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Is EU regulation really so bad for the UK?

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Government estimates suggest that around half of all UK legislation with an impact on business, charities, and the voluntary sector originates from the EU. This is often used as an argument in favour of Brexit. But the overall costs and benefits of EU regulation are rarely scrutinised in depth.

The UK government's position since the 1980s has been that regulation in general acts as a drag on enterprise, innovation and investment, with ruinous implications

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for growth and employment. This thinking has long underpinned antagonism towards the EU and is lent support by numerous studies that have provided eye-watering estimates of the costs of EU regulation to UK business.

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Take claims made by the Leave campaign in the lead up to the referendum. Drawing on estimates produced by the think tank Open Europe, it was claimed that EU regulations cost the British economy £33.3 billion a year. The benefits of key regulations were also described as "vastly over-stated", with more than half providing "no clear benefits".

Estimates of the costs and benefits of EU regulation, like that produced by Open Europe, draw on government impact assessment data, and have been instrumental in shaping political thinking in the UK. But there is reason to doubt the data behind them, and good cause for the UK to keep most EU-derived regulations, even if it has the freedom to abandon them after Brexit.

The trouble with costing regulation

Estimated costs and benefits in impact assessments are inherently unreliable. The US Office of Management and Budget describes them as "no more than an informed guess". This partly reflects the difficulties officials encounter in obtaining reliable data.

In our research, we looked at labour-related impact assessments reported in Open Europe's analysis of the most costly EU-derived regulations. We found that many of the estimates relied heavily on assumptions based on either weak or inconsistent data. In some cases, there was no reference to any data.

In the absence of bias, uncertainties arising from poor data would not necessarily be a problem. But impact assessments are more likely to overestimate the future costs of regulation, partly because of their reliance on information from potentially affected businesses. These businesses have a material interest in the outcome of policy proposals and an incentive to provide estimates at the higher end of the range.

We found that businesses were often unable to provide even the most basic information to back up their estimates. Or their estimates were produced using opaque and questionable methods. This highlights the importance of government officials verifying business data. But we found little evidence of this happening.

The benefits get overlooked

Estimates typically employ a rigid approach to allocating costs and benefits between different groups. Costs are borne by businesses, whereas benefits are enjoyed by others, such as employees, the public and government. In practice, though, regulations can benefit businesses too.

Health and safety regulations that reduce worker discomfort, absences, turnover and early retirement, for example, increase productivity. They also reduce administrative costs associated with absenteeism, recruitment and retraining. Almost all the regulations we looked at provided at least some benefits to business. Yet, for the most part, these were neither reported nor costed.

The source of EU regulation and UK consternation. shutterstock.com

More importantly, we found that benefits to workers, the public, and government were routinely overlooked. UK policymakers place far more emphasis on estimating business costs than ensuring social and environmental benefits are rigorously mapped. But benefits are often complex, hard to measure and long-term. This makes it very difficult to give them a monetary value and may also lead to them being left out of the scope of impact assessments, where the typical appraisal period is ten years.

The sum effect is that benefits are rarely fully costed. In fact, we only found one case in which the benefits of regulation were systematically monetised.

Politically convenient facts

Brexit enthusiasts continue to extol the economic advantages of the regulatory flexibility offered by leaving the EU and want key environmental and social regulations to be repealed or radically scaled back. This is despite the fact that UK-based businesses already have far less restrictive regulation than their major competitors.

For products, the UK has the second least regulated market in the OECD group of developed economies. Its employment protection legislation is only marginally more restrictive than the US or Canada, less so than Australia, and far lower than other European countries in the OECD.

The conviction that deregulation is the most potent means of securing future British economic prosperity is therefore difficult to fathom. This is especially the case, given the needs of the UK's largest companies to maintain access to the EU, and studies showing how the UK's membership of the single market has brought higher growth, increased foreign direct investment, and higher average incomes.

Yet a commitment to deregulation remains embedded in the thinking of British political elites. Simple economic interests play a part. In the ordinary course of events, companies and business associations lobby on the basis of how specific companies or sectors are likely to experience regulation in the short term, rather than on the longer-term collective interests of the economy and society.

At their heart, regulatory debates are discussions about who should bear the costs and reap the benefits of economic activity. Calculations of the cost of EU-derived regulation compete for political space with other ideas for boosting productivity and competitiveness, which are likely to have a more benign effect on social inequalities and the environment. These other ideas could include addressing skills shortages, under-investment in research and development, over-investment in property, and public investment in green technologies. Less narrow and longer-term thinking would likely recognise this, and that regulation can have positive economic effects.

UK **European Union (EU)** **Regulation** **UK economy** **Brexit** **UK business** **Hard Brexit**