

Oxenstierna's legacy impedes Swedish market regulation

The EU directive for electronic communication, the "Telecoms Reform Package", was pushed through in November 2009. But why have 750 new regulations emerged on the electronic communication market, despite the fact that no major political parties are going to the polls on the issue of market regulation of the telecoms sector? And why is it so difficult to influence (non)political decisions on market regulation?

Are there any politicians who are familiar with how these 750 regulations will impact companies and consumers? The answer is probably no; none of the political parties think they can win votes by regulating access to fibre networks or by implementing the EU directive on deregulation of EU postal markets. It's being done anyway, and with little debate in the media or our elected political bodies.

The consequences must be explained

For companies operating in deregulated (or rather, re-regulated) markets, changes to market regulations can mean that new services and markets are opened while others risk having their businesses and profitability wiped out. Regardless of the impact of the regulation, business plans can be much more accurate if the directive's articles and the proposed laws' clauses are interpreted in terms of impact on turnover, operating results and willingness to invest. This requires a detailed knowledge of how the market regulation impacts one's own business, as well as the ability to actualise the consequences for unaware politicians and officials who can influence an issue in a particular direction.

Effective market regulation is founded on a constructive dialogue between industry and decision-makers in all parallel decision processes taking place in Europe, the Government Offices, and public authorities. It may therefore be time to partially replace what we call Public Affairs with Regulatory Affairs. What public authorities actually do and think is just as important – or more important – than what's stated in party programmes.

Initiatives taken earlier

Before Sweden joined the EU, it was much easier to deduce the source of initiatives for legislation and other political decisions on market regulation. Public debate gave rise to election promises which resulted in the responsible minister appointing a commission; after submittance to interested parties for comment, the government and parliament took a decision on laws or funding.



But since 1995, when Sweden joined the EU, initiatives and decision processes on market regulation have become increasingly difficult to follow by means of solely analysing the domestic debate. The majority of initiatives for resolution concerning telecoms, energy, the internet or the financial industry originate in EU institutions.

For those who want to make their voices heard in this context, it is no longer enough to respond to Government Office proposals circulated for comment. Neither is it enough to speak with Swedish politicians – that train left the station long ago. It's too late to make your voice heard because the fundamental alignment was determined long ago, when the EU Commission began working on the proposals. In terms of market regulation, the national legislative process is a formal implementation of what Sweden – as a member state – is obliged to do following the adoption of the directive by the EU Council of Ministers and the EU Parliament.

Different worlds

Politics deals with overall issues but, to an increasing extent, many business-critical "political" decisions are taken by public authorities. Many companies operating on (de)regulated markets find it difficult to convey their message, while it's tough to change ineffective regulation that doesn't serve its purpose. Great effort is expended in highlighting the consequences of legislative and public authorities' proposals. But politicians and commercial companies often speak different languages, and this causes misunderstandings. Lack of a common language, gaps in knowledge, and distance from the actual decision process in Brussels or at public authorities often leads politicians to direct the matter to officials, who then refer the matter to politics.

Why is it difficult to achieve the necessary changes to market regulation, when basically all parliamentary parties agree that growth and innovation are crucial for future well-being?

First of all, the decision process is shrouded in mystery – even for the politicians themselves. The Government Offices present the national process on its website, and the EU presents its process on its website. There is no easily accessible process description of how the Swedish government interacts with the EU in directive negotiations.

Oxenstierna's legacy

Secondly, market regulation is essentially based on the economic theory of market emergence, as well as on achievements that are possible in legal terms under EU law, budgetary law and Swedish legal practice. Swedish public



administration is still based on Axel Oxenstierna's shrewd ideas on how government departments should be organised in order to avoid corruption – unfortunately, though, Oxenstierna's Sweden couldn't foresee membership in the European Union. Sweden's decentralised government means that negotiations in Brussels are sometimes conducted by representatives of Swedish public authorities, and sometimes by officials from the Government Offices. The complexity is aggravated by the Commission's parallel pursuit of its policy. Those looking to influence the outcome of a decision must be up-to-date and ever-present in all arenas – things move fast when draft texts are being negotiated. Constructive input is also required – input that takes both EU law and Oxenstierna into account.

The way in which a business responds to the economic theory that forms the basis of market regulation is crucial to whether or not objections to the theory will be perceived as relevant. The textbook theory on market emergence – i.e. where supply meets demand – is seldom reflected in reality's extremely complex and global market structures. This presents a challenge to communicate, especially with those who believe that the world resembles the theory and only show abstract interest in reality.

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