meet out the following penalties: Warning, Rebuke, Reprimand, Disciplinary suspension, Proposed expulsion and Preventive suspension.	Real estate professionals shall conduct their business activities in a way that is transparent, and ensure that they respect all applicable legal provisions, all codes of conduct to which they have adhered, the confidentiality of personal data and intellectual property rights.
<p>Private Act: European Direct Selling Code of Conduct Towards Consumers</p> <p>Legislative Act: Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts</p>	<p>Internal Market and Services DG</p> <p><i>Target Group:</i> Direct Sellers and Direct Selling Companies</p>	<p>Legislative Act and Private Act</p> <p><i>Type of instrument:</i> Code of Conduct</p> <p><i>Level:</i> the EU</p>	Private Regulator (Code Owner) and Private Independent Party with a mandate (auditors)	Code Owner and Private Independent party with a mandate (e.g. Auditors) –	Increasing clients' trust in the quality of the products/services; Improving sector's image; Raising industry standards; Using it as a marketing tool; Enhancing the level of information; Improving sector's image; Avoiding government regulation.
<p>Private Act: European code of practise for the use of Personal Data in Direct Marketing.</p> <p>Legislative Act: Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data</p>	<p>Internal Market and Services DG</p> <p><i>Target Group:</i> Direct and Interactive Marketing Industry</p>	<p>Legislative Act and Private Act</p> <p><i>Type of instrument:</i> Code of Conduct</p> <p><i>Level:</i> Member State, the EU</p>	European Commission; Private Regulator (code owner)	Private independent party with a mandate (e.g. auditors)	Meeting legislative requirements; Improving sector's image; Increasing clients' trust in the quality of the products/services; Raising industry standards; Using it as a marketing tool; Enhancing the level of information; Improving sector's image; Avoiding government regulation
<p>Private Act: European code of practise for the use of Personal Data in Direct Marketing</p> <p>Legislative Act: Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data</p>	<p>Internal Market and Services DG</p> <p><i>Target Group:</i> Direct marketing sector, consumers.</p>	<p>Legislative Act and Private Act</p> <p><i>Type of instrument:</i> Code of Conduct</p> <p><i>Level:</i> Member State, the EU</p>	European Commission, Private Regulator, FEDMA members and other accredited members, National Direct Marketing Associations ⁱⁱⁱ	Code Owner (Judicial Sanctions) and Private Independent Party with a mandate (e.g. auditors) (Judicial Sanctions)	Remove barriers to e-commerce cross-border services through common rules on commercial communication; Create the trust and confidence needed for the development of e-commerce; Minimise the need for legal restrictions.
<p>Private Act: Voluntary Commitment of the PVC Industry</p>	<p>Environment DG</p> <p><i>Target Group:</i> Chemical</p>	<p>Legislative Act and Private Act</p> <p><i>Type of instrument:</i> Unilateral Code of</p>	European Commission, National Public Authority and Private Regulator (code owner); Private independent party with a mandate (e.g.	Code Owner (faming, shaming and blaming) PVC Industry (Faming, shaming and blaming)	Avoiding government regulation (further PVC ban); improving sector's image (showing that PVC industry is a responsible industry);

<p>Legislative Act: Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme</p>	<p>Sector</p>	<p>Conduct <i>Level: Member State</i></p>	<p>auditors); Self-appointed private parties (e.g. NGOs); European Parliament; Trade Unions</p>		<p>increasing clients' trust in the quality of the products/services. The European associations of PVC manufacturers, PVC additive producers and PVC converters have signed an agreement setting principles, quantified targets and deadlines touching at manufacture, additives (plasticisers and stabilisers and waste management). The Voluntary commitment has been updated in 2006.</p>
<p>Legislative Act: Article 154 and 155 of the TFEU</p> <p>Private Act: European Committee of Manufacturers of Domestic Equipment (CECED) Code of Conduct</p>	<p>Employment, Social Affairs and Inclusion DG</p> <p><i>Target Groups:</i> Manufacturers of Domestic Equipments</p>	<p>Legislative Act, and Private Act <i>Type of instrument:</i> Code of Conduct and EU social dialogue <i>Level: EU</i></p>	<p>Signatories (The signatory company shall report about the practical implementation of the principles of the Code and the progress made, and this at least on a yearly basis).</p>	<p>Code Owner (A company will be considered as non-compliant with the Code requirements if it does not submit a "progress report" within one year after signing the Code or within one year after the last submitted progress report.)</p>	<p>The CECED Code of Conduct is a voluntary Code that responds to the desire of the CECED members to make an impact and promote fair and sustainable standards for working conditions, social compliance and environmental performance. The CECED Code of Conduct thus sets up the basis for its members to continuously improve the performance in their production and supply facilities worldwide. Member companies are free to introduce stricter practices than those required in the Code.</p>
<p>Private Act: Code of Conduct on Corporate Social Responsibility in the European Sugar Industry</p> <p>Legislative Act: Article 154 and 155 of the TFEU</p>	<p>Employment, Social Affairs and Inclusion DG</p> <p><i>Target Group:</i> Sugar Industry</p>	<p>Private Act and Legislative Act <i>Type of instrument:</i> Code of Conduct <i>Level: the EU</i></p>	<p>European Commission and Private Regulator (Code Owner)</p>	<p>Not Specified</p>	<p>Promote social development as well as respect for fundamental rights by setting voluntary minimum standards in a number of areas such as human rights, education and training, health and safety, pay and working conditions, restructuring, as well as relationship between social partners</p>
<p>Private Act: Code of conduct and ethics for the private security sector</p> <p>Legislative Act: Article 154 and 155 of the TFEU</p>	<p>Employment, Social Affairs and Inclusion DG</p> <p><i>Target Group:</i> Private Security Sector</p>	<p>Legislative Act and Private Act <i>Type of instrument:</i> EU social partners pursued an autonomous dialogue following the process of social dialogue but resulting in 'new generation agreements or autonomous agreements' <i>Level: the EU</i></p>	<p>European Commission and Private Regulator (Code Owner)</p>	<p>Not Specified</p>	<p>The code contains principles linked to the selection and recruitment of workers, vocational training, working conditions, health and safety, equal opportunities and non-discrimination, work organisation and relations with customers, the police authorities and other undertakings in the sector.</p>
<p>Private Act: Code of Conduct: A Charter for the Social Partners in the European Woodworking Industry</p>	<p>Employment, Social Affairs and Inclusion DG</p> <p><i>Target Group:</i> Wood Industry</p>	<p>Private Act and Legislative Act <i>Type of instrument:</i> EU autonomous dialogue which resulted in a 'new generation agreements or autonomous</p>	<p>European Commission and Private Regulator (Code Owner)</p>	<p>Not Specified</p>	<p>These partners have decided to take action to promote a European woodworking industry that protects human rights and workers' rights in the framework of ILO conventions.</p>

		agreements'. <i>Level: the EU</i>			
Private Act: Guidelines for telework in Europe Legislative Act: Article 154 and 155 of the TFEU (Obsolete Case)	Employment, Social Affairs and Inclusion DG Target Group: Telecommunication operators and other business resorting to telework; teleworkers.	Private Act and Legislative Act Type of instrument: EU autonomous dialogue which resulted in a 'new generation agreements or autonomous agreements'. <i>Level: the EU</i>	European Commission and Private Regulator (Code Owner)	Not Specified	The guidelines provide that teleworkers should be granted equal treatment with employees working in company premises as regards working conditions, career and training opportunities, information and consultation and trade union rights. They establish that telework should be implemented on a voluntary basis while collective agreements should be reached at the appropriate level in order to provide a framework for the introduction of individual telework arrangements.
Private Act: Code of Conduct: Guidelines for European Hairdressers Legislative Act: Article 154 and 155 of the TFEU	Employment, Social Affairs and Inclusion DG Target Group: Hairdressers	Private Act and Legislative Act Type of instrument: EU autonomous dialogue which resulted in a 'new generation agreements or autonomous agreements'. <i>Level: the EU</i>	European Commission	Not Specified	In the Communication, the Commission "welcomes the social partners' wish to pursue a more autonomous dialogue and to contribute to achieving the Lisbon objectives". That autonomous dialogue follows the process of social dialogue but the resulting 'new generation agreements or autonomous agreements' are not transposed into legal acts and therefore do not fall in the remit of traditional social dialogue.
Private Act: Code of conduct in the leather and tanning sector Legislative Act: Article 154 and 155 of the TFEU	Employment, Social Affairs and Inclusion DG Target Group: Tanning and Leather Industry	Legislative Act and Private Act Type of instrument: Code of Conduct <i>Level: the EU</i>	European Commission and Private Regulator (Code Owner)	Not Specified	Ban on forced and child labour, respect of freedom of association and right to collective bargaining, non-discrimination of employment, decent working conditions and payment of a decent remuneration.
Private Act: Charter of the social partners in the footwear sector Legislative Act: Article 154 and 155 of the TFEU	Employment, Social Affairs and Inclusion DG. Target Group: Footwear Sector	Legislative Act and Private Act Type of instrument: EU autonomous dialogue which resulted in a 'new generation agreements or autonomous agreements'. <i>Level: the EU</i>	European Commission and Private Regulator (Code Owner)	Not Specified	This Charter follows the Charter of ILO. It mainly seems to provide for workers that work for European companies based outside EU territories (third countries, emerging markets), because the workers' rights secured by this charter are already secured under the Community and MS legislation and Constitutions.
Private Act: Charter by the social partners in the European textile and clothing sector Legislative Act: Article 154 and 155 of the TFEU	Employment, Social Affairs and Inclusion DG. Target Group: Textile Industry	Legislative Act and Private Act Type of instrument: EU autonomous dialogue which resulted in a 'new generation agreements or autonomous agreements'. <i>Level: the EU</i>	European Commission and Private Regulator (Code Owner)	Not Specified	In the Charter, EURATEX and the ETUF:TCL call on their members to encourage actively the companies and workers of the European textile and clothing industry to comply with the following ILO Conventions: The ban on forced labour (Conventions 29 and 105); Forced labour, slave labour and prison labour is banned.

<p>Private Act: ECSIRT Code of Conduct- (Obsolete Case)</p> <p>Legislative Act: Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market</p>	<p>Internal Market and Services DG</p> <p>Target Group: Networked Systems & Communication</p>	<p>Private Act and Legislative Act</p> <p>Type of instrument: Code of Conduct</p> <p>Level: Member State, the EU</p>	<p>Not Specified</p>	<p>To improve the security posture of the European Information Technology (IT) infrastructure; To enable an appropriate and timely response by CSIRTs to attacks upon the European IT infrastructure; To raise the awareness by documenting the work of CSIR</p>
<p>Private Act: European Good Practice Guide for Insurance Business on the Internet</p> <p>Legislative Act: Directive 2000/31/EC of the European Parliament and the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the Internal Market.</p>	<p>Internal Market and Services DG</p> <p>Target Group: Internet Insurance Operators</p>	<p>Private Act and Legislative Act</p> <p>Type of instrument: Good Practice Guide</p> <p>Level: Member State, the EU</p>	<p>Insurance undertakers individually declare their decision to comply with the criteria laid down in the guide and indicate this commitment on the home page of their site by displaying a common label referring to the guide</p>	<p>To establish high standards of information for consumers both on the insurance undertaking and the products available, in order to develop confidence in this distribution technique and enable consumers to make their choice in full knowledge of the facts. To guarantee compliance with fair commercial practices when using the Internet</p>
<p>Private Act: Code of Conduct for the European Interactive Software Industry Regarding Age Rating Labelling, Promotion and Advertising of Interactive Software Products</p> <p>Legislative Act: Council Recommendation 98/560/EC on the development of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity.</p>	<p>Communications Networks, Content and Technology</p> <p>Target Group: Members of the Interactive Software Federation of Europe (ISFE), or any other participants to the interactive software industry (such as the publishers and developers, wholesalers, retail, trade media and advertising companies)</p>	<p>Legislative Act and Private Act</p> <p>Type of instrument: Code of Conduct</p> <p>Level: Member State, the EU</p>	<p>An Enforcement Committee is set up to impose sanctions on companies infringing the Code. Failure will expose the offenders to measures including but not limited to: mandatory re-labelling of packaging, revocation of a particular age logo and descriptors</p>	<p>Provide parents and educators with objective, intelligible and reliable information regarding the age category for which a given product is deemed suitable from the exclusive standpoint of its content; Secure the consistency of any advertising, marketing and promotional activities of interactive software products, with the basic aim of informing the public on the content of products in a responsible manner;</p>
<p>Private Act: European Code of Conduct for On-line Commercial Relations</p> <p>Legislative Act: Directive 2000/31/EC of the European Parliament and the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce</p>	<p>Internal Market and Services DG</p> <p>Target Group: Companies engaged in on-line commerce.</p>	<p>Legislative Act and Private Act</p> <p>Type of instrument: Code of Conduct</p> <p>Level: the EU</p>	<p>National Associations adhering to the present Code of Conduct shall Control that the participating national companies and/or affiliated bodies comply with the rules in the present Code of Conduct; be able to stipulate at the level of the national participating companies and/or affiliated bodies, in the interest of supplementary protection of their customers, stricter rules than those laid</p>	<p>Enable on-line commerce to grow; foster a culture of entrepreneurship; reduce the administrative burden; improve the quality of legislation.</p>

in the Internal Market.			down in the present Code of Conduct; be the sole bodies authorised to utilise the Logo (XX) and the complaint form (YY) and to allow the utilisation of these by the participating national companies and/or affiliated bodies	
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Private Acts

Code of Conduct on Sports Betting for Players	Education and Culture DG Target Group: All Athletes in the EU	Private Act Type of instrument: EU Code of Conduct Level: the EU	Self-appointed private parties (e.g. NGOs)	Court System (Judicial Sanctions) Sport Stakeholders (e.g. Federations) – Faming, shaming and blaming; Membership Exclusion/suspension; Judicial Sanctions)	
Responsible Remote Gambling Measures -	Internal Market and Services DG Target Group: All online gambling stakeholders	Private Act Type of instrument: CEN Workshop Agreement (CWA), self-regulatory agreement Level: the EU	Self-Appointed Private Parties ; EGBA Members By definition CWA is a voluntary standard applicable internationally and does not have the force of regulation. 292	Voluntary Application; No proposer enforcement (EGBA members)	The CEN Workshop Agreement “Responsible Remote Gambling Measures” is a set of 134 practical measures aimed at safeguarding a high level of consumer protection and ensuring that remote gambling operators behave responsibly in the European Union.
European Mentoring and Coaching Council (EMCC) and International Coach Federation (ICF) and others, Professional Charter for Coaching and Mentoring,	Internal Market and Services DG Target Group: Coaches and mentors, consumers of their professional services, and professional coaching and mentoring organisations.	Private Act Type of Instrument: Unilateral Professional Charter Level: Not specified	Private Regulator (code owner) Other (reflexive dialogue with the “stakeholders”)	Code Owner (Membership suspension/exclusion).	The main goal is to ensure that practising coaches and mentors conduct their practice in a professional and ethical manner. The objective is also to inform clients of coaching and mentoring, and to promote public confidence in coaching and mentoring as a process for professional and personal development.
European Association for Psychotherapy (EAP), Statement of Ethical Principles	Internal Market and Services DG Target Group: Psychotherapist in Europe	Private Act Type of Instrument: Ethical Guidelines for the Protection of Patients. Level: Not Specified	EU Commission (Reflexive Dialogue with Stakeholders) The EAP conducts its own monitoring procedures, as outlined in the Statues.	Code Owner (Membership suspension/exclusion).	Mutual recognition and equal conduct of psychotherapy in Europe

European Snacks Association (ESA), Guidelines on communication, sales in schools and vending	Health and Consumers DG Target Group: Snack manufacturers, industry responsible for snack pellets, snack ingredients, oils and fats, flavour-seasonings-application, snack processing equipment, weighing equipment, packaging equipment and material, peanuts and snack nuts, trade associations.	Private Act Type of Instrument: Guidelines Level: Not Specified	The guidelines are new and as such they are still not monitored	The guidelines are new and as such there are no sanctions yet	Guidelines to support responsible advertising.
Union of European Beverages Associations (UNESDA), Responsible Choice	Health and Consumers DG Target Group: The non-alcohol beverage sector.	Private Act Type of Instrument: Commitment	Private Regulator (code owner) - Produce Regular Reports	There is no systematic complaint handling	Binding the industry to act responsible in the marketplace. UNESDA members commit not to place any marketing communication in printed media, websites or during broadcast programmes especially aimed at children under twelve years. They refrain from any commercial activity at primary schools vending machines should offer a full range of beverages including water
CoESS and UNI Europa, European Educational Toolkit for three Private Security Activities/Profiles: Mobile Patrolling - Alarm Response Centres - Airport Security manual	Employment, Social Affairs and Inclusion DG Target Group: Security guards in the private security sector	Private Act Type of Instrument: Training Material Level: Not Specified	No specific scheme, but general commitment by the signatory partners. Monitoring is essentially left to the businesses themselves, nevertheless, the representative organisations (CoESS and UNI Europa) have committed themselves to monitor and evaluate the work.		To establish this framework, which can be tailored to the national level and which, in line with national legislation, can be regarded as a minimum standard. The training aims at three specialised private security profiles: mobile patrolling, alarm response centres and airport security
CoESS and UNI Europa, Preventing Occupational Hazards in the Private Security Sector (manned guarding and surveillance services) manual	Employment, Social Affairs and Inclusion DG Target Group: Security guards in the private security sector	Private Act Type of Instrument: Training Material Level: Not Specified	No specific scheme, but general commitment by the signatory partners. Monitoring is essentially left to the businesses themselves, nevertheless, the representative organisations (CoESS and UNI Europa) have committed themselves to monitor and evaluate the work.		To contribute to the development of the social dialogue relating to health and safety in the workplace at European, national and company level. To contribute to risk prevention in the area of health and safety by determining the causes of these risks and providing the basis for a tool aimed at informing and raising the awareness of the various actors within the sector, especially the workers themselves.
CoESS and UNI Europa, Selecting best value - A manual for organisations awarding contracts for private guarding services	Employment, Social Affairs and Inclusion DG Target Group: Public contracting authorities at national, regional and local level.	Private Act Type of Instrument: Manual Level: Not Specified	No specific scheme, but general commitment by the signatory partners. Monitoring is essentially left to the businesses themselves, nevertheless, the representative organisations (CoESS and UNI Europa) have committed themselves to monitor and evaluate the work.		To guide procurement officers through different key quality criteria to consider when selecting a high-quality provider for private security/guarding services. The manual helps them distinguish between the requirements of different sites and guarding tasks.
Federation Veterinarians of Europe (FVE), Code of Good Veterinary	Health and Consumers DG Target Group:	Private Act Type of Instrument: Code of Conduct and	There is no monitoring of performance set up in the Code.	There are no sanctions for non-compliance in the code	The objective of the Code is to serve as a basis for FVE member organisations wanting to implement their own GVP/Quality management scheme. The purpose of the Code of Good Veterinary Practice is to

Practice	Veterinarian organisations / veterinarians.	quality management.	Complaint handling is done by national organisations.		give confidence that veterinary surgeons are working according to a set of standards to guarantee at all times that a quality veterinary service is being delivered and that they are trustworthy partners.
EuComed – Code of Business Practice	Health and Consumers DG Target Group: National and corporate members of EuComed.	Private Act Type of Instrument: Code of Practice	Private Regulator (code owner) – Members are obliged to take measures to ensure compliance with the principles of the Code by their employees, agents and representatives. Members should adopt effective compliance programmes by issuing written policies and procedures.	Code Owner (Membership Exclusion)	This Code of Business Practice is intended to provide guidance as to the minimum standards which should apply to its members' business practices in Europe and, generally, elsewhere. Minimum standards on the production and supply of quality medical devices and related services in the interest of patient safety and well-being.
Organisation for Timeshare in Europe (OTE), Code of ethics	Health and Consumers DG Target Group: Time share sellers.	Private Act Type of Instrument: Code of ethics. The 2005 Code consolidated four existing separate Codes and it has also been substantially enhanced.	Private Regulator (Code Owner) Twice a year, OTE asks consumer organisations about complaints. Complaints are sent to OTE, who then contacts relevant members and tries to handle them.	Compliance with the Code is governed by administrative procedures. In 2004 OTE received 182 non-compliance cases, of which 95% were resolved.	The Code strengthens the position of the consumers and improves the image of the industry. OTE is active in training; a training manual was developed and many national trainers were coached. The Code establishes standards of practice which ensure fairness and propriety with which member companies conduct their business.
EFPIA, Code of Practice on Relationships between the Pharmaceutical Industry and Patient Organisations	Health and Consumers DG Target Group: Pharmaceutical Companies	Private Act Type of Instrument: Unilateral code of conduct	The EFPIA Code Committee monitors the implementation of the code at national level through its members associations and prepares an annual report, based on the national reports, which is submitted to the Board	Code Owner (Faming, naming and Shaming) EFPIA member associations (faming, shaming and blaming; membership suspension; private fines)	It was felt important to clearly set out ethical standards to be met by all members of EFPIA and of its specialised groups EBE and EVM and to ensure that relationships between the pharmaceutical industry and patient organisations take place in an ethical and transparent manner
EFPIA - European Federation of Pharmaceutical Industries Associations Code of Practice on the Promotion of Medicines	Health and Consumers DG Target Group: Pharmaceutical Companies	Private Act Type of Instrument: Unilateral code of conduct	The EFPIA Code Committee monitors the implementation of the code at national level through its members associations and prepares an annual report, based on the national reports, which is submitted to the	Code Owner (Faming, naming and Shaming) EFPIA member associations (faming, shaming and blaming; membership suspension; private fines)	Providing accurate, fair and objective information about medicinal products so that rational decisions can be made as to their use; Raising industry standards; Improving sector's image; Increasing clients' trust in the quality of the products/services; Meeting legislative requirements.

Society of European Affairs Professionals (SEAP) Code of Conduct	Secretariat-General Target Group: Public affairs consultants and professionals.	Private Act Type of Instrument: code of conduct	Board European Commission (initiate complaint procedures; receive complaints and verify if norms were breached or not) All SEAP members are bound to the code individually and are required to familiarise themselves with the code. To this end SEAP organises training seminars each year which each member is obliged to take part in as a membership requirement.	Signatories accept that SEAP can apply a range of sanctions in case of non-compliance, ranging from a verbal warning to expulsion	Increase transparency and accountability of public affairs professionals. Founded in 1997 SEAP is an organisation open to all EU affairs professionals, regardless of nationality, country of residence or the interests they represent (individuals working with a consultancy, trade association or a non-governmental association...).
European Communities Confederation of Clinical Chemistry and Laboratory Medicine (EC4), European Register for Specialists in Clinical Chemistry and Laboratory Medicine, Code of Conduct	Internal Market and Services DG Target Group: Specialists in Clinical Chemistry and Laboratory Medicine.	Private Act Type of Instrument: Register (set up in 1998) and a complementary code of conduct and Training Syllabus.	All applicants applying to join the Register must submit a copy of their Curriculum Vitae, be on their National professional register (if available) and sign a declaration agreeing to abide by the Code of Conduct	Applicants not fulfilling the education and training requirements laid down by EC4 are not admitted to the Register	To stimulate the development of Specialists in Clinical Chemistry and Laboratory Medicine and the maintenance of their professional activities at a very high level. The EC4 register of Specialists in Clinical Chemistry and Laboratory Medicine has been developed to establish a framework for mutual recognition of education and training. T
European Charter for the Development and the Take-up of Film On-line	Communications Networks, Content and Technology DG Target Group: Electronic communications network operators (telecoms, cable, satellite, wireless) able to distribute audio-visual material, all film distributors, producers, right owners as well as indirect beneficiaries.	Private Act Type of Instrument: Unilateral code of conduct. A voluntary Charter with code of conduct. Signatories only commit their own company - there is no involvement of sector organisations, which are unable and not created for accepting obligations on behalf of their members.	Not Specified	Not Specified	Avoiding government regulation. Increasing clients' trust in the quality of the products/services. Raising industry standards. Launched in May 2005 at the Cannes International Film Festival, upon the initiative of Viviane Reding, European Commissioner for Information Society and Media, the Film Online Talks aim to create a favourable environment that will foster the emergence of new forms of online distribution through this European Charter for the Development and the Take-up of Film Online.
industry guidelines for the security of the transport of dangerous goods by road	Mobility and Transports DG Target Group: Chemical transport companies	Private Act Type of Instrument: Guidelines	Not Specified	Not Specified	Increasing clients' trust in the quality of the products/services; Improving sector's image; Raising industry standards; Enhancing the level of information. Series of documents setting guidelines on different aspects of safe, secure and efficient chemical transport.

Revised version of Guidelines for Good Practice for Transmission System Operators (Obsolete Case)	Energy DG Target Group: NRAs, Member States, Network operators, Network users	Private Act Type of Instrument: First non-binding agreement followed by a piece of binding legislation	National Public Authority (Conduct surveys on Compliance capacity of future regulatees; maintain database of those bounded by these norms)	Not Specified	The Guidelines agreed in the framework defined minimum requirements for third party access to the gas transmission networks in the EU. In order to achieve this and to make up for the non-compliance with the voluntary Guidelines, the Commission submitted a proposal to the European Parliament and the Council with a view to translating the voluntary Guidelines into a legally binding piece of legislation.
Self-Commitment to improve the energy performance of household consumer electronic products sold in the EU	Energy DG Target Group: Producers of consumer electronic appliances	Private Act Type of Instrument: Unilateral self-commitment	European Commission (reflexive dialogue with stakeholders) Private Regulator Self-appointed private parties (NGOs)	The sanction for signatories which would not meet their commitment is the exclusion of the commitment and publicity of the exclusion.	The objective of the self-commitment is to improve the energy efficiency of the equipment covered. The manufacturers taking part in the self-commitment, all of which sell their products throughout the EEA, have undertaken to meet certain target values for the power use of the TVs and DVD players that they sell throughout the EEA, addressing standby consumption and on-mode consumption (CRT-TVs) - in part for individual devices, in part in fleet-average.
Recommendations on guidelines for good practice in relation to Third Party Access services, ratifications, balancing etc. (Obsolete Case)	Private Regulator: Madrid Forum - European Gas Regulatory Forum Energy DG Target Group: Producers of consumer electronic appliances	Private Act Type of Instrument: Recommendations on guidelines	No specific monitoring system provided, except for the special role foreseen for the Association of European Gas Transmission bodies (GTE). "It is important that progress in implementing the guidelines and compliance with them is monitored regularly by the Madrid Forum. GTE is invited to contribute actively to this monitoring process		The purpose of these Guidelines for Good Practise (GGP) is to ensure that Transmission Operators (TSO) aim to provide the quality of services needed by the network users and that the systems and processes promote sustainable development of competition in gas supply.
CECED-Self-Commitment to improve the energy performance of household consumer electronic products sold in the EU (Obsolete Case)	Energy DG Target Group: Producers of consumer electronic appliances	Private Act Type of Instrument: Unilateral self-commitment	European Commission (Reflexive dialogue with stakeholders) National Public Authority Private Regulator (Code owner) Self-Appointed Private Actors (e.g.NGOs)	The sanction for signatories which would not meet their commitment is the exclusion of the commitment and publicity of the exclusion.	The objective of the self-commitment is to improve the energy efficiency of the equipment covered. The manufacturers taking part in the self-commitment, all of which sell their products throughout the EEA, have undertaken to meet certain target values for the power use of the TVs and DVD players that they sell throughout the EEA, addressing standby consumption and on-mode consumption (CRT-TVs) - in part for individual devices, in part in fleet-average.
CECED - Agreement of cessation of production and imports of several models of washing machines with low energy efficiency (Obsolete Case)	Energy DG Name of Private Regulator: CECED Target Group: Arcelik, Antonio Merloni, Bosch-Siemens, Candy, Elco-Brandt Electrolux, Fagor, Gorenje, Merloni, Miele, Smeg, Whirlpool	Private Act Type of Instrument: Self-commitment	Monitoring and reporting: CECED has established and updates a database, monitored by an independent consultant who reports annually to CECED and to the Commission on the fulfilment of the objectives per category class and for the overall target of 0,20 by end of	Other (faming, shaming, blaming)	CECED self-commitment dated 31 October 2002 aims at ceasing production and imports of several models of washing machines. The agreement concerns the market of private washing machines that are used by households to wash textiles for private use.

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Evidence- and consensus-based European guidelines for the therapy of adult primary myelodysplastic syndromes	Health and Consumers DG Name of the Private Regulator: European Leukemia Network (ELN) Target Group: MDS therapists	Private Act Type of Instrument: Guidelines	Not Specified	Not Specified	The aim of this work is to develop evidence- and consensus-based guidelines providing clinical practice recommendations that can support the appropriate choice of therapeutic interventions in adult patients with primary MDS
CertiPUR	Health and Consumers DG Name of the Private Regulator: European Europur and Euro-Moulders Target Group: Bedding and furniture manufacturers	Private Act Type of Instrument: Contractual Agreement	Private Regulator (Code Owner) Private Independent Party with a Mandate	Compliance is subject to audit by an independent laboratory and satisfactory results of random spot checks. Only manufacturers who comply with all the requirements will be allowed to use the label.	Increasing clients' trust in the quality of the products/services; Improving sector's image; Raising industry standards; Using it as a marketing tool; Enhancing the level of information. CertiPUR is a voluntary standard to advance the Safety, Health and Environmental (SHE) performance of flexible polyurethane foams used in bedding and upholstered furniture
Charter of the European Advertising Standards Alliance (EASA)	Health and Consumers DG Name of the Private Regulator: European Advertising Standards Alliance Target Group: The target group is self-regulators of advertising industry at national level.	Private Act Type of Instrument: A Charter which sets the framework for national self-regulators. It also reinforces/incorporates the previous self-regulatory initiatives taken by the EASA:	National Public Authority Private Regulator The EASA monitors by maintaining databases of the cases related to advertising and conducting general surveys of the self-regulatory field in European Countries.	Code Owner (Faming, shaming and blaming)	Promotion and development of self-regulation in the advertising sector; Support of existing advertising self-regulatory systems; Management and coordination of the EASA's cross-border complaints mechanism to ensure that cross-border complaints, through a specific procedure, are resolved speedily and effectively; Provision of information and research concerning advertising self-regulation.
Responsible Commercial Communications Guidelines for the Brewing Industry	Health and Consumers DG Name of the Private Regulator: The Brewers of Europe (CMBC) Target Group: National Brewing Associations in Europe.	Private Act Type of Instrument: Guidelines: The advertising industry finances the self-regulatory organisations or the self-regulatory bodies	Private Regulator (Code Owner) Private Independent Party with a mandate Self-Appointed Private Parties National Self-Regulatory Organizations	National Brewing Associations / mandated committees (Judicial Sanctions, Private Fines).	The purpose of the Guidelines is to ensure that commercial communications for beer do not lead to excessive consumption or misuse of any kind, i. e. that beer marketing is directed only at those above the legal drinking age and is carried out with care and discretion, so as not to encourage excessive or irresponsible consumption. The brewing industry wants to demonstrate its ability to conduct its business responsibly, by self-regulation of its commercial communications and the active promotion of the highest ethical standards. Commercial communications refer to advertising, promotions and sponsorship.
European Guidelines for the Nutritional Care of Adult Renal Patients	Health and Consumers DG Name of the Private Regulator:	Private Act Type of Instrument: Guidelines	Not Specified	Not Specified	These guidelines are aimed at improving the nutritional care of patients with renal disease throughout Europe. They aim to promote best practice based on expert opinion and scientific evidence.

	European Dialysis & Transplant Nurses Association / European Renal Care Association Target Group: National Brewing Associations in Europe.				
EBWA Code of Conduct	Health and Consumers DG Name of the Private Regulator: European Bottled Watercooler Association (EBWA) Target Group: EBWA members: Bottlers, Distributors, Suppliers and National Associations.	Private Act <i>Type of Instrument:</i> Code of Conduct	Not Specified	Not Specified	It sets out the rules of behaviour necessary to ensure good hygiene management, the quality of the European Watercooler Industry's products and ethically correct management.
Good scientific practise in research and scholarship	Research and Innovation DG <i>Name of the Private Regulator:</i> European Science Foundation	Private Act <i>Type of Instrument:</i> Code of Good Practice	Not Specified	Not Specified	ESF plays a significant role in promoting the highest levels of scientific integrity and better self-regulation across Europe. At a strategic level, there is a need for more commonality in codes of good scientific practice, in the effective managing and monitoring of those standards and in developing transparent procedures for investigating allegations of scientific misconduct.
EVCA Reporting Guidelines	Internal Market and Services DG <i>Name of the Private Regulator:</i> European Private Equity and Venture Capital Association (EVCA) <i>Target Group:</i> Venture capital/private equity business	Private Act <i>Type of Instrument:</i> Guidelines	The conduct of the members is monitored by the EVCA and a special professional standards committee designated by the EVCA.	EVCA members will abide all rulings and regulations of the Professional Standards Committee.	The EVCA reporting guidelines set general conditions: timing, fund reporting, portfolio reporting, capital account, fees and carried interest, reporting template and performance measurement guidance.
EVCA Code of Conduct	Internal Market and Services DG <i>Name of the Private Regulator:</i> European Private Equity and Venture Capital	Private Act <i>Type of Instrument:</i> Code of Conduct	Private Regulator (code owner) Private independent party with a mandate (e.g. auditors).	Private Party (code owner)	Set a number of ethical "commandments" for EVCA members. These commandments are further detailed in a series of specific codes and guidelines for the asset management sector.

	Association, EVCA				
European Code of Ethics for Real Estate Professionals	Internal Market and Services DG <i>Name of the Private Regulator:</i> CEPI asbl (Conseil européen des Professions immobilières) <i>Target Group:</i> Real estate professionals (property agents and property managers).	Private Act <i>Type of Instrument:</i> Code of Ethics	Private Regulator (Code Owner)	Code Owner	In the spirit of the Single European Act and having regard to the responsibilities which are incumbent upon real estate professionals as a result of the civil, economic and social role allotted to them, we establish the principles of a common Code of Ethics gathering the principles of conduct and ethics of their professions. The rules aim to ensure to the consumer the best guarantees and quality of services in the interest of the common good and for the conservation of the professional inheritance for future generations.
Minimum Education requirements for real estate agents and real estate managers	Internal Market and Services DG <i>Name of the Private Regulator:</i> CEPI asbl (Conseil européen des Professions immobilières)	<i>Private Act</i> <i>Type of Instrument :</i> Not Specified	Private Regulator (code Owner)	Code Owner	To guarantee a basic level of education for all European real estate professionals.
Certification Registry of the European Board of Cardiovascular Perfusion (EBCP)	Internal Market and Services DG <i>Name of the Private Regulator:</i> The European Board of Cardiovascular Perfusion <i>Target Group:</i> European perfusionists and the educational sector of perfusionists.	Private Act <i>Type of Instrument:</i> Accreditation	Private Regulator (Code Owner)	Code Owner (removal from the certification registry in case the recertification has not been achieved).	Establishing guidelines by which training programmes will be accredited by the Board to establish, monitor and maintain equality of standards in education and training of perfusionists to liaise with the European Commission in order to legalise the above objectives through the appropriate health department.
The European Guidelines of Self-Compacting Concrete	Enterprise and Industry DG <i>Name of the Private Regulator:</i> The European Federation of Concrete Admixtures Associations (EFCA), the Self-Compacting Concrete European	Private Act <i>Type of Instrument:</i> Guidelines	Not Specified	Not Specified	Improved construction practice and performance, combined with health and safety benefits, make self-compacting concrete a very attractive solution for both precast concrete and civil engineering construction.

	Project Group <i>Target Group:</i> Specifiers, designers, purchasers.				
European Federation of Engineering Consultancy Associations (EFCA), Code of Conduct.	Internal Market and Services DG. <i>Name of the Private Regulator:</i> European Federation of Engineering Consultancy Associations (EFCA)	Private Act <i>Type of Instrument:</i> Code of Conduct	Not Specified	Not Specified	To create a European Code of Conduct for the field of Engineering Consultancy, to set minimum standards for professional conduct in the sector.
European Code of Conduct for retail transactions	Internal Market and Services DG <i>Name of the Private Regulator:</i> EuroCommerce	Private Act <i>Type of Instrument:</i> Unilateral Code of Conduct	Private Regulator (Code Owner)	Code Owner (faming, shaming and blaming; and membership suspension/Exclusion)	Increasing client's trust in the quality of products/services, improving sector's image and enhancing the level of information.
E.C.C.O professional guidelines, March 2002; E.C.C.O code of ethics, March 2003.	Internal Market and Services DG. <i>Name of the Private Regulator:</i> The European Confederation of Conservator-Restorers' Organisations	Private Act <i>Type of Instrument:</i> Guidelines	Not Specified	Not Specified	To standardise at the European level the professional status, training and rules governing the professional conduct.
European Convention on Cross Border Mail Order and Distance Selling	Internal Market and Services DG. <i>Name of the Private Regulator:</i> European Distance Selling Trade Association (EMOTA)	Private Act <i>Type of Instrument:</i> Unilateral Code of Conduct	Companies (initiate complaint procedures)	Code Owner (membership exclusion /suspension) No sanctions for non-compliance	Increasing client's trust in the quality of products/services, improving sector's image and enhancing the level of information. Distance selling companies are convinced that they play an important part in creating an integrated European Market. Within the limitations of the commercial proposal the consumer will be able to more easily purchase goods and services in countries other than his\her own.
EVCA Governing Principles	Internal Market and Services DG <i>Name of the Private Regulator:</i> The European Private Equity and Venture Capital Association (EVCA)	Private Act <i>Type of Instrument:</i> Governing principles	Code Owner (reflexive dialogue with the stakeholders); private independent party with a mandate (e.g. auditors)	Private Independent parties with a mandate (e.g. auditors)	The document provides governing principles for the establishment and management of a private equity or venture capital initiative. These principles touch at the law; the contact, integrity, skill, care and diligence, adequacy of resources; investor's interests; transparency, conflict of interest, investor's assets.
Transparency Guidelines for Retail Funds	Internal Market and Services DG <i>Name of the Private Regulator:</i> European Social	Private Act <i>Type of Instrument:</i> Unilateral Code of Conduct	Not Specified	Code Owner (faming, shaming and blaming)	Avoiding government regulation; improving sector's image; increasing clients' trust in the quality of products and services; raising industry standards.

	Investment Forum - Eurosif				
European Code of Notarial Professional Ethics	Internal Market and Services DG <i>Name of the Private Regulator:</i> Conference of Notaries in the European Union (CNUE)	Private Act <i>Type of Instrument:</i> Code of Conduct	Not Specified	Not Specified	To guarantee the European Consumer the same protection in national and cross-border notarial activities.
Code of Conduct for European Lawyers	Internal Market and Services DG <i>Name of the Private Regulator:</i> Council of Bars and Law Societies of Europe (CCBE)	Private Act <i>Type of Instrument:</i> Code of Conduct	Not Specified	Not Specified	Mitigate the difficulties which result from the application of “double deontology”, notably as set out in Article 4 and 7.3 of the Directive 77/249/EEC
Register of European Engineers, Code of Conduct and Index	Internal Market and Services DG <i>Name of the Private Regulator:</i> European Federation of National Engineering Associations (FEANI)	Private Act <i>Type of Instrument:</i> Certification, Code of Conduct	Private Regulator (code owner)	Not Specified	Facilitate the movement of practicing engineers within and outside the geographical area represented by FEANI’s member countries and to establish a framework of mutual recognition of qualifications in order to enable engineers who wish to practice outside their own country to carry with them a guarantee of competence.
European Chemist Code of Conduct	Enterprise and Industry DG <i>Name of the Private Regulator:</i> European Association for Chemical and Molecular Sciences	Private Act <i>Type of Instrument:</i> Unilateral Code of Conduct	Private regulator (code owner)	Code Owner (membership suspension/exclusion)	Increasing clients’ trust in the quality of the products/services ; raising industry standards; avoiding government regulation; act in the public interest.
EUROFEL Quality Scheme. Guidelines available for sale only.	Enterprise and Industry DG <i>Name of the Private Regulator:</i> Industrial Mineral Association – Europe, IMA-Europe	Private Act <i>Type of Instrument:</i> Unilateral code of conduct	Private regulator (code owner)	Not specified.	Increasing clients’ trust in the quality of the products/services; improving sector’s image; raising standards; using it as a market tool, enhancing the level of information.
IMA Sustainable Development Charter	Enterprise and Industry DG <i>Name of the Private Regulator:</i> Industrial Minerals Association	Private Act <i>Type of Instrument:</i> Charter	European Commission and Private Regulator (code owner)	Not Specified	It sets out the non-energy extractive industry’s commitment to sustainable development in eight guiding principles, encompassing sustainable development, corporate social responsibility, ethics, etc. It is to be ultimately applicable to all members of IMA-Europe, an umbrella that brings together a number of European associations specific to individual minerals.

Guidelines on the Exchange of Information between Fragrance Suppliers and Cosmetic Manufacturers. Guidelines available on website.	Enterprise and Industry DG <i>Name of the Private Regulator:</i> Colipa – The European Cosmetic Toiletry and Perfumery Association	Private Act <i>Type of Instrument:</i> Guidelines	Not Specified	Code Owner	Improving sector's image; raising industry standards. The guidelines on quantity and quality of information which fragrance suppliers should submit to cosmetic manufacturers are an addendum to the COLIPA Guidelines on Product Information Requirements.
Code of Practice on Hydrofluorocarbons Use in Aerosols	Enterprise and Industry DG <i>Name of the Private Regulator:</i> European Aerosol Federation (FEA)	Private Act <i>Type of Instrument:</i> Voluntary Industry Code of Practice	Private Regulator (code owner)	Not Specified	HFCs should only be used in aerosol applications where there are no other safe, practical, economic or environmentally acceptable alternatives.
Code of Practice on the promotion of Medicines	Health and Consumers DG <i>Name of the Private Regulator:</i> European Federation of Pharmaceutical Industries Association	Private Act <i>Type of Instrument:</i> Unilateral Code of Conduct	Private Regulator (code owner) Private Independent Party with a mandate (e.g. auditors).	Code owner; EFPIA member associations; CEMIP in Germany	Providing accurate, fair and objective information about medicinal products so that rational decisions be made as to their use; raising industry standards
Code of Conduct for Information on International Roaming Retail Prices Revised	Communications Networks, Content and Technology DG <i>Name of the Private Regulator:</i> GSM Europe	Private Act <i>Type of Instrument:</i> Code of Conduct	Private Independent party with a mandate (e.g. auditors)	Private Independent party with a mandate (e.g. auditors)	To enhance the clarity of the international retail roaming price information for consumers, to provide greater consistency to the range of information on charges and available services, so that when away from their home network they are able to make better informed decisions regarding network roaming choice (network availability), charges, availability of data services, prepay, specific value-added services, coverage of information on how to use roaming services in general.
Pan European Game Information System (PEGI)	Communications Networks, Content and Technology DG <i>Name of the Private Regulator:</i> Interactive Software Federation of Europe (ISFE)	Private Act <i>Type of Instrument:</i> Code of Conduct	Private Independent party (code owner) Private Independent party with a mandate (e.g. auditors) Self-appointed private parties (e.g. NGOs).	Code owner (membership exclusion; private fines)	Enhancing the level of information; improving sectors image; increasing clients trust in the quality of the products/services. PEGI is aimed to inform parent's decision to buy video games based on recommendations regarding age suitability and game contents to ensure that minors are not exposed to games that are unsuitable for their particular age group.
IAB Europe Standards and best practice	Internal Market and Services DG <i>Name of the Private Regulator:</i> Interactive Advertising Bureau Europe	Private Act <i>Type of Instrument:</i> Voluntary Guidelines	Private Regulator (code owner)	Not specified	Raising industry standards; increasing clients trust in the quality of the products/services; enhancing the level of information. The standards and best practice guidelines were/are developed by the IAB network of trade bodies to make interactive advertising easier to use.
Organisation for Timeshare in Europe (OTE), Code of Ethics.	Health and Consumers, DG <i>Name of the Private Regulator:</i> Organisation for	Private Act <i>Type of Instrument:</i> Code of Ethics	Private Regulator (Code Owner)	Code Owner (membership suspension/exclusion).	The code strengthens the position of the consumers and improves the image of the industry. OTE is active in training, a training manual was developed and many national trainers were coached. The Code establishes standards of practice which ensure fairness and propriety with which member companies conduct their

Timeshare in Europe (OTE)

business.

Private Acts and Non-Legislative Acts

<p>Private Act: Euro Chlor, Voluntary Agreement on Safe Storage of Decommissioned Mercury</p> <p>Non-Legislative Act: Commission Recommendation of 22 December 2008 on the safe storage of metallic mercury no longer used in the chlor-alkali industry .</p>	<p>Enterprise and industry DG</p> <p>Target Group: Chlor-alkali industry in Europe</p>	<p>Private Act and Non-Legislative Act</p> <p>Type of Instrument: Voluntary Agreement</p>	<p>Private Regulator (code owner) (produce regular , annual reports to the Commission)</p>	<p>Not Specified</p>	<p>Ensuring that all metallic mercury no longer used in the chlor-alkali industry is safely stored</p>
<p>Private Act: European Forum for Responsible Drinking (EFRD), Common Standards for Commercial Communications</p> <p>Non-Legislative Act: Council Recommendation 2001/458/EC of 5 June 2001 on the drinking of alcohol by young people, in particular children and adolescents</p>	<p>Health and Consumers DG</p> <p>Target Group: Member companies of the European Forum for Responsible Drinking</p>	<p>Private Act and Non-Legislative Act</p> <p>Type of Instrument: Common Standards</p>	<p>The national self-regulatory organisations monitor performance yearly with review by independents. The national organisations are best placed to deal with complaints, as only they will be able to assess and understand fully the national context and local sensitivities</p>	<p>The Common Standards do not withhold any sanctions for non-compliance</p>	<p>The purpose of these Common Standards is to ensure that commercial communication does not encourage or condone excessive consumption or misuse of any kind</p>
<p>Private Act: Agreement on the reduction of chlorofluorocarbons of the foam plastic industry (Obsolete Case)</p> <p>Non-legislative Act: Commission Recommendation 90/437/EEC of 27 June 1990 on the reduction of chlorofluorocarbons used by the Community's foam plastics industry.</p>	<p>Enterprise and industry DG; Environment DG</p> <p>Target Group: Chemicals and plastics industry</p>	<p>Private Act and Non-Legislative Act</p> <p>Type of Instrument: Voluntary Agreement</p>	<p>The voluntary agreement operated in addition to international action (the Montreal Protocol), Community legislation and measures taken by some Member States at a time when no international agreement had been reached yet on the treatment of specific substances and certain industrial applications such as foams</p>	<p>Not Specified</p>	<p>Reduction of emissions of CFCs at the production of foams.</p>
<p>Non-Legislative: Communication from the Commission - Follow-up to the high level reflection process on patient mobility and healthcare developments in the European Union</p> <p>Private Act: European Charter of Patients; Rights</p>	<p>Health and Consumers DG</p> <p>Name of the Private Regulator: Active Citizenship Network (ACN)</p> <p>Target Group: Active citizenship organisations working in the health area at national and European level, as well as all other</p>	<p>Private Act and Non-Legislative Act</p> <p>Type of Instrument: European Charter</p>	<p>Private Regulator (code owner)</p> <p>Self-Appointed Private Parties</p> <p>The monitoring was carried out in 2003-2004 in 14 of the "old" member states by national citizens organizations dealing with health. It consisted in a collection of information based on several instruments (direct observations in hospitals, questionnaires and interviews, analysis of existing statistics, etc.)</p>	<p>Code Owner</p> <p>(Publication of a European report on the monitoring results)</p>	<p>The objective of the present Charter is to create a European public opinion on patients' rights and to encourage all individuals to ask for and contribute to the respect of their fundamental rights concerning health care.</p>

	health care stakeholders in Europe				
<i>Non-Legislative Act:</i> Communication from the Commission to the Council and the European Parliament - Clearing and Settlement in the European Union - The way forward, COM(2004)312 final and Communication from the Commission to the Council and the European Parliament - Clearing and settlement in the European Union - Main policy issues and future challenges. <i>Private Act:</i> European Code of Conduct for clearing and settlement	Internal Market and Services DG <i>Name of the Private Regulator:</i> Federation of European Securities Exchanges (FESE), European Association of Central Counterparty Clearing Houses (EACH), European Central Securities Depositories Association (ECSDA) <i>Target Group:</i> European clearing houses and stock exchanges.	Private Act and Non-Legislative Act <i>Type of Instrument:</i> Code of Conduct	European Commission aims to establish an ad-hoc committee, comprising Competition DG (COMP) and Economic and Financial Affairs DG (ECFIN) and other public sector interlocutors to liaise with the auditing process.	Not Specified	It is the common objective of the organisations, signing this code of conduct, to establish a strong European capital market and to allow the investors the choice to trade any European security - whether it is a domestic or a foreign security - within a consistent, coherent and efficient European framework
<i>Private Act:</i> Code of Good Environmental Practice for the Household Laundry Detergents <i>Non-Legislative Act:</i> Commission Recommendation 98/480/EC of 22 July 1998 concerning good environmental practice for household laundry detergents, Official Journal (Obsolete Case)	Enterprise and Industry DG <i>Name of the Private Regulator:</i> International Association for Soaps, Detergents and Maintenance Products (AISE) <i>Target Group:</i> The Code is open to all companies both members and non-members of AISE associations.	<i>Private Act and Non-Legislative Act</i> <i>Type of Instrument:</i> Code of Conduct	European Commission – (consultation of MSs the co-regulator and the Consumer Committee) Private Regulator (Code Owner) – AISE	In order to monitor the progress of this recommendation, statistics are collected in the Member States. The collected statistics should be reported to the Commission and respectively to the national authorities.	AISE committed itself to undertake initiatives in order to achieve these targets and approached the Commission to request from the Commission an endorsement of the initiative which the Commission gave in 1998
<i>Private Act:</i> Agreement on the reduction of chlorofluorocarbons of the refrigerator industry. <i>Non-Legislative Act:</i> Commission Recommendation 90/438/EEC of 27 June 1990 on the reduction of chlorofluorocarbons used by the Community's refrigeration industry, Official Journal (Obsolete Case)	Enterprise and Industry DG; Environment DG <i>Name of the Private Regulator:</i> Not Specified <i>Target Group:</i> Chemical industry and refrigeration industry.	<i>Private Act and Non-Legislative Act</i> <i>Type of Instrument:</i> Voluntary Agreement	European Commission National Public Authority International Public Authority Private Regulator (Code Owner)	Not Specified	Enhancing the substitution of CFCs in the refrigeration industry.
<i>Private Act:</i> Voluntary agreement on the reduction of chlorofluorocarbons by the aerosol industry	Enterprise and Industry DG; Environment DG	<i>Private Act and Non-Legislative Act</i> <i>Type of Instrument:</i> Voluntary Agreement	The voluntary agreement operated in addition to regulatory action on the international level (the Montreal Protocol),	With the development of the Montreal Protocol	Replacement of aerosols by propellants which are less damaging for the ozone layer.

<p><i>Non-Legislative Act:</i> Commission Recommendation 89/349/EEC of 13 April 1989 on the reduction of chlorofluorocarbons by the aerosol industry, Official Journal (Obsolete Case)</p>	<p><i>Name of the Private Regulator:</i> Not Specified</p> <p><i>Target Group:</i> Chemical industry and refrigeration industry.</p>		<p>Community legislation and action taken by some Member States at a time when an international agreement was still missing for these applications. All the parties had monitoring and reporting schemes in place, although necessarily incomplete because of the complexity of the problem and gaps in scientific knowledge.</p>	<p>the measures were replaced by legislation.</p>	
<p><i>Private Act:</i> Agreement of cessation of production and imports of several models of household dishwashers with low energy efficiency. Private act not available</p> <p><i>Non-Legislative Act:</i> Notice published pursuant to Article 19(3) of Council Regulation No 17 - Case COMP.F.1/37.894 - CECED Dishwashers (Text with EEA relevance) (Obsolete Case)</p>	<p>Energy DG</p> <p><i>Name of the Private Regulator:</i> European Committee of Domestic Equipment Manufacturers (CECED)</p>	<p><i>Private Act and Non-Legislative Act</i></p> <p><i>Type of Instrument:</i> Not Specified</p>	<p>European Commission National Public Authority Private Regulator (Code Owner) Private Independent Party with a Mandate (e.g. auditors) Monitoring and reporting: CECED has set up and maintained a database containing an analysis of all models of dishwashers placed on the EC market by all participants. It is available to the European Commission and national authorities. The results are monitored by a notary who reports annually to CECED and to the Commission.</p>	<p>Not Specified</p>	<p>On 20 June 2000, CECED notified a self-commitment (the agreement) dated 19 November 1999 committing most of its members to improve the energy efficiency of household dishwashers. CECED has applied for an exemption under Article 81(3) of the EC Treaty. Pursuant to its Guidelines on the applicability of Article 81 of the EC Treaty to horizontal cooperation agreements (in particular environmental agreements), the Commission indicated in 2001 its intention to take a favourable view towards the notified agreement.</p>
<p><i>Private Act:</i> Voluntary agreement relating to the protection of pedestrians and cyclists agreement</p> <p><i>Non-Legislative Act:</i> Communication from the Commission to the Council and the European Parliament, Pedestrian protection: Commitment by the European automobile industry</p>	<p>Enterprise and Industry DG</p> <p><i>Name of the Private Regulator:</i> Korea Automobile Manufacturers' Association (KAMA)</p>	<p><i>Private Act and Non-Legislative Act</i></p> <p><i>Type of Instrument:</i> Voluntary Agreement</p>	<p>European Commission KAMA member companies</p>	<p>Not Specified</p>	<p>Improve the protection of pedestrians and other road users from injury stemming from a collision with motor vehicles. The voluntary commitment sets new standards for all new types of motor vehicles concerning bumpers, anti-lock brake systems and daytime running lights.</p>
<p><i>Private Act:</i> Code of Conduct fundamentals for credit rating agencies</p> <p><i>Non-Legislative Act:</i> Communication from the Commission on Credit Rating Agencies, Official Journal C 59</p>	<p>Internal Market and Services DG</p> <p><i>Name of the Private Regulator:</i> International Organisation of Securities Commissions (IOSCO)</p>	<p><i>Private Act and Non-Legislative Act</i></p> <p><i>Type of Instrument:</i> Code of Conduct</p>	<p>Private Regulator (code owner)</p>	<p>Not Specified</p>	<p>The IOSCO Code is a disclosure mechanism to monitor compliance: credit rating agencies have to disclose how they implement the various provisions of the IOSCO Code. This approach offers a degree of flexibility to credit rating agencies, which vary considerably in size, business model, and development of the markets in which they operate.</p>
<p><i>Private Act:</i> The European consumer associations and the European Credit Sector Associations (ECSAs), Voluntary code of conduct on pre-contractual information for home</p>	<p>Internal Market and Services DG</p> <p><i>Name of the Private Regulator:</i> European associations of consumers and</p>	<p><i>Private Act and Non-Legislative Act</i></p> <p><i>Type of Instrument:</i> Code of Conduct</p>	<p>European Commission National Public Authority Each Member State has provided a list of institutions that have declared to abide by the code to facilitate monitoring, e. g. by the Commission. The Commission monitors compliance with this</p>	<p>Not Specified</p>	<p>The aim of the Code was to make it easier for consumers to compare loan products available from different lenders, including lenders from another Member State and so allow consumers to make an informed choice. Credit institutions subscribing to the Code are obliged to provide consumers with proper pre-contractual information concerning</p>

loans <i>Non-Legislative Act</i> Commission Recommendation of 1 March 2001 on pre-contractual information to be given to consumers by lenders offering home loans.:	the European Credit Sector Associations		recommendation.		the terms of home loans.
<i>Private Act:</i> EACEM energy saving commitment. Private act not available <i>Non-Legislative Act:</i> Notice pursuant to Article 19 (3) of Council Regulation No 17/62 (CE) concerning Case No IV/C 3/36.494 - EACEM energy saving commitment (Obsolete Case)	Enterprise and Industry DG	<i>Private Act and Non-Legislative Act</i> <i>Type of Instrument:</i> <i>Voluntary Agreement</i>	European Commission Private Regulator (code owner) Private independent party with a mandate (e.g. auditors)	Not specified	The voluntary agreement sets targets to reduce energy consumption by televisions and video recorders in standby mode.
<i>Private Act:</i> Code of conduct between credit institutions and SMEs <i>Non-Legislative Act:</i> Commission staff working paper, Code of Conduct between credit institutions and SMEs,	Enterprise and Industry DG	<i>Private Act and Non-Legislative Act</i> <i>Type of Instrument:</i> <i>Code of Conduct</i>	European Commission Private Regulator (code owner). The Commission will continue its dialog with the European Banking Associations and the European SME associations. The European Credit Sector Associations and European SMEs organisations will hold annual meetings to assess the use of the European Code of Conduct and to continue the dialogue.	No specific enforcement mechanism foreseen, associations insisting on the voluntary nature of the Code. However, at the national level, credit institutions and SMEs organisations adhering to the European Code of Conduct are invited to use existing dispute resolution processes for matters related with the Code.	The Code of Conduct between credit institutions and SMEs outlines a set of principles to ensure a mutually beneficial, loyalty-based and rewarding relationship between credit institutions and SMEs developments in the banking sector (mergers, reduction in the number of branches, etc.)
<i>Private Act:</i> Unilateral Industry self-commitment concerning biodegradable and compostable polymer products <i>Non-Legislative Act:</i> Letter of acknowledgment by the Commission (DG ENTR)	Enterprise and Industry DG	<i>Private Act and Non-Legislative Act</i> <i>Type of Instrument:</i> <i>Unilateral Industry Self-Commitment</i>	Private Regulator (code owner); Private Independent Party with a mandate (e.g. auditors) Independent private regulators with a mandate = the certificate issuers. The industry and industry associations also monitor compliance. The monitoring is carried out under the supervision of IBAW (International Biodegradable Polymers Association) and DIN CERTCO. All certification institutes (EA accredited, the European Cooperation for Accreditation and the European network of the certification of composability) are involved.	Private Independent party with a mandate (code Owner)	Negotiated among companies using renewable as well as fossil raw materials, the unilateral self-commitment foresees to set up a certification and labelling scheme.
<i>Private Act:</i> Voluntary agreement	Enterprise and Industry DG	<i>Private Act and Non-Legislative Act</i>	European Commission;	Not Specified	Improve the protection of pedestrians and other road users from injury

<p>relating to the protection of pedestrians and cyclists agreement</p> <p><i>Non-Legislative Act:</i> Communication from the Commission to the Council and the European Parliament, Pedestrian protection: Commitment by the European automobile industry</p>		<p>Type of Instrument: <i>Voluntary Agreement</i></p>	<p>JAMA member companies</p> <p>Monitoring committee composed of the industry and consumer associations and Commission representatives.</p>		<p>stemming from a collision with motor vehicles. The voluntary commitment sets new standards for all new types of motor vehicles concerning bumpers, anti-lock brake systems and daytime running lights.</p>
<p><i>Private Act:</i> ACEA commitment relating to the protection of pedestrians and cyclists agreement</p> <p><i>Non-Legislative Act:</i> Communication from the Commission to the Council and the European Parliament, Pedestrian protection: Commitment by the European automobile industry</p>	<p>Enterprise and Industry DG</p>	<p>Private Act and Non-Legislative Act</p> <p>Type of Instrument: <i>Voluntary Agreement</i></p>	<p>European Commission</p> <p>Private Independent Party with a mandate</p> <p>ACEA member companies</p>	<p>Not Specified</p>	<p>Improve the protection of pedestrians and other road users from injury stemming from a collision with motor vehicles. The voluntary commitment sets new standards for all new types of motor vehicles concerning bumpers, anti-lock brake systems and daytime running lights.</p>
<p><i>Private Act:</i> Agreement of cessation of production and imports of several models of washing machines with low energy efficiency</p> <p><i>Non-Legislative Act:</i> Notice published pursuant to Article 19(3) of Council Regulation No 17 concerning case IV.F.1/36.718.CEDED, Official Journal (Obsolete Case)</p>	<p>Energy DG</p> <p><i>Name of the Private Regulator:</i> European Committee of Domestic Equipment Manufacturers (CECED)</p>	<p>Private Act and Non-Legislative Act</p> <p>Type of Instrument: <i>Agreement</i></p>	<p>Monitoring and reporting: CEDED will establish and update a database, monitored by an independent consultant who will report annually to CEDED and to the Commission on the fulfilment of the objectives per category class and for the overall target of 0,24 Kwh/kg.</p>	<p>Not Specified</p>	<p>CECED was applying for negative clearance or, alternatively, an exemption under Article 85 of the EC Treaty. The agreement concerns the market of private washing machines that are used by households to wash textiles for private use. The EEA appears as the relevant geographic area of the market.</p>
<p><i>Non-Legislative Act</i> Notice published pursuant to Article 19(3) of Council Regulation No 17-Case COMP.F.1/37.893-CECED</p> <p><i>Private Act:</i> Voluntary Commitment on reducing standing losses of domestic electric storage water heaters (Obsolete Case)</p>	<p>Energy DG</p>	<p>Private Act and Non-Legislative Act</p> <p>Type of Instrument: <i>Self-Commitment</i></p>	<p>CECED has set up and maintain a database containing an analysis of all models of DESWH placed on the community market by all participants</p>	<p>Not specified</p>	<p>Improving energy efficiency through the adoption of more energy efficient technologies. The self-commitment concerns domestic electric storage water heaters (i.e. DESWH) used for purposes of supplying hot water for use in private homes.</p>

Non-Legislative Act

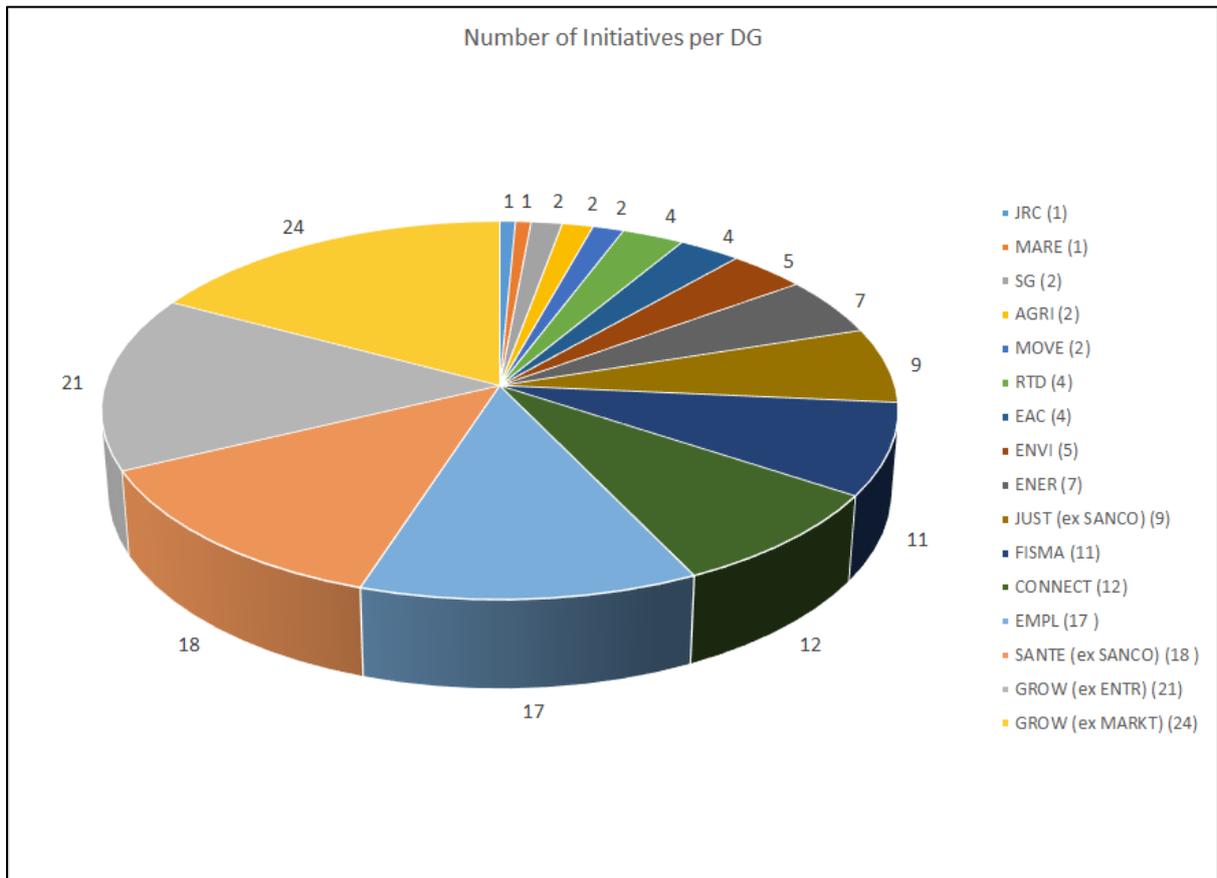
<p><i>Non-Legislative Act:</i> Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audio-visual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity. (Obsolete Case)</p>	<p>Communications Networks, Content and Technology DG</p>	<p>Non-Legislative Act Type of Instrument: <i>Code of Conduct</i></p>	<p>European Commission National Public Authority Private Regulator (Private Owner)</p>	<p>Not Specified</p>	<p>The Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audio visual and information services industry is the first legal instrument at Community level governing the content of audio visual and information services and the protection of minors and human dignity. The text invites Member States to "foster a climate of confidence which will promote the development of the audio visual and information services industry by: the establishment of a national framework for self-regulation by operators of on-line services, taking into account the indicative principles and methodology described in the Annex.</p>
<p><i>Non-Legislative Act:</i> Commission Communication of 7 February 2007 on the results of the review of the Community Strategy to reduce CO2 emissions from passenger cars and light-commercial vehicles</p>	<p>Enterprise and Industry DG. <i>Name of the Private Regulator:</i> Not Specified <i>Target Group:</i> Car manufacturers</p>	<p>Non-Legislative Act Type of Instrument: <i>Code of good practice.</i></p>	<p>Not Specified</p>	<p>Not Specified</p>	<p>Promotion of sustainable consumption patterns.</p>
<p><i>Non-Legislative Act:</i> Commission Recommendation of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers, Official Journal</p>	<p>Research and Innovation DG <i>Name of the Private Regulator:</i> Not Specified <i>Target Group:</i> Individual researchers, universities, research institutions and organisations funding research.</p>	<p>Non-Legislative Act Type of Instrument: <i>Code of Conduct</i></p>	<p>European Commission National Public Authority</p>	<p>Not Specified</p>	<p>The Code of Conduct for the Recruitment of Researchers aims to: Improve Europe's attractiveness to researchers and strengthen the participation of researchers by helping to create the necessary conditions for more sustainable and appealing careers for them in R&D; Encourage researchers' mobility & contribute to the creation of an open labour market for researchers.</p>

Legislative Acts, Non-Legislative Acts and Private Acts

<p>Legislative Act: Decision No 1753/2000/EC of the European Parliament and of the Council of 22 June 2000 establishing a scheme to monitor the average specific emissions of CO₂ from new passenger cars</p> <p>Private Act: Voluntary agreement by the Japan Automobile Manufacturers (JAMA) on the reduction of CO₂ emissions</p> <p>Non-Legislative Act: Commission Recommendation No. 2000/304/EC of 13 April 2000 on the reduction of CO₂ emissions from passenger cars (JAMA), Official Journal L (Obsolete Case)</p>	<p>Environment DG/Enterprise and Industry</p> <p><i>Target Group:</i> Car Producers</p>	<p>Legislative Act, Non-Legislative Act, and Private Act</p> <p><i>Type of instrument:</i> Voluntary Agreement</p> <p><i>Level:</i> EU</p>	<p>European Commission, National Public Authority and Private Regulator (code owner)</p>	<p>on the basis of the monitoring and after consultation with the association, the Commission will consider the measures, including legislative ones, that should be taken in order to ensure that the necessary CO₂ reductions are delivered.</p>	<p>The aim is to lower the average level of CO₂ emissions of new cars to 140 grams per km by 2009. This agreement is based on the Commission recommendation. (Two similar voluntary agreements were concluded by ACEA in 1998 and KAMA in 1999).</p>
<p>Legislative Act: Decision No 1753/2000/EC of the European Parliament and of the Council of 22 June 2000 establishing a scheme to monitor the average specific emissions of CO₂ from new passenger cars</p> <p>Non-Legislative Act: Commission Recommendation No 2000/303/EC of 13.04.2000 on the reduction of CO₂ emissions from passenger cars (KAMA), Official Journal</p> <p>Private Act: Voluntary agreement by the Korean Automobile Manufacturers' Association (KAMA) on the reduction of CO₂ emissions (Obsolete Case)</p>	<p>Environment DG; Enterprise and industry DG</p> <p><i>Target Group:</i> Car Producers</p>	<p>Legislative Act, Non-Legislative Act and Private Act</p> <p><i>Type of instrument:</i> Voluntary Agreement</p> <p><i>Level:</i> the EU</p>	<p>European Commission, National Public Authority and Private Regulator (code owner)</p>	<p>on the basis of the monitoring and after consultation with the association, the Commission will consider the measures, including legislative ones, that should be taken in order to ensure that the necessary CO₂ reductions are delivered.</p>	<p>The aim is to lower the average level of CO₂ emissions of new cars to 140 grams per km by 2009. This agreement is based on the Commission recommendation. (Two similar voluntary agreements were concluded by ACEA in 1998 and JAMA in 1999)</p>
<p>Legislative Act: Decision No 1753/2000/EC of the European Parliament and of the Council of 22 June 2000 establishing a scheme to monitor the average</p>	<p>Environment DG; Enterprise and industry DG</p> <p><i>Target Group:</i> Car Producers</p>	<p>Legislative Act, Non-Legislative Act and Private Act</p> <p><i>Type of instrument:</i> Voluntary Agreement</p> <p><i>Level:</i> the EU</p>			

<p>specific emissions of CO2 from new passenger cars, Official Journal.</p> <p><i>Non-Legislative Act:</i> Commission Recommendation No. 1999/125/EC of 5 February 1999 on the reduction of CO2 emissions from passenger cars, Official Journal</p> <p><i>Private Act:</i> Voluntary agreement by the ACEA on the reduction of CO2 emissions (Obsolète Case)</p>					
<p><i>Private Act:</i> Code of Conduct for the European Interactive Software Industry Regarding Age Rating Labelling, Promotion and Advertising of Interactive Software Products</p> <p><i>Non-Legislative Act:</i> Council Recommendation 98/560/EC on the development of the European audio-visual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity, Official Journal.</p> <p><i>Legislative Act:</i> Decision No 854/2005/EC of the European Parliament and of the Council of 11 May 2005 establishing a multiannual Community Programme on promoting safer use of the Internet and new online technologies, Official Journal</p>	<p>Communications Networks, Content and Technology DG</p> <p><i>Name of the Private Regulator:</i> Interactive Software Federation of Europe (ISFE)</p>	<p><i>Private Act; Non-Legislative Act and Legislative Act.</i></p> <p><i>Type of Instrument:</i> <i>Code of Conduct</i></p>	<p>Not Specified</p>	<p>An Enforcement Committee is set up to impose sanctions on companies infringing the Code. Failure will expose the offenders to measures including but not limited to: mandatory re-labelling of packaging, revocation of a particular age logo and descriptors.</p>	<p>Provide parents and educators with objective, intelligible and reliable information regarding the age category for which a given product is deemed suitable from the exclusive standpoint of its content; Secure the consistency of any advertising, marketing and promotional activities of interactive software products, with the basic aim of informing the public on the content of products in a responsible manner; Reflects the interactive software industry's commitment not to put on the market interactive software products likely to be in breach of human decency.</p>

Annex 3: Overview of SR/CR initiatives by DG (based on the current content update work)²⁹³



²⁹³ The graph reflects the number of initiatives classified for the moment as under the responsibility of the various DGs, including the newly proposed initiatives as well.

Annex 4: An overview of the existing SCR initiatives and their categorization in the EESC Database²⁹⁴

The evolution of self and co-regulatory initiatives in the EESC Database is filtered/divided in six ways, such as:

- A. *Legislative Acts*
- B. *Private Acts*
- C. *Non-Legislative Acts*
- D. *Private Acts and Legislative Acts*
- E. *Private Acts and Non-Legislative Acts*
- F. *Legislative Acts, Private Acts and Non – Legislative Acts*

These acts explain the evolution of the self/co-regulatory initiatives, and in particular, the stages in which public and private actors started to get involved. As indicated in the official website of the EESC database “in some cases there is a private initiative in the beginning (e.g. code of conduct)...[and if successful] the Commission or other institutions can propose a legal act of a non-legislative [or legislative] nature [...] in other cases there is first a Directive encouraging the Member States to transpose its provisions in the form of self/co-regulation at the national level”²⁹⁵. In the following, various self and co-regulatory initiatives, as observed from the EESC database, are explained.

A. Legislative Acts

In the EESC database there exist around 15 initiatives, which are filtered as Legislative Acts.²⁹⁶ These initiatives align mostly with the characteristics of public-private regulation or co-regulation (see Section 3), in which both public and private actors are involved. More specifically, these initiatives include:

- legislative frameworks (such as those in the form of Directives, Decisions and Regulations) in which public actors (in this case the EU Commission (EC)):
 - require private actors (e.g. trade or professional associations or organizations or codes of conduct or standard setting organizations) to establish self-regulatory frameworks to contribute and/or facilitate the practical implementation of the legislative frameworks (e.g. guides to good practice for food hygiene; enforcement of intellectual property rights, European standards on product safety). Monitoring here is mostly done by the EC (e.g. through reflexive dialogue with stakeholders; maintaining a database of the national guides) and in some case by national public authorities (e.g. reporting to the Commission about the implementation of the Directives).
 - place minimum regulatory goals and impose a general requirement on the Member States (e.g. through Directives) to put in place appropriate regulatory activities, including self-regulation in order to fulfill the regulatory goals . Monitoring is conducted by EC and national public authorities (through forms such as initiating complaint procedures or verifying in norms are breached or not) ; and
 - provide Member States with the possibility to transpose specific provisions of the Directive by means of agreements between competent authorities and the economic operators concerned, provided that the objectives of the Directive are fulfilled. These agreements are monitored regularly and reported to the Commission.

²⁹⁴ Analysis in Annex 4 are based on the different SCR initiatives that exist in the EESC database, which is currently being updated.

²⁹⁵ See: <http://www.eesc.europa.eu/?i=portal.en.smo-database> (last accessed March 2015).

²⁹⁶ See Annex 2 which provides a detailed overview of these initiatives.

These initiatives appear to be mostly present on these sectors:

- *Health and Consumers DG* - (the focus of these initiatives here is, amongst others, to establish guides to good practice for food hygiene, facilitate practical implementation of the food hygiene requirements in different establishments [food sector], set standards on product safety, establish guides to good practice in the animal feed sector, harmonize EU rules on business-to-consumer commercial practices);
- *Internal Market and Services DG* - (the focus of these initiatives is, amongst others, to encourage the establishment of professional associations or codes of conduct at Community level aimed to contribute to the enforcement of the intellectual property rights (IPRs); implementation of self-regulatory initiatives that would contribute to European internet and new online technologies industries by limiting the flow of unwanted, harmful and illegal content);
- *Enterprise and Industry DG* - (the focus of these initiatives, amongst others, has been to establish ecodesign requirements for energy-using products; ensuring free movement of energy-using products in the internal market; contributing to the environmental protection policy and security of energy supply; harmonization of the standards at European level by granting mandate to the European standardization bodies);
- *Environment DG* - (the focus of these initiatives has been mainly to preserve and protect the quality of the environment, protect human health and utilize natural resources prudently; encourage the design and production of Electronic and electrical equipment by re-using and recycling waste electrical and electronic equipment; increase recycling internal market objective (e.g. packaging and packaging waste; end-of-life vehicles)).

B. Private Acts

In the EESC database there exist around 55 initiatives, which are filtered as Private Acts.²⁹⁷ These are private self-regulatory initiatives in which:

- decision making and enforcement is carried out by private actors, but the EC is involved in the monitoring of the initiative (e.g. by initiating complaints procedures; reflexive dialogue with stakeholders; receive complaints and verify if the norms were breached etc.)
- decision making and enforcement is carried out by private actors, but different actors such as national public authorities; self-appointed private parties (such as NGOs) and/or private regulator (such as the code owner) – are involved in the monitoring of the initiative (e.g. by maintaining a database of those who are bounded by the act; reflexive dialogue with stakeholders; receive complaints and verify if the norms were breached etc.); and
- self-regulatory initiatives – in which decision making is made by private actors, monitoring is made by self-appointed private parties (e.g. NGOs) and enforcement is made by private acts and in some countries by the court (e.g. judicial sanctions may be used for non-compliance depending on the regulations of Member States).

These initiatives appear to be mostly present on these sectors:

- *Health and Consumers DG* - (the focus of the initiatives/private acts is mainly on increasing the trust of clients /customers in the quality of products/services; providing more information on products/services; raising industry standards; avoiding government regulation, improving the nutritional care for patients by providing specific advice, e.g. brewing industry; manufacturing; food; pharmaceutical industry (including medical products; therapeutic products));
- *Internal Market and Services DG* - (the focus of these initiatives has been mainly on continuing and fostering the integration of the European Union and European Economic Area; facilitate the movement of cross-border activities within the European Economic Area

²⁹⁷ See Annex 2 which provides a detailed overview of these initiatives.

of lawyers; practicing engineers; set a number of guidelines for the asset management sector; real estate agents and managers; notaries; financial services);

- *Energy DG* - (the focus of these initiatives has been to cease the production and import of different products; improve the energy efficiency of household consumer electronic products);
- *Employment, Social Affairs and Inclusion DG* - (the focus of these initiatives is to contribute to a better health and safety workplace environment at company level as well as national and European e.g. in private security sector);
- *Enterprise and Industry DG* - (the focus of these initiatives is to improve the construction practice and performance; increase clients trust in the quality of products / services; avoid government regulation; foster sustainable development, corporate social responsibility, ethics etc., (e.g. industrial materials sector; civil engineering construction; chemical sector); and
- *Communication Networks , Content and Technology DG* – (the focus of these initiatives has been to enhance the level of information; increase clients trust in the quality of products and services; provide greater consistency to the range of information on related products/services provided to clients (e.g. information about PC and video games; information on charges and available services; clarity in international retail roaming price).

C. Non-Legislative Acts

In the EESC database there exist around 3 initiatives, which are filtered as Non-Legislative Acts.²⁹⁸ These initiatives refer to recommendations and communications provided by the Commission (or the Council), that do not have legal binding effect. Recommendations in the database are not legally binding, but they recommend Member States as well as industries and the parties concerned, to cooperate in establishing a national framework for self-regulation, share experiences and good practices in areas related, for example, to the provision of on-line services , television broadcasting, recruitment of researchers in Europe, etc. These initiatives are monitored by the national public authority, but the Commission is also invited to facilitate (where appropriate) through existing Community financial instruments. No actions are taken by private actors to address or respond to the recommendations provided by the Commission (or Council).

D. Private Acts and Legislative Acts

In the EESC database there exist around 30 initiatives, which are filtered as Private and Legislative Acts.²⁹⁹ These initiatives align mostly with the characteristics of public-private regulation or co-regulation (see Section 3), in which both public and private actors are involved. More specifically, these initiatives include:

- Initiatives in which the EU Commission is consulting closely with private actors (in particular organizations) on the possible direction of the Community action (as stipulated by Article 154 and 155 of the TFEU). These consultations have led to agreements (like new generation agreements or autonomous agreements). Monitoring and enforcement of these initiatives is done mainly by private actors/organizations, however it is emphasized that organizations may also ask the Commission or Member States to provide assistance in this respect. Regarding enforcement of these initiatives, three routes can be observed:
 - a) the ‘voluntary route’ relying on national procedures and practices specific to management and labour and the Member States;
 - b) the Commission conducts an ex-ante assessment of how the initiatives are implemented and informs the European Parliament and the Council as it does for Article 139 (2) agreements to be implemented by Council Decisions (e.g. leather and tanning industry; footwear industry); and

²⁹⁸ See Annex 2 which provides a detailed overview of these initiatives.

²⁹⁹ *Ibid.*

- c) a voluntary route to enforcement, in the sense that there is no specific scheme for enforcement but private (business) actors are left to monitor and evaluate commitment to the initiatives. The Commission may also undertake its own monitoring of the agreement/initiative and assess the extent to which the agreement contributes to the Community objectives (e.g. private security sector).
- Initiatives in which the legislative framework (such as Directives for example) sets out general and minimal regulatory requirements and guides respective actors to supplement the Directive with voluntary agreements. The implementation and monitoring of these initiatives is left in some cases:
 - a) only to the private actors (e.g. the code owner or national liaison groups or individual member associations);
 - b) to the European Commission, the national public authority and private regulator (code owner) are all involved in monitoring of these initiatives (e.g. PVC industry)
- Initiatives in which voluntary agreements (set out by private actors) are considered as valid alternatives to the Commission's mandatory regulation. To fulfill the objectives underlined in the mandatory regulation, industry (with the acknowledgement of the Commission) has expressed the preference for voluntary agreements over regulatory measures. Monitoring and enforcement of these initiatives is done by private actors.

These initiatives appear to be mostly present on these sectors:

- *Internal Market and Services DG* - (the main aim of the initiatives here has been, amongst others, to enhance clients' trust in the quality of products/services; improve the image of the sector; enhance the level of information; improve and harmonize the quality of professional services provided in Europe in specific sectors (e.g. European Geodetic Surveyors; internet insurance operators; e-commerce));
- *Employment, Social Affairs and Inclusion DG* - (the main aim of the initiatives here has been, amongst others, to promote social development as well as respect for fundamental rights while establishing voluntary standards on human rights, education training, health safety, working conditions and so forth; been defining a general framework for the use of telework in a way that meets the needs of employers and workers; equal treatment of employees working in company premises; promoting fair and sustainable standards for working conditions; banning forced child labour and discrimination of employment; encouraging workers and companies to comply with ILO conventions etc. (e.g. textile and clothing industry; footwear sector; leather and tanning sector; manufacturers of domestic Equipments; private security sector));
- *Health and Consumers DG* - (the aim of these initiatives has been, amongst others to ensure the safety of feed additives and pre-mixtures; ensuring feed hygiene; enhancing consumer information of how long a product remains usable (e.g. pet food industry; cosmetic and perfume business)); and
- *Energy DG* - (the focus of these initiatives has been to improve the environmental performance of the imaging equipment, including complex set top boxes placed on the European market; lay down several requirements to be implemented by storage operators to allow access to storage facilities).

E. Private Acts and Non-Legislative Acts

In the EESC database there exist around 20 initiatives, which are filtered as Private and Non-Legislative Acts.³⁰⁰ These initiatives align mostly with the characteristics of public-private regulation or co-regulation (see Section 3), in which both public and private actors are involved. More specifically, these initiatives include:

³⁰⁰ See Annex 2 which provides a detailed overview of these initiatives.

- initiatives in which the EU Commission recommends those whom the Recommendation addresses to act in a particular way. Private actors have taken initiatives to respond to these requests. Monitoring of these initiatives is conducted by the national self-regulatory organizations, in some case the Commission is also involved in monitoring (by establishing ad-hoc Committees). These initiatives are non-binding (voluntary).
- initiatives in which the which the EU Commission recommends those whom the Recommendation addresses to act in a particular way, and actors from a particular industry (e.g. chemicals and plastic industry) established voluntary agreements to respond to these requests. These agreements operated in addition to other international actions and were replaced by legislation as a massive command and control approach was considered necessary (e.g. chemical and plastics industry; chemical and refrigeration industry);
- initiatives which have been initiated by private actors but later have been referred and / or endorsed in the Recommendation of the Commission. The monitoring of these initiatives has been done merely by private actors, but regular reports are provided to the Commission as well. There is no specific information on the enforcement of these initiatives (e.g. Voluntary Agreement on Safe Storage of Decommissioned Mercury; Code of good practice for the household laundry detergents); and
- initiatives in which the which the EU Commission recommends those whom the Recommendation addresses to act in a particular way, and actors from a particular industry (e.g. automotive sector) established voluntary agreements to respond to these requests. The recommendations have been endorsed / backed up by the Commission and later led to a Directive. The monitoring of these initiatives is conducted jointly by the Commission and private actors (e.g. industry, consumer associations). Enforcement is voluntary, but at the national level agreements are made on how to deal with complaints from relevant parties when the self-regulatory agreement is not followed (e.g. Code of conduct between credit institutions and SMEs; voluntary agreement related to the protection of pedestrians and cyclists agreement). Following the characteristics of these initiatives it appears that we might be dealing here with co-regulatory initiatives in which full cooperation between public and private actors is established.

These initiatives appear to be mostly present on these sectors:

- *Enterprise and Industry DG* – (the main aim of these initiatives has been, amongst others, to improve the protection of pedestrians and other road users from injury resulting from a collision with motor vehicles; set principles that will ensure a mutually beneficial, loyalty-based and rewarding relationship between credit institutions and SMEs; replace aerosols by propellants which are less damaging for the ozone layer (e.g. chemical industry; automotive sector; chlor-alkali industry in Europe; banking and financial sector));
- *Internal Market and Services DG* – (the main aim of these initiatives has been, amongst others, to set a code that will contribute to establishing a strong European capital market and allowing investors the choice to trade any European security; offer an appropriate degree of flexibility to credit rating agencies while taking into account the different market, legal and regulatory circumstances in which they operate; give the consumers an opportunity to compare loan products from different lenders (e.g. credit sector; credit rating agencies; clearing houses and stock exchange)); and
- *Energy DG* – (the main aim of these initiatives is improving the energy efficiency of household dishwashers; improve energy efficiency through the adoption of more energy efficient technologies by setting minimum energy labeling and efficiency performance standards; setting targets for reducing the energy consumption by televisions and video records in standby mode (e.g. manufacturers and producers of electronic applicants; producers and importers of washing machines)).

F. Legislative Acts, Private Acts and Non – Legislative Acts

In the EESC Database there exist around 4 initiatives, which are filtered as Legislative, Private and Non-Legislative Acts.³⁰¹ These initiatives align mostly with the characteristics of public-private regulation or co-regulation (see Section 3), in which both public and private actors are involved. More specifically, these initiatives include:

- initiatives in which the EU Commission recommends those whom the Recommendation addresses to act in a particular way. Private actors have taken actions to respond to these requests by establishing voluntary agreements (e.g. agreements concerning the reduction of CO2 emissions caused by cars). Monitoring of these initiatives is conducted by the Commission, national public authority and private regulator (code owner). However, on the basis of monitoring (e.g. the Commission determining to what extent voluntary agreements are able at achieving Community's objectives (such as those related to the reduction of the CO2 emissions from cars)), it has been decided that a legislative framework is more appropriate in achieving these objectives. However, to promote more sustainable consumption patterns the Commission has recommended that relevant parties sign up for voluntary initiatives (e.g. EU code of good practice on car marketing) before legislative acts come into place]; and
- initiatives in which actors from a particular industry (e.g. software industry) have gathered to work on a particular issue aiming therefore to complement the current national laws, regulations and enforcement mechanisms. Whereas there are no information on how these initiatives are monitored, the database emphasizes that the enforcement and compliance with these initiatives is conducted through established enforcement committees -

These initiatives appear to be mostly present on these sectors:

- *Environment DG* – (the main aim of these initiatives, have been amongst others to lower the mean level of CO2 emissions caused by new cars to 140 gr per km⁹ (e.g. car producing industry)); and
- *Communications Networks, Content and Technology DG* – (the aim of these initiatives has been amongst others to ensure that the public is informed in a responsible way about the content of the interactive software products and that the information provided is deemed appropriate from the exclusive standpoint of its content (e.g. software industry)).

³⁰¹ See Annex 2 which provides a detailed overview of these initiatives.
