Market effects and Institutions in Transnational Governance Formation; European Regulatory Regimes in Telecommunications and Electricity

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This paper investigates the relationship between economic internationalisation and transnational governance formation. From the perspective of political economy, the relationship is conceived initially in terms of the market effects of globalisation (the independent variable) on the institutions of national governance (the dependent variable). Thus, globalisation leads to a 'retreat of the regulatory state' (Strange 1996) or the emergence of the 'competition state' (Cerny 1997) in a process of liberalization. The extent to which the liberalisation of national regulation is compensated by its re-emergence at trans-national level will depend on the 'functional needs' of markets in a particular sector. The key question from this point of view is whether economic actors in liberalized markets see their interests better served by self-regulation via private arrangements, or through a more ordered system of rules institutionalized within a trans-national governance regime. For state actors, the question is how far they are prepared to concede national sovereignty to trans-national institutions, either to reassert control over the 'tyranny' of international markets, or to reduce the transaction costs of regulation (Hollingsworth and Streeck 1994, 290-4; Lindberg et al. 1991, 4).

From an institutionalist perspective, on the other hand, the transformation from national to trans-national governance will be conditioned by the institutionally embedded rules and values that shape the way in which actors define their interests (Weir 1992, 194; Jachtenfuchs 1997, 46). From this perspective, the evolution of governance regimes is subject to the constraints of 'path dependency' at both national and trans-national levels. Regime change may nevertheless occur through 'windows of opportunity' in which procedural norms and policy preferences are adjusted in response to external developments. Thus whilst market effects may trigger governance transformation, the latter will be mediated by the dynamics of the institutional setting in which it takes place.
Having both been subject to liberalisation and a (partial) shift of regulatory authority to the European Union, the telecommunications and electricity sectors provide case studies in governance transformation. Comparison between the two sectors provides a good test of market effects as against institutional variables in transnational governance formation. The market dynamism and international exposure of telecommunications is often contrasted to the more static, nationally confined character of electricity markets. Market led explanations would therefore suggest that transnational governance formation would be more intensive in telecommunications than in electricity. Institutional variables, on the other hand, are common to both sectors, leading us to expect somewhat similar trajectories of transnational governance formation.

Transnational governance formation in the two sectors will be analysed using a model adapted from Hollingsworth and Streeck (1994 290-4). They suggest that transnational governance emerges from three types of 'interaction effect' between national and international regimes. The first is upward delegation of governance from national regimes to an emergent international regime. A wholesale relocation of competence is rare. Piecemeal transfer is more common, with national and transnational authorities coexisting. Coexistence often entails 'permanent haggling over jurisdiction, and continuous oscillation between nationalism and internationalism'. A second, type of interaction (logically subsequent upon the first) takes the form of downward authoritative intervention in the national arena on the part of supranational governance. This may take the form of market-making measures opening up national regimes to cross-border trade, (negative integration) or more exceptionally, the harmonization of national regimes to overcome regime fragmentation (positive integration).
Finally, transnational governance regimes might emerge from *horizontal interaction* between diverse national regimes, with regime competition leading to the emulation of 'best practice'.

In applying this schema to European Union, the key question will be the terms on which regulatory authority is delegated upwards, and the distribution of competence between national and supranational authorities. This will depend on the dynamics of the institutional arena in which the relocation of competence is executed. Where the Commission or ECJ are able to set the agenda, the resultant governance regime is likely to be more supranational in character than one that emerges from intergovernmental bargaining. Analysis of transnational governance formation should therefore be sensitive to the balance between Commission initiative and intergovernmentalism in the upward delegation of authority.

Two discrete types of governance regime have been identified in the EU, emerging from two distinct trajectories of integration. Hierarchical regimes emerge from the 'amalgamation trajectory' of integration, entailing the merger of member state administrations into a unified centralized structure. Operating under the Regulation form of legislation, or Directives so tightly worded as to leave little to national discretion, this type of governance regime entails positive measures, implemented by the Commission, for harmonizing national standards. Governance regimes emerging from the 'pluralist trajectory', on the other hand, are more loosely constructed and have less potential for authoritative EU intervention in the domestic arena. Member states 'retain autonomy in some areas of policy and share responsibility for managing interdependence' (Metcalfe 1996, 48-51). This distinction between hierarchical and pluralist types of governance may be a useful classificatory device in cross-sectoral comparison and it will be deployed in the analysis below.
Whilst pluralist governance regimes are ill equipped for authoritative EU intervention in the domestic arena, they are well designed to facilitate horizontal interaction between member states. The transposition of directives involves a process of simultaneous policy initiative across the member states, creating optimal conditions for emulation, although external policy ideas will vie with institutionally embedded domestic policy norms. Once directives are operational, we might also expect to see interaction between national officials in EU forums generating cross-national comparison and the exchange of best practice. Indeed, the Commission often establishes ‘forums’ to promote a common regulatory approach via ‘co-regulation’, the formation of ‘voluntary norms’, ‘contracts of agreed objectives’ and the ‘monitoring and benchmarking of good practice’ (CEC 2000f). This can be seen as an attempt on the part of Commission officials in pluralist governance regimes to compensate for their inability for authoritative intervention by promoting voluntary normative convergence in a form of ‘process governance’ (Bomberg and Peterson 2000).

The empirical part of the paper begins by examining the constitution of markets in the two sectors, their growth potential, and the extent of market opening consequent upon liberalisation. It goes on to evaluate the impact of market effects and institutional environment on liberalisation and the evolution of sectoral governance. The formation of transnational governance in the two sectors is examined in terms of the balance between Commission initiative and intergovernmentalism in the decision making process surrounding the upward delegation of authority. EU governance regimes are evaluated in terms of the distribution of authority and the density of the rules (how supranational and how regulatory are the regimes. Finally the paper assesses the intensity of horizontal interaction between
member states, and its potential for regime consolidation. The paper is based on the results of an ongoing programme of interviews with Commission and member state officials responsible, respectively, for the drafting and adoption of EU liberalisation legislation, Commission officials responsible for operationalising the EU regulatory regimes, and officials in national regulatory authorities.

**Market Effects**

Historically, both the telecommunications and electricity sectors were subject to market closure, either by state monopoly or (in electricity) by cartel arrangements between quasi-private producers and municipal suppliers. Monopolistic forms of organisation reflected the reliance of the sectors on fixed and capital intensive transmission infrastructures in the hands of incumbent utilities, and a doctrine of 'natural monopoly' which meant that both sectors were exempted from national and European competition law. A nexus of interests around the incumbent utility stifled liberalisation initiatives, where they occurred at all.

From this common starting point, however, the two sectors have taken divergent paths. Telecommunications markets have been opened up by the 'technologies of freedom' (Levi-Faur 1999, 200), with exponential growth in the convergent sector of information technology providing the incentive for both incumbents and new market entrants to exploit alternative telephony transmission networks. Diversification and growth in telecommunications markets is reflected in a reorientation of corporate strategy in the 1990s, with an explosion of cross-national merger and acquisition activity and inter-corporate alliances, particularly in the mobile sector (Elixmann and Hermann 1996). These developments served progressively to
weaken the domestic frontiers of the sector, opening the door to EU liberalisation and a trans-
national governance regime.

Technological and economic change is not absent from the electricity sector. First, a new
technology of electricity generation through the combined-cycle gas turbine (CCGT) has
created the potential for horizontally integrated multi-utilities conducting arbitrage operations
between electricity and gas. Second, advanced information technology can now facilitate the
sophisticated metering and grid control systems required in a competitive power supply
system. Finally, by enabling utilities to hedge against risk in upstream fuel markets, and to
spread the sunk costs of new generating capacity, new financial markets have helped to offset
the risks inherent in power markets (Eberlein 2000, 85; OECD 1998; Helm 1998). However,
whilst these techno-economic advances have served to open up the sector, electricity markets
lack underlying dynamism. In contrast to the dramatic growth in demand for a diverse range
of telecommunications services, demand for power increases at a relatively sedate pace.
Whilst the opening up of an expanding telecommunications market can be seen in terms of a
game in which all market players can expect to win, electricity liberalisation involves
competition for market share in which the gains of one player are the losses of another. In a
relatively confined market it is harder to reconcile liberalisation with domestic industry,
employment and social policy interests.

In both sectors, the effects of endogenous market change have been compounded by
exogenous pressures arising from economic internationalisation and the intensification of
competition. In telecommunications, liberalisation initiatives were in large part a response to
the demands of multi-national companies dissatisfied by the cost and quality of services provided by European PTTs in comparison with the those offered in the newly liberalised US sector (Levi-Faur 1999; Thatcher 1999). In electricity, whilst users were less vocal in their demands, competitiveness issues nevertheless played a major part in the thinking of both national governments and the Commission. In Germany, the nexus between industrial power prices and economic competitiveness had long been central to the liberalisation debate (Padgett 1990 172; 1992 64-5; Eberlein 2000, 85). The Swedish electricity reform of 1995 was driven primarily by competitiveness issues (Interview, 20/11/00), whilst Italy and Spain have both come to conceive of utility liberalisation as part of a process of economic modernisation. In the EU, competitiveness issues spilled over from the Single Market programme and the 1992 White Paper on Global Competitiveness (Interview 27/10/00).

Since liberalisation, the underlying dynamism of telecommunications has been reflected in the faster pace of market opening. In both sectors, the monopoly legacy is reflected in incumbent dominance. In telecommunications, however, the market share of incumbent has fallen significantly further and faster than in electricity. In fixed telephony, the incumbent share of the national call market has fallen below 90% in seven EU member states. In the international call market, incumbent market share has been reduced to below 90% in all member states except Portugal and Finland. In six member states, incumbent share lies below 70%. In mobile telephony, where incumbent operators are less dominant, the market share of the subsidiary of the fixed incumbent exceeds 50% in only 5 member states. In this part of the sector, duopoly is the predominant market type. Nevertheless, in six member states 20% or more of the market falls outside duopoly control (CEC 1999b annex).
Comparisons of market change between telecommunications and electricity are complicated by differences in the structure of the sectors prior to liberalisation. The telecommunications sector was constituted in most member states on the basis of a single state monopoly undertaking. Electricity, on the other hand, was often characterised by more decentralised forms of monopoly, with multiple regional generators and, in some countries, a multiplicity of municipal suppliers. Thus whilst market opening and competition in telecommunications requires new market entrants to challenge incumbent dominance, it can occur in electricity through the emergence of competitive relations between multiple incumbents. The continuing dominance of multiple incumbents does not, therefore, preclude competition.

Notwithstanding this caveat, incumbent dominance can be taken as an indicator of the limitations on electricity liberalisation. With the exception of the UK, incumbent generators retain 90% or more of the market in almost all member states. Even in those countries where the sector took the form of a unitary state monopoly, (e.g. France, Belgium, Italy) incumbent market share remains comfortably above this level. Moreover, the predominant tendency amongst multiple incumbents is towards concentration. Thus, in Spain, the privatisation in 1995 of the leading incumbent was accompanied by the consolidation of its market share through acquisitions (Bergman et al 2000, 165-6). In Germany, concentration has taken the form of mergers establishing a duopoly in electricity generating 70% of industrial electricity and meeting over 50% of the private customer demand (Power in Europe 323, 28/04/00).

Whilst market change in electricity has not matched that in telecommunications, however, neither should it be underestimated. Whilst the market players remain the same, relations
between them have undergone significant change. Responding to technological and economic developments, large European utilities have undertaken a strategic reorientation in which territorial market protection is giving way to a 'game of movement', with an increase in cross-national merger and acquisition activity and a rapid expansion in spot and forward market trading (Helm1998). In downstream markets, moreover, competition is greatly intensified, the freedom of supply and distribution companies to choose their power source exerting a strong downward pressure on prices.

Although comparison is clouded by differences in the structure of the respective markets, then, and whilst both telecommunications and electricity have undergone significant market change, it is nevertheless possible to make two important distinctions between the sectors. First, telecommunications markets exhibit a much stronger growth potential than those in electricity. Second, there are bigger changes in market composition, with a steeper decline in incumbent market share and greater scope for cross-national market entry. The remainder of this paper will seek to identify the effects of these differences in market dynamics on the respective processes of liberalisation and trans-national governance formation in the two sectors.

**Regime Formation; the delegation of authority to EU institutions**

Accounts of transnational governance formation in telecommunications and electricity have tended to emphasise differences between the two sectors which are attributable to market effects. The rapid pace of technological advance and exponential market growth in telecommunications, it is argued, weakened the domestic frontiers of the sector (Thatcher
Exploiting its 'structural advantage' the Commission was able to set the agenda for the transition to transnational governance, with little resistance from the member states. In electricity, by contrast, where the more sedate pace of technical change and market growth meant that the Commission remained bound by member state control and regime formation was essentially a process of intergovernmental bargaining (Sturm and Wilks 1997, 17; Schmidt 1998; Levi-Faur 1999, 197-8). In these accounts the crucial difference in regime formation between the two sectors lies in the legal basis on which the Commission acted. In telecommunications, it was able to 'impose a unitary policy on the member states' through issuing its own directives under Article 86 (90) (Schmidt 1998174). In electricity, where it was confined to the use of Council directives, the emergent transnational governance regime was a product of compromise and consensus, the directives were weaker, and the resultant transnational governance regime was less robust than its counterpart in the more dynamic telecommunications sector. The argument below offers a different interpretation of the relationship between market effects and institutional dynamics in the emergence of transnational governance regimes, emphasising the institutional constraints of intergovernmentalism that, notwithstanding the dynamism of telecommunications markets, forced the Commission into compromises in both sectors.

**Telecommunications**

Market effects played a much stronger role in telecommunications than in electricity. Liberalisation demands were articulated by multi-national companies dissatisfied with the high cost and the quality of services offered by national PTTs which compared unfavourably with the services offered in newly liberalised US market. 'Some of the big user companies
who had experienced liberalisation in the US and experienced the innovative services and the choice they were getting in the US were complaining in Europe that they did not have either the same choice or the same range of services' (Interview, 11/07/00c). In the initiation stage of the liberalisation process, multi-national users allied with the Commission in an advocacy coalition rooted in a network of relations between multinationals, research institutes and Commission officials with a career background in international business (Interview, 11/07/00a). Commission strategy was to mobilise service users to shift the terms of a dialogue that had hitherto been dominated by representatives of the incumbent PTTs. The preparatory work for the 1987 Green Paper was thus conducted in a telecommunications working group (GAT) which included users alongside equipment manufacturers and PTTs (Schneider et al., 1994). Indeed, the whole Green Paper consultation process was a way of 'getting over the bottleneck of the ministries and going straight to the users and market players' (Interview, 11/07/00c). In the initiation stage of the liberalisation process, then, endogenous market effects, articulated by the multi-national users of telecommunications services, were crucial in enabling the Commission to overcome the resistance of member states and their PTTs.

The decisive impact of market effects can be seen again in the seismic shifts in the position of member states and PTTs in 1992-93 that enabled the Commission to escalate the liberalisation process. Although the first wave of directives liberalising terminal equipment (CEC 1988), telecommunications services (CEC1990a) open network provision (CEC1990b) and leased lines (CEC1992) were by now already in place, many member states and their PTTs continued to resist the liberalisation of voice telephony and infrastructure. Once again,
the Commission used the consultation process as a forum for shifting the terms of discussion, disseminating market data and projections of the growth potential of liberalised markets (Interview, 12/07/00). Above all, however, interview data suggests that it was the realisation of the impact of market change on member state ministries and PTTs that led to the redefinition of interests that was decisive in opening up the liberalisation process [1]. Between the end of 1992 and March 1993 there was such a radical change in attitudes that whilst the original Commission proposal had envisaged restricting liberalisation to inter-state telephony, PTTs and member states now suggested full liberalisation, with a target date of 1998. Market effects can thus be seen as the background against which incumbents re-evaluated their interests in terms of the balance of risk and opportunity inherent in liberalisation.

The effects of market change on actor's perceptions of their interests cannot, however, be seen in isolation from the institutional context in which the liberalisation process took place. Reinforcing the effects of market change on the way the PTTs perceived their interests was the activism of the Commission, buttressed by the seminal ruling of the ECJ that telecommunications services were subject to EC competition law. The ECJ ruling provided the Commission with a window of opportunity to follow up complaints about anti-competitive behaviour (Ellger 1992), strengthening its hand in using Article 86 (90) powers to issue directives independently of the Council. The cumulative effect of institutional initiatives was thus to generate a sense of inevitability, in the face of which incumbent utilities progressively came to terms with liberalisation [2]
Whilst it is tempting, however, to see the Commission's exercise of Article 86(90) powers as the key to the emergence of a liberal regime in telecommunications its significance should not be exaggerated. Certainly, the availability of the instrument put the Commission in the driving seat at the beginning of the liberalisation process, concentrating the minds of national actors. Thus in its first action in the sector under the article, the Commission was able to issue the terminal equipment directive (1988) before the Green Paper had been adopted by the Council (Schmidt 1998, 173). It should be borne in mind, however, that although the procedure was contested, the directive itself was uncontentious, allowing the Commission to test the water. The more contentious services directive was only adopted following an institutional agreement that the Commission would consult with member states when taking Article 86(90) initiatives, and would only issue directives with their consent. Thus, although there was no constitutional requirement for them to do so, the Commission published directives in advance, inviting consultation. 'We have been quite careful to use this legal instrument only once there was a political consensus' (Interview, 12/07/00). This caution on the part of the Commission may have reflected internal differences of view over the use of Article 86(90) (Interview 11/07/00). Following the turnaround (as we have seen) on the part of the PTTs, the subsequent issue of Commission directives was, in any event, less controversial.

Nor did Article 86 (90) enable the Commission to circumvent bargaining with member states that were intent on 'slowing the process down to give them more time to adjust, or on giving a particular national orientation to the whole thing' (Interview 10/07/00). The result of this bargaining was 'a series of quid pro quos … we got a relatively early date for liberalisation in
return for things like giving a legal basis for a universal service (Interview 11/07/00c). One particularly significant trade-off with the reluctant liberalisers was an agreement to 'move liberalisation and harmonisation in step over the next ten years along a parallel track' (Interview 11/07/00c). Harmonisation was the 'Trojan horse' of regulation. Liberalised markets would be subject to operator licences enabling the authorities to stipulate standards of service, whilst the regulation of retail tariffs and interconnection terms provided instruments for the control of the terms of market entry. This barrage of regulatory instruments, was placed in the hands of national regulatory authorities; 'so in some ways we built up the national regulators through the legislation. … We created the model … but then we left member states very much to get on with it' (Interview 11/07/00c). Having placed regulatory instruments in the hands of national authorities, and with directives allowing member states a margin of discretion over their design and use, the Commission has been heavily reliant on 'voluntary harmonisation' [3]. The result is a loosely constructed transnational regulatory regime, essentially pluralist in character, and (as we shall see in the next section of the paper) marked by cross-national diversity in the design and working methods of regulatory authorities.

**Electricity**

In electricity, market effects played a much less significant part in the liberalisation process. Without the incentive of market growth, utilities were slower to see the opportunities of liberalisation than their counterparts in telecommunications, and the nexus between national utilities and their governments proved much harder for the Commission to break down. Moreover, despite their sensitivity to electricity prices, large industrial users played much
less of a role in the liberalisation process than their counterparts in telecommunications. The largely national character of the electricity intensive industries made them reluctance to enter a political conflict against 'their' governments and against monopoly suppliers with whom they had often negotiated preferential tariffs (Interview 25/10/00). Commission attempts to co-opt the support of industrial power users thus proved fruitless.

Sectoral interests lined up differently from country to country depending on the structure of the sector. In Germany liberalisation was opposed by an 'economic and political power cartel' composed of the interlocking private and public interests of the regional monopoly utilities, municipal supply companies, and the coal industry, self-regulated by voluntary industry agreements and 'sponsored' by the energy division of the Economics Ministry. In France, whilst the state monopoly utility EdF had an interest in a partial opening of European markets to enable it to dispose of its surplus of cheap nuclear electricity, it was opposed to any form of market opening that threatened its domestic monopoly. In almost all member states, the interests of incumbent utilities allied with the industry, employment and social policy interests of their governments in opposition both to liberalisation and any shift towards transnational sectoral governance.

Electricity liberalisation would scarcely have been possible without a shift in this very unfavourable constellation of interests, consequent upon the market changes outlined in the previous section of this paper. Under these new market conditions, as emergent European super-utilities have redefined their strategic interests, the balance between risk and opportunity in market liberalisation has shifted radically. Large European utilities now see
liberalisation as an opportunity to escape from the restrictions entailed in monopoly status (EdF, for instance, was prohibited by statute from commercial activities outside the electricity sector), and as an opening to stock market floatation, reputedly seen by some utilities as a source of the capital required for cross-border acquisitions. Restructuring has also catalysed a change in corporate culture, with new marketing staff recruited from outside the sector injecting a competitive cultural ethos into management (Interview 24/10/00). However, whilst this new interest configuration opened up the liberalisation arena, movement remained uneven. Dominance of the domestic market is a platform of strength from which national utilities manoeuvre for position in the emergent European market. National governments may thus have sought to delay market opening to allow national champion utilities breathing space to adjust to the demands of the competitive market.

How are the unfavourable market relations and interest configurations of the electricity sector reflected in the liberalisation process? Conventional accounts, as we saw above, emphasise the limits on the Commission's agenda setting role in comparison to telecommunications liberalisation, its inability or unwillingness to use the full force of competition law, and the consequent role of intergovernmental negotiation and compromise in weakening the legislation. By contrast, the analysis here will show how institutional variables operated independently to overcome the inertia and opposition of the sector. It focuses first on the on the role of the Commission as initiator and driver of the process, and second, on the dynamics of inter-governmental negotiation which exerted an ultimately irresistible pressure on reluctant member states.
In the absence of a push from power intensive industry, and in the face of opposition from almost all the member states, electricity liberalisation can be seen as a classic case of the Commission exercising its formal powers of initiative. Initiation stemmed from a trio of heavyweight Commissioners, the newly appointed energy Commissioner Cardoso e Cunha forming an alliance with Leon Brittan (Competition) and Martin Bangemann (Industry). With a background in business, Cardoso e Cunha was 'very committed to liberalisation … it was almost a personal crusade' (Interview 26/10/00). His first step was to counter inertia in DGXVII, which with its neo-corporatist culture lacked the will to challenge sectoral interests (Interviews, 25/10/00; 26/10/00). Having been dissuaded from his first inclination to run liberalisation from DGIV, Cardoso established an independent unit in DG XVII, headed by a senior official from DGIV with experience of liberalisation in other sectors.

Unlike telecommunications liberalisation, which was conducted incrementally through a number of directives, the draft electricity directive put to the College in December 1991 contained all the elements required to open up electricity markets in a single piece of legislation. The main principle was statutory third party access (TPA) to transmission networks, to give large industrial users and distribution companies the freedom to choose their power supplier. This principle was flanked by a range of regulatory measures to ensure that member states could not stifle competition through restrictive licensing procedures, and to prevent anti-competitive behaviour on the part of incumbent power utilities. Whilst this bold strategy reflected Cardoso's determination to 'shake the tree pretty fast', it was recognised that the Commission would be 'in for a very very difficult time' (Interview 26/10/00). Under intense member state lobbying, the College of Commissioners proposed the
draft to Council under Article 100A rather than issuing it independently under Article 86 (90) as initially intended. Interpreted by some as a 'climb-down', the issue had the effect of deflecting attention away from the substantive content of the directive, which survived intact. Moreover, the Commission retained the threat of Article 86 (90) as an inducement to the member states to adopt the directive voluntarily. This threat was backed up with infringement proceedings in the ECJ under Article 169 against restrictions on the import / export of electricity in some member states [4]. Subsequently the Commission was able to argue that ‘it would be much better to create an environment of certainty through a new regulatory framework at Community level rather than have the thing sorted out on the fall of the legal dice’ (Interview 26/10/00).

Following adoption by the Commission, the liberalisation agenda faced the opposition of almost all member states, and was subject to nearly five years of intergovernmental negotiation. As in telecommunications, the Commission's role now was to maintain the momentum of the process, to create a sense of inevitability, and to persuade recalcitrant member states and incumbent utilities of the opportunities opened up by liberalisation. (Eising1997 16) [5]. Whilst intergovernmental negotiations were mainly orchestrated by the Council Presidency, the Commission was nevertheless able to retain control of ensuing amendments to the directive. The first entailed the replacement of statutory third party access to power networks with a form of negotiated access. Skilfully presenting relatively minor technical concessions as major compromises, the Commission was able to defuse opposition without significant damage to the proposal. The second compromise incorporated a French proposal (the 'single buyer') designed to provide for competition in generation but not supply.
Subjected by the Commission to expert reports, the French proposal was 'worked on' so that it was compatible with full market opening. Indeed, so effectively was it neutralised as a means of retaining EdF’s supply monopoly that France subsequently declined the use of the option, introducing instead the form of regulated network access that had been originally proposed.

Thus, despite the absence of a market push in electricity, the Commission was able to generate sufficient political momentum to overcome the resistance of reluctant member states. To be sure, it had to compromise to do so. Contrary to the initial fears of the liberalisers, however, the directive proved largely successful in market opening, with most member states going faster and further than required (Interviews, 24/10/00; 30/11/00). Regulation is exercised by national authorities within a pluralist transnational regime, on a very similar model to that which operates in the more 'advanced' telecommunications sector.

**Supranational Intervention in the National Arena**

This section of the paper examines the capacity of EU institutions for authoritative intervention in the domestic arena, the second type of interaction effect contributing to the formation of transnational governance formation in the model outlined in the introduction. The potential for this type of intervention depends first, on the distribution of competence between supranational and national authorities and second on the density of the regulatory regime. In short, the two key questions are how supranational is sectoral governance and how regulatory is it. Conventional comparisons have suggested that the governance regime in telecommunications is both more supranational and more regulatory than that in electricity. The analysis in this section of the paper contests the first part of this assertion. First, it will be
argued, in neither sector is the regulatory regime supranational in character. Second, whilst the two regulatory regimes exhibit similarities also in the objectives, operating principles and scope of liberalisation, there are significant differences between the two sectors in regulatory approach, with much stronger orientation to *ex ante* regulation in telecommunications.

Neither sector conforms to the *hierarchical* model of supranational governance outlined in the first section of this paper and operative, for example, in the air transport sector, in which rules set out in EU regulations are implemented directly by the Commission. Both sectors fall rather within the model of *pluralist* governance in which member states share responsibility for managing interdependence, with the principles and objectives set out in directives implemented, with a good deal of discretionary latitude, by national authorities. Over more than ten years, liberalisation and harmonisation in telecommunications have relied almost exclusively on the *directive* as legislative instrument. In contrast to an accumulation of over twenty directives, the only example of legislation by *regulation* occurred in 2000 with legislation in response to urgent member state concerns over foot-dragging on the part of some incumbent utilities in unbundling the local loop. Even then, it was made clear in the text that this was a temporary expedient pending a new package of directives.

Consequent upon the latitude enjoyed by member states in transposing directives, the organisation and working practices of the newly established NRAs reflect the administrative and legal cultures of the member states. In electricity there are wide cross-national disparities in the allocation of authority between ministries, regulatory agencies and national competition authorities, with one member state, (Germany) having no recognisable regulatory
authority. Similarly, the Commission Fifth Report on the implementation of the telecommunications directives draws attention to 'the disparities in the way in which NRAs are organised', as well as in their working practices in relation to the supervision of the incumbent's interconnection tariffs and cost accounting, and their appeals and consultation procedures. There was also a sense of unease that a number of NRAs were not using their full powers to control the exercise of market power by incumbents that were either state owned or regarded as national champions (COM 1999, 31). In both sectors, of course, the Commission has supervisory powers over the exercise of national regulatory authority, but in neither sector has it intervened directly to bring member state authorities into line.

As surrogate for authoritative intervention on the part of the Commission, national regulatory regimes in both sectors are subject to supranational co-ordination. In telecommunications, the co-ordination function is located within the formal apparatus of EU commitology, in the Open Network Provision and Licensing Committees which, dating from 1990 and 1997 respectively, have an advisory function. The committees serve as exchange of information and perspectives amongst national ministry and regulatory authority officials, and can input into Commission deliberations on new legislation. Although they have the power to amend annexes to operative directives, their strongly intergovernmental character means that even minor technical amendments are subject to 'endless negotiation' (Interview, 26/10/00). In electricity, their function is served by the more loosely constituted Florence Process, a forum of Commission national ministry and regulatory authority officials, and transmission network operators. Since its inception in 1999 the Florence agenda has been dominated by a hitherto unsuccessful attempt to agree a tariff structure for cross-border power transmission. The only
lever available to the Commission in this forum is the threat of new legislative proposals should the member states fail to agree. In short, in neither sector is the Commission able to use its supervisory and co-ordination functions to intervene authoritatively in sectoral governance. Overall, then the interaction between national and supranational institutions is broadly similar in the two sectors.

A comparison of the regulatory approach in telecommunications and electricity shows more uneven results. Divergence is immediately evident from the volume of the respective bodies of legislation, which in telecommunications extends to over twenty directives [6]. The electricity sector by contrast, has seen just three directives, the first two of which were superseded by the 1996 liberalisation directive, which also constituted the regulatory regime. (In part the proliferation of directives in telecommunications reflects the multiple sub-branches of the sector and the need to keep pace with rapid technological change).

This disparity in the volume of legislation should not in itself be taken to indicate fundamental difference in regulatory approach. Indeed the basic principles of the two regimes show striking similarities. At the core of the two regimes are three basic principles. First, in network dependent sectors, competitive markets can only be brought to life through the enforcement of basic obligations and rights in relation to network access. Second, whilst access and interconnection arrangements are primarily matters of commercial negotiation, they must be subject to objective, transparent and non-discriminatory rules, applied by independent regulatory authorities to ensure that infrastructure ownership does not distort competition. This also means that where infrastructure ownership is in the hands of vertically
integrated utilities, there must be a management separation between service supply and network operation to prevent discriminatory access. Finally, new market players should not be faced with entry restrictions in the form of onerous licensing or tendering arrangements that operate in favour of incumbents. These principles form the central pillars of regulatory regimes in both sectors.

Whilst the principles are broadly similar, however, the sectors differ is in the specificity and detail with which they are enunciated (Levi-Faur 1999, 188-93). In contrast to the broadly worded text of the electricity directive, the telecommunications regime is defined in much more detail. The licensing directive, for example includes a definitive list of conditions which may be applied to licenses, prohibiting member states from applying any further conditions, and the Commission has taken action against member states which have done so. In stipulating that network tariffs should reflect costs, the interconnection directive places the burden of proof on the network operator, with a recommendation providing guidelines to assist regulatory authorities in determining whether interconnection charges are cost oriented. The interconnection directive also sets out the general responsibilities of the NRAs (EP&Council 1997, Art 9) their powers, and their responsibility to ensure that interconnection tariffs do not distort competition (EP&Council 1997, Art 7). The electricity directive, by contrast, makes no special reference to national regulatory authorities, referring less specifically to the obligations of member states in relation to regulatory practice. Moreover, the electricity directive allows member states some latitude in their choice of regulatory models. First, it offers the choice between authorisation and tendering for new generating capacity (tendering procedures subject markets to state planning considerations,
and can be an impediment to market entry). Second, in making provision for network access, whilst the telecommunications regime stipulates regulated access rights, in electricity member states may opt for either a regulated or a negotiated variant, or the rather idiosyncratic 'single buyer' model. In sum, then, whilst telecommunications employs ex-ante regulation ensuring that commercial practices conform with detailed rules, the electricity regime of ex-post regulation is more concerned with evaluating on outcomes against the principles contained in the directive.

In practice, though, the two regimes are less dissimilar than they appear from the directives. First, member states have not opted for the 'weaker' variants of network access regulation available to them in the directive. With the exception of Germany, which adopted the negotiated access model, all other member states have introduced regulated network access. Similarly, across the member states, (with the sole exception of Portugal), authorisation is the predominant form of approval for new generating capacity. With this exception, where tendering is used at all, (France, Belgium, Greece), it is restricted to special circumstances. Thus 'whilst the directive was full of options … the final result … is much more pro-competitive than you would have expected it on paper'. (Interview, 24/10/00). Even the early critics of the directive like the UK (which was planning to vote against it in Council until the BSE issue made antagonising France politically inexpedient) now regard the directive as a success. 'The Minister thought it was weak - a waste of time … [but] … we were wrong because it actually was enough to get the whole thing going' (Interview, 30/11/00).
Moreover, whilst, the early critics now approve of the light-handed regime in electricity, telecommunications is beginning to rethink its more regulatory approach in response to criticisms from national regulators and market players. Commission officials in telecommunications are aware of the dangers of the negative effects that over-regulation can have on markets [7]. Thus the most recent legislative proposals of the Commission are sensitive to demands for a more flexible regulatory approach; 'regulatory responses should be specific to the problem, proportionate and maintained only for as long as necessary', with *ex-ante* rules restricted to those areas 'where they are more effective than competition law remedies' (COM 2000 384 final). Thus the regulatory approaches of the two sectors appear to be converging.

Can we explain the disparity in regulatory approaches between sectors with reference to the variables shaping the liberalisation process? *Market effects* would not appear to provide an explanation. More dynamic and diverse telecommunications markets might have been expected to have elicited a more light-handed regulatory approach than the less dynamic electricity sector. The institutional dynamics of the liberalisation process provides a more convincing explanation, a more permissive environment in telecommunications giving the Commission freer reign for regulatory prescription. In electricity, by contrast, Commission actors were more constrained by member state / incumbent utility opposition. An institutionalist explanation for the more light-handed, liberal approach in electricity might also focus on the competition ethos of the three Commissioners who backed the directive, and the market culture implanted in DG Energy from DG Competition.
Given that competence in both sectors is located at national level, however, cross-sectoral differences of regulatory approach should not be ascribed too much significance. In both sectors, authoritative EU intervention in the domestic arena is limited by the latitude for national discretion in the respective directives. Whilst the regulatory regime in telecommunications is somewhat more prescriptive than that in electricity, neither sector is subject to supranational governance. Both sectors conform to the pluralist model of EU governance outlined at the beginning of the paper, with authority located at national level, monitored and co-ordinated by the Commission.

**Horizontal interaction between member states**

As we have seen, latitude for discretion in the transposition of the respective directives is reflected in the diversity of national regimes. The final section of the paper seeks evidence of any cross-national convergence which might subsequently have arisen from horizontal interaction between national actors along the lines of the third model of transnational governance formation outlined in the introduction. First, it identifies and characterises the arenas in which interaction takes place. Second, it seeks to establish whether interaction leads, via cross-national emulation, to a convergence of regulatory organisation and practice amongst national authorities. The underlying purpose is to establish whether the dynamism of telecommunications markets is reflected in more intensive patterns of interaction and emulation than in the more slowly developing electricity sector.

The institutions of process governance are both more formalised and of longer standing in telecommunications than in electricity. Dating respectively from the 1990 and 1997
directives, the Open Network Provision (ONP) and Licensing Committees consist of working level officials from national ministries and regulatory authorities. Their main function is advisory, assisting the Commission in drafting and implementing successive rounds of legislation. In addition, there is the High Level Regulator Group, consisting of ministerial Directors General and top NRA officials, meeting once or twice a year as 'a platform for regulators to talk about what they are doing to address particular problems … precisely to encourage policy learning and policy development' (Interview, 11/07/00c). Whilst Commission officials have shied away from formal benchmarking, they see the committees as a forum for the exchange of best practice leading to a form of voluntary normative harmonisation [8].

Alongside these Commission led forums is the Independent Regulators Group, established in 1997 on the initiative of the regulators themselves in response to 'a need to talk more to each other about the details of their work and to try to evolve best practice' (Interview 26/10/00). In the four years of its existence, the IRG has evolved quite a dense institutional structure. Flanking the meetings of NRA Director Generals, it now has eight working groups on, *inter alia*, local loop unbundling, cross border interconnection, market analysis, and mobile access, as well as a task force shadowing the Commission's review activities. Nevertheless, it has retained an informal character, and this is cited by some as a precondition of its success; 'If we had tried to organise in a more formal way it would have become a delegation of governments' (Interview, 21/11/00). With delegations entrenched in national cultures and policy preferences the group may have become enmeshed in intergovernmental wrangling. Instead, on issues like the liberalisation of the local loop in 2000, the IRG has been able to
adopt a consensual position in support of the Commission's legislative initiatives (Billinger 2000).

Although process governance in the electricity sector is less institutionalised than in telecommunications, there has been a rapid movement towards the formalisation of institutions that were originally conceived merely in terms of informal consultation. No formal committee structures for coordination between the Commission and member states were stipulated in the directive. In their absence, coordination takes place within the European Electricity Regulatory Forum, better known as 'the Florence Process'. Established in 1998 by the Director General of DG TREN, the Florence Process includes national regulators, senior ministry officials, representatives of the transmission system operators, DG TREN, DG Competition and the EP, with observers from the utilities, large scale consumers, research institutes and non-member states. The original objective of the Forum was 'to provide an informal EU level framework for [the] discussion of issues and the exchange of experience' concerning the establishment of a competitive internal market on the basis of the directive (CEC 1999b), through a voluntary approach designed to forge a common perspective of the main problems of the internal market and to arrive at consensual solutions (CEC 1999c). The venue for the forum (EUI Florence) was chosen to underline the informality of the process, and to demarcate it from the formal political process. The initial brief of the forum excluded implementation issues excluded from the agenda, focusing instead on matters outside the scope of the directive. A particular concern was the issue of cross-border transmission tarification, identified by the Commission as the crucial barrier to a single market.
From these informal origins the Florence Process has moved rapidly towards official institutional status. The Commission sets the agenda, steers discussions, and drafts and minutes conclusions which, having been agreed by the member states, are carried over to the next round of the process. Between the two-day, biannual plenary meetings, conclusions are refined and developed by the Florence Working Group, which since its inception in December 1999 has met almost on a monthly basis. Participants note a change in the style and content of discussions as the technical issues of cross-border tariffication generated wider political issues. Moreover, after March 2000, the Commission became more assertive in criticising laggard member states and urging the acceleration of liberalisation in line with the resolutions of the Lisbon summit and subsequent Energy Council. Thus 'after the second or third meeting [the Florence process] changed, to become part of the political process' (Interview 20/11/00).

The institutionalisation of the Florence Process is paralleled by an even more rapid transformation of the Council of European Electricity Regulators (CEER). Formed in early 2000 at the initiative of the Italian regulator, the CEER was initially conceived as an independent regulator group for 'the exchange of informal points of views'. Almost immediately, however, the loose constitution of the group was formalised at the initiative of the Portuguese regulator, concerned by continued blockages in the cross-border transmission tariff discussions, and simultaneously integrated into the Florence Process. A CEER working group now makes draft proposals which after approval by the full Council are formally presented to Florence. In less than six months, then, the CEER has become 'a very important institution in the decision-making process’ (Interview 20/11/00).
Evaluations of the Florence process differ sharply. The Swedish regulator expresses concerns at the institutionalisation of quasi-informal CEER discussions in the formal conclusions of the Florence Process. The French regulatory authorities are comfortable with Florence as long as it is confined to technical issues, but are concerned to ring-fence what they regard as political issues with implications for key French interests. At the other end of the spectrum of views, the UK sees the inadequacies of a process that, despite the trend towards institutionalised decision making, remains essentially informal, with no legal mechanisms to ensure that decisions are binding [9]. From the perspective of the UK as an advocate of liberalisation, the absence of legally binding decisions renders the Florence Process ineffective as a forum for ensuring the consistent application of market rules across the member states. This shortcoming is inherent in the Commission's strategy of promoting a common regulatory approach through voluntary normative convergence (CEC 1999a, 25).

The explanation for the failure of the Florence Process to resolve the cross-border transmission tariff issue stems from political differences arising out of the divergent member state interests. Germany and Belgium - the two member states that stand in the way of agreement - are 'transit states' in which the grid systems, in a fully functional internal market, would be heavily used for the transmission of cross-border traded electricity. As such the respective transmission system operators have a strong interest in the revenues yielded by a transit component in transmission tariffs. Other states see the transit component as a barrier to trade and have an interest in reducing or eliminating it. Regulatory issues like these with a differential impact on different member states are intrinsically difficult to deal with on a transnational basis. Subsequent to the failure of voluntary agreement as a means of resolving
the issue, the Commission is now in the course of drafting new legislation on cross-border tarification, along with other directives setting dates for full liberalisation and obliging all member states to conform to the model of the independent regulatory authority (Power in Europe 328, 24.11.00). Thus where horizontal interaction fails as a means of transnational regulatory governance, downward authoritative intervention remains as a weapon of last resort. Indeed the threat of the latter may be an inducement to member states to agree on voluntary harmonisation measures.

Having examined the *structures* of process governance, this part of the paper turns now to the *effectiveness* of the forums at promoting a common regulatory approach through horizontal interaction between national actors. Interview data suggests that the convergence or learning effect varies with the constitution and dynamics of the forum. An example of very intensive and sustained interaction was the COREPER working group convened 1993-95 to work over and agree the electricity directive. Participants emphasise the interpersonal 'chemistry' of the group, born in part of its long duration [10]. Although agreement was ultimately the product of bilateral and trilateral inter-ministerial meetings, there is some evidence that the personal chemistry of the working group lubricated the process; 'those close contacts did actually help in the end to get agreement' (Interview, 30/11/00).

Perceptions of the effectiveness of post-directive forums are more mixed. Intergovernmental forums like the telecommunications advisory committees may be too enmeshed in political wrangling to be effective in policy dissemination. Whilst they retain a role in the Commission’s strategy of voluntary normative convergence, officials are not entirely
Interview data suggests that policy learning operates primarily at a technical level. National actors have a pragmatic, purpose driven approach to policy learning, seeking 'quality, customer driven information' to meet specific policy needs (Interview, 23/11/00). This type of technical learning works more effectively through bilateral meetings than through set-piece, round-table discussions in multilateral EU forums. There is considerable evidence that bilateral learning has shaped national regulatory regimes; ‘bilateral contacts have influenced our decisions quite a lot … that’s where we get the inspiration to change the way we do things ’ (Interview, 23/11/00). The function of EU forums may thus be to inform participants about 'what other member states are doing' (Interview 08/12/00) and to provide a sort of 'clearing house' for bilateral contacts, often established informally on the margins of multi-lateral meetings, which are later instrumentalised in the search for specific policy information (Interviews 23/11/00; 08/12/00; 26/01/01).

More narrowly constituted, and with an explicit 'technocratic' orientation, regulator groups may be more conducive to the sort of intensive interaction that facilitates multilateral policy learning. Interview evidence from both sectors suggests that regulators constitute an epistemic community based on the common tasks ascribed to their functional role, a shared
allegiance to the principle of the competitive market, and their independent status [11]. Policy learning appears to have been one of the regulators' main objectives in establishing the independent groups. In telecommunications it is this objective also that motivates IRG working groups. Both the IRG and (to a lesser extent) the CEER have begun to develop the capacity to formulate and lobby for the adoption of joint positions (Interview, 21/11/00). Regulators form a knowledge based community, underpinned by shared normative values and largely free from intergovernmentalism, providing a favourable environment for policy transnational governance formation through horizontal interaction.

Conclusions

The main purpose of this paper has been to establish the impact of market effects on the process of transnational governance formation. It has done so by comparing two sectors emerging from state monopoly, one characterised by market dynamism, the other by relatively static markets. We have found that the common legacy of state monopoly accounts for strong similarities between the two sectors. In the absence of endogenous market forces, Commission initiatives have to overcome a nexus of countervailing interests between monopoly incumbents and state actors. In both sectors, therefore, the liberalisation process is subject to protracted member state recalcitrance and intergovernmental bargaining resulting in loosely constituted pluralist regimes.

Set against these fundamental similarities, the cross-sectoral variations identified in the paper appear relatively modest. Certainly, the relative dynamism of telecommunications markets gave the Commission the political latitude to employ Article 86 (90) legislation. After some
initial procedural conflict, however, its use was subject to the consent of and consultation with member states. As in electricity, then, liberalisation and regulatory governance formation occurred through intergovernmental agreement, with the Commission's role confined to brokerage and promotion.

The common institutional dynamic of intergovernmentalism accounts for the strong similarities in emergent governance regimes between the two sectors. Both are pluralist regimes in which the capacity of the Commission for authoritative intervention in the domestic arena is limited by the location of regulatory competence with national authorities. Although telecommunications has acquired a larger *corpus* of legislation than electricity, the main regulatory principles and institutions are the same in both sectors. The only significant difference emerging from cross-sectoral comparison relates to the detail of regulatory prescription.

It does not, however, seem very plausible to explain the more regulatory approach found in telecommunications in terms of the 'functional need' of a more dynamic market. On the contrary, growth markets might be expected to generate a more competitive environment, less needful of regulatory intervention than the more static electricity market. An alternative explanation combining market and institutional variables is that growth market in telecommunications created a more permissive political environment for the Commission to engage in regulatory prescription. In any event, the contrast between the two sectors may be receding, with an emergent consensus that telecommunications is over-regulated and signs of a shift towards a more light handed regulatory approach.
Despite the contrast in regulatory approaches between the two sectors, we have seen that pluralist regimes in both sectors are characterised by cross-national diversity in the institutional design and working practices of the respective national authorities. Market effects have not overcome the procedural and policy norms embedded in the national institutional environment. Horizontal interaction between national regulators in pluralist EU governance regimes may in time lead to cross-national assimilation. There are, however, no indications that this process is any more intensive in telecommunications than in electricity. Ultimately, then, cross-sectoral differences in trans-national governance formation arising from market variables are relatively superficial in comparison to the similarities attributable to the common institutional context. Institutions, it may be concluded, matter at least as much as markets.
NOTES.

1. 'Governments had realised that technology made changes in this sector unstoppable. They could no longer control the industry the way they had been able to in the past and if they did nothing they would just be overtaken by events and people would bypass the rules and it would be impossible to maintain a monopoly on voice [telephony] … ministers decided that they would be better trying to control the process' (Interview 11/07/00c)

'I think there was a vision on the part of the President of France Telecom and he was supported by the Head of Telefonica and then more or less all the others followed. … And then the governments had to follow. So really the top management realised the fact that liberalisation would lead to such an increase in the market that they would be much better off with liberalisation than with monopoly' (Interview, 12/07/00)

2. 'Incumbents start off seeing all the risks. Then you make the first step - and the first step has to be a small one - and that starts to change mentalities. One the one hand they see the inevitability - a wedge has been introduced. Then on the other hand - maybe as a consequence - they begin to see the opportunities' Interview 13/07/00).

3. 'It's a practical question … the markets operate in different ways… national regulators know their markets. [They] are different, but in being different are close to their markets and are therefore able to regulate them on the basis of what we hope are increasingly harmonised principles. So we try to draw the tension together in that way'. (Interview 11/07/00b).

4. Against expectations, the ECJ ruling went against the Commission. By the time it was delivered, however, the directive was almost in place.

5. 'You start off with a lot of opposition and because changes threaten vested interests … and then nevertheless you get a small spectrum. People say ‘this is the start of process’ and you keep pushing ahead. The second step then becomes a bit easier. After that the resistance will become all the time because people will realise that what was being created was not a whole set of threats to them but actually a whole lot of opportunities as well of which they can take advantage. Once they see that then the thing flips over and it gradually becomes easier and easier.' (Interview 26/10/00).

6. The first liberalisation directives in telecommunications introduced competition in terminal equipment (CEC88/301/EEC 16 May 1888) and 'value added services' (CEC 90/388/EEC 28 June 1990). The 'full competition directive ' (CEC 96/19/EC) provided for the full liberalisation of the sector by January 1998. The core of the current regulatory framework is constituted by the harmonisation directives. The framework directive (Council 90/387/EEC) established the principle of non-discriminatory access to public telecommunications networks through the open network provision. This has since been complemented by a series of more specific and tightly drafted directives dealing with (inter alia) leased lines (Council 92/44/EEC), licensing (EP & Council (97/13/EC), interconnection (EP & Council 97/33/EC) and voice telephony (EP and Council 98/61/EC). Finally a new raft of directives were introduced in 2000 introducing an integrated regulatory framework for
electronic communications (including both the converging sectors of telecommunications and broadcasting).

7. 'The regulatory regime needs to be based on outcomes and outputs rather than form and process … The EU needs a regulatory framework that can adapt to [market] changes … and this requires … principles and high-level objectives agreed at EU level. Where regulation is applied it must be both proportionate and effective [and] should also be capable of being withdrawn where it is no longer needed. Over time, as competition increases, we should rely more on competition law and move away from sectoral regulation' (Edmonds 1999).

'The Commission runs a risk of over-regulating on the fine detail … [It] … needs to ensure that entrants are provided with the essentials … whilst resisting the temptation to rely on micro-regulation as a long term substitute for genuine competitive pressure. The degree of regulatory intervention should be … 'proportionate' to the prospects of competitive entry' (Feasey 1998)

8. 'There's always a danger that regulation becomes a surrogate for competition .. there's a tension … because its always easy to think of a good reason to regulate. things may be a little less than perfect if left to the market but then regulation also has its costs … it may be preventing the market from doing its job … these questions need to be sorted out on a case by case basis' (Interview, 26.10.00).

'In our view it is critical that regulators should learn from each other … to realise that the decisions they make in their markets have an effect on other markets … its all about putting responsibility on member states to … own harmonisation themselves and not just to think 'that’s the [Commission's] job' (Interview, 11/07/00c).

9. 'Florence is not a decision making process. It is too anarchic. … You get these lowest common denominator proposals all the time … You may think you have got a decision but then they can go away and do something else and there is nothing you can do to stop them' (Interview 30/11/00).

10. 'It was a very very friendly, very nice bunch of people to work with … after the meetings we would all go for a beer' (Interview 30/11/00). 'The group was very dynamic and I think we all learned a lot from each other … there was a great will to compromise … people just sort of convinced each other. [They] started to learn that you can do this and this and we could make a little change to the legislation without it being dangerous'. (Interview 22/11/00)

11. 'Regulators have very specific market supervision tasks and are less weighed down by tradition in the way they approach these tasks than their ministerial counterparts … they can see the advantage of learning from others, and as they become aware that others are doing interesting things, they begin to want to know about it'. (Interview 26/10/00).
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