

ADVANTAGES AND DISADVANTAGES OF CO-REGULATION

Coregulation helps to

- i. overcome the problem of information deficits of state regulation because they benefit from greater expertise and special skills within the industry (e.g. of a technical nature);
- ii. be faster and more flexible than state regulation, mostly because they are not bound by statutory procedures to the same extent as state regulation;
- iii. reduce regulatory cost to the state and implementation costs in general, especially because profit-driven companies are supposed to carry out the self-regulatory process more cost-efficiently; and
- iv. be applicable in areas sensitive to state regulation (e.g. in content regulation, where government intervention may conflict with the principle of freedom of expression).

However, the literature also refers to a list of potential disadvantages of self-regulation as compared to state regulation. Alternative modes of regulation may:

- i. provide symbolic policy with weak standards, ineffective enforcement, mild sanctions and limited reach, because they often apply only to those who voluntarily participate and not to all members of an industry;
- ii. result in self-service by the industry, with public interests being neglected vis-à-vis private interests—and the outsourcing of regulation may also result in a loss of know-how on the part of regulators, thus exacerbating existing information asymmetries;
- iii. entail the danger of cartels and other anticompetitive behavior, resulting from close cooperation between companies in self- and co-regulatory regimes—and the dominance of large, long-established companies in self- and co-regulation may produce solutions that discriminate against smaller enterprises and newcomers; and
- iv. decrease the democratic quality of regulation, especially owing to lack of accountability, transparency, legal certainty and the like.

Compiled by SCM (2019) from

Latzer, Michael; Just, Natascha; Saurwein, Florian (2013). *Self- and co-regulation: Evidence, legitimacy and governance choice*. In: Price, Monroe E; Verhulst, Stefaan G; Morgan, Libby. *Routledge Handbook of Media Law*. Abingdon, Oxon, New York: Routledge, 373-397.