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SESSION: REGULATION & GOVERNANCE INITIATIVES

BETWEEN EFFICIENCY & LEGITIMIZATION

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ECONOMIC REGULATION

- Lack of coherence between national actions and global markets without taking into account that regulation is affected by globalisation. Privatization of former monopolies is a global concept with local actors and so is regulation.

- Endogenous problem of regulation since the lack of procedural discipline is evident between national actions and global concepts.

- Fragile balance of interests built on a wave of optimism about global markets and absence of political coherence in the implementation of goals.

INTEGRATION OF MARKETS OR INTEGRATION OF LAW

- Regulation is all about law application promoting economic development. Virtual economic space of global regulation since sovereign states exist.

- Recent economic crisis revealed the limits of virtual regulation as national considerations prevailed over global concepts such as state aids, competition, governance, stability pacts and other holy grails.

- Does that mean we go back in the pre-privatization and liberalization era?

REGULATORY CHARACTER

- The problematic mixture of incentives, soft law guidelines, powers of law making, technocratic instructions is the method of regulating economic sectors of the world in the borderline of democratic legitimization.

- Historically, the object of regulation is primarily political and not technocratic/virtual and is subject to the law of all public authorities. It is not a totally new world of law out of constitutional power and administrative procedures.

EQUILIBRIUM OF INTERESTS

- Experience shows that there are no specific criteria for the balance between competition and consumers' interests.

- The recent global financial crisis reveals total failure of independent regulators to judge correctly and to safeguard basic interests of consumers of financial products.

- The same applies to other markets built in the foundation of regulatory assistance and not in a solid business case that produces real wealth.

EQUILIBRIUM OF INTERESTS

- In the moment of crisis, re-emergence of the traditional state has revealed the limits of efficiency/soft law process versus legitimization= rigid central law making.

- Do we need to see sector's fall out to understand the limits of efficient regulator?

- Appraisal of regulatory efficiency is now obligatory to understand the reasons of failure beyond greed.

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REINVENTING OR REENGINEERING

- Stable value creation is a key concept which should be addressed in the context of competition enforcement either ex-ante or ex-post.
- Regulators extra responsibility as a watchdog isn't mapped in a strict legal context. Lack of direct relationship with public voting makes the regulatory authority look inadequate as supervising authority especially in an era of technocratic failure. The foundations of power should be strong enough to withhold crisis.
- In Europe privatization of former monopolies created the regulatory concept and the fear of dominance. Uncertainty created by regulatory failure in the financial sector may as well make us rethink about the "evil nature of dominance" and how to protect the continuation of a viable development.