

# **Chapter 20 — Designing for coordination: The case of Regulatory Management Policy, by Fabrizio De Francesco and Valérie Pattyn**

## **1. Introduction**

The quest to correct policy problems in an effective and efficient way has always been at the core of policy design. How efficiency and effectiveness is conceived within a policy setting is not independent of the broader institutional environment populated by public agencies overseeing the policy design itself. Take, for instance, regulatory management and ‘better regulation’ policy. With the ambition to enhance the regulatory environment (Radaelli and De Francesco, 2007; Radaelli, 2007; Listorti, 2020), this horizontal policy can require assessing the quality of regulatory proposals according to different goals, such as reducing administrative burdens, increasing social net benefits, and allowing the possibility of nudging. In governments where better regulation is highly institutionalized, the actual application of these appraisal methods to regulation<sup>1</sup> is overseen by distinct institutions (Heidbreder et al., 2010; Weiner and Alemanno, 2010; Nijssen, 2013; John, 2018), forming over time a regulatory management system (OECD 2009), i.e., an institutional landscape characterized by a plethora of procedures, guidelines and regulatory oversight bodies. This institutional complexity has prompted the question that guides this chapter: How does the coordination of regulatory management institutions occur, considering that they often have different objectives?

This chapter touches on the *meta-level of regulatory design*—the design for coordinating processes and oversight bodies in charge of regulatory quality—and does not directly address the design for coherent and coordinated regulations. Despite some attention to the institutional dimension in recent policy design literature (e.g., Peters, 2020), relatively little is known as to how institutions within the executive branch of government are coordinated. Coordination has been explored by the public administration literature, especially in the wake of New Public Management (NPM) reforms (Bouckaert et al. 2010), and the fragmentation of the public sector (Peters, 2018). However, this literature does not speak directly to the policy design scholarship. True, policy integration has been a

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<sup>1</sup> Regulation is defined here as intentional government intervention in the activities of a target population with the objective to change their behavior (Vedung 1998; Black 2002; Koop and Lodge, 2017; Acciai and Capano, 2020). From a public interest perspective, regulation is intended to solve market failures, reduce risks, and enhance the net-benefit for the collectivity (Feintuck 2004). Whether a regulation can achieve these goals is a matter of how well a regulation is assessed and designed by choosing the right proportion of targeting and stringency (Koski 2007) and by blending different policy instruments correctly.

key concern in the design literature (Candel and Biesbroeck, 2016; Trein et al., 2019), but its institutional dimension is relatively unexplored (Christensen et al., 2019). Moreover, coordination of better regulation policy has been approached mainly from the perspective of multi-level governance (Rodrigo et al., 2009), while horizontal coordination within the executive has been largely overlooked (but see Greenstone 2009 for a rare discussion on this issue).

We compare the institutional design of regulatory management systems in the Netherlands and the United Kingdom (UK). Both countries underwent successive waves of better regulation reforms but have followed different institutionalization paths, allowing us to distinguish different scenarios of coordination. Although we do not have any normative stand on which type of coordination would ensure an effective management of the regulatory process, one can argue that the way governments design the coordination of their regulatory management institutions influences the coherence of better regulation policy.

The remainder of this chapter is structured as follows. The next section reviews different better regulatory reform waves and explains why concerns about the coordination of regulatory management institutions matter. Next, we address the coordination question, and present different theoretical coordination scenarios. This brings us to the empirical part, where we investigate how coordination takes place in practice in the Netherlands and the UK. We conclude by discussing our findings and proposing avenues for further research.

## **2. Better regulation reforms and the challenge of coordinating regulatory management institutions**

Modern states are characterized by a variety of measures and processes for ensuring regulatory quality (Radaelli and De Francesco 2007). Different requirements for assessing the quality of regulation have come with every better regulatory reform. Especially in countries that have gone through successive waves of regulatory reform, this has often resulted in a proliferation of oversight bodies with discordant mandates. After all, new regulation reforms did not lead to a complete erasure of previous institutions. Former reforms often left sediments of procedures and guidelines, as such complicating institutional coordination.

Four main waves of regulatory reform have been experienced everywhere in the Western world. At the beginning of 1980s, better regulation emerged in the United States with the political goal of providing regulatory relief for business through cost-benefit analysis (McGarity 1987). On the other side of the Atlantic, a similar deregulatory goal was pursued by the Thatcher administration through the quantification of business compliance costs (Froud et al., 1998). This emphasis on deregulation and economic competitiveness was also common in several other European countries such as

Denmark, Germany and the Netherlands which adopted business checklists (De Francesco, 2010). Later, under the influence of the NPM movement, deregulation was magnified with the introduction of performance management tools such as the Standard Cost Model (SCM) that facilitates quantitative reduction targets for administrative costs (Heidbreder et al., 2010), the one-in one-out requirement to abolish the existing regulation in the amount of the costs imposed by a new regulation on business (Renda et al., 2019), and international rankings of countries' regulatory performance (De Francesco, 2016; Radaelli, 2020).

In the 2000s a new wave of regulatory management reforms highlighted the importance of considering a wide range of benefits and costs affecting consumers and citizens which were mainly overlooked thus far (Radaelli, 2007). Especially in Anglo-Saxon countries, this new wave aimed to integrate different methods of economic analysis. Underpinning such comprehensive whole-of-government approaches was the idea of a super-analysis encompassing regulatory impact on the economy, society, and environment. The reform also involved the attempt to open and democratize the regulatory process by enhancing consultation processes of affected parties in line with deliberative policy analysis.

The final and most recent better regulation reform is associated with the renaissance of evidence-based policymaking (De Francesco and Pattyn, 2021). This new wave has prompted reinvigorated attention to randomized controlled trials and their application to behavioral science to understand how individuals make choices. Experiments and pilots are conceived as cost-effective ways to test different policy scenarios on a small scale. Promoted by the UK Behavioral Insights Team (BIT) (John, 2018) and international organizations as the OECD (De Francesco and Pattyn, 2021), nudge units have been established in many countries with different forms of institutionalization (Afif et al., 2018).

Altogether, the different waves of reforms have resulted in increasingly populated arenas of procedures and institutions challenging the coherent design of regulatory management systems. After all, each reform is associated with a distinctive political and social context and different emphases on what better regulation entails. Against this background, it can be argued that the constellation of appraisal methods, procedures and regulatory oversight bodies has resulted in a paradox: the instruments that are designed for regulatory coordination towards a general policy objective—such as inflation, employment protection, business deregulation, or environmental sustainability—also need to be coordinated themselves to prevent conflicting meta-policy objectives.

### **3. Models and scenarios of coordination**

By emphasizing vertical and horizontal specialization, public administration literature conceives coordination as the ‘purposeful alignment of units... in order to achieve a predefined goal’ (Christensen et al., 2019: 238). While coordination can be regarded as both a process and an output, we focus exclusively on the procedural features for bringing together disparate organizations to engage in joint action (Christensen et al., 2019: 244). Markets, hierarchies and networks are the theoretical underpinnings for distinguishing modes of institutional and organizational coordination (Bouckaert et al., 2010). Elaborating on these concepts, we followed Wegrich and Stimac (2014: 49-50) and developed the following fine-grained classification of coordination modes within a regulatory management system.

*Hierarchical coordination* represents an institutional design mode where an executive leader instructs an oversight body with a preferred regulatory appraisal method. This mode of coordination is justified by the assumption that executive leaders are in the best position to grasp the salience of the political and public debate.

*Positive coordination* on its part requires the pooling of diverse institutions for formulating a regulatory proposal. Integrated impact assessments closely fit this line of thinking, with each sectoral decision maker contributing to a meta-analysis. Often institutionalized in task forces and interdepartmental working groups, this coordination mode requires a decision-making method for reaching an agreement among conflicting social interests.

Another coordination mode involves working with *incentives and competition*. This strategy has strong linkages with NPM tools and auditing systems of regulatory performances. These tools and approaches indeed allow ‘cross-departmental league tables and benchmarking activities’ (Wegrich and Stimac 2014: 50) typical of this form of coordination. This coordination mode is characterized by and centered on policy performance targets such as the reduction of administrative burdens by a certain percent.

Finally, *spontaneous coordination* can be achieved through mutual adjustments resulting from negotiation and deliberation. This coordination modes resonates most with deliberative models of better regulation. By engaging a wide pool of stakeholders and affected parties in consultation processes, compromises can be sought, and coordination can be ensured.

While there are clearly certain links between these coordination modes and better regulation procedures such as economic analysis, administrative burden measures, and nudging, these connections are by no means deterministic. We make a conceptual distinction between different meta-design scenarios, which can be represented on a continuum ranging from none to full coordination. In one extreme scenario, a country has no horizontal coordination strategy, implying that different better regulation procedures co-exist without a sound logic of when and how to use them. If the output of different appraisal methods results in conflicting regulatory solutions, it is decided *ad hoc* how to

proceed. One can also approach this scenario as a case of non-coordination, given the absence of any deliberate strategy. At the other end of the spectrum, one can image a situation of full coordination when one of the better regulation requirements has a central and priority position. In case various appraisal methods would yield conflicting outputs, policy makers would only take account of the evidence generated by the priority better regulation requirement. Such a scenario can also involve a situation in which a particular regulatory oversight body take a vetting and leading responsibility over the others.

In between those poles, a plethora of less extreme scenarios can exist, with incentive coordination coming closer to the pure hierarchical coordination mode, whereas self-governed and deliberative forms of coordination lean towards the non-coordination pole. Positive coordination can be considered as a sort of median scenario. An additional scenario, albeit of a different nature, is a situation in which coordination revolves around problem-solving. In this scenario, different appraisal methods and regulatory oversight bodies are activated depending on the specificity of a given market failure and social issue.

While it would exceed the scope of the chapter to assess the prevalence of each of the above scenarios, we empirically compare the regulatory management systems in the United Kingdom and the Netherlands and situate them along the coordination continuum. Both countries are trendsetting and have been through all main reform waves in terms of the adoption and promotion of better regulation procedures and the institutionalization of regulatory oversight bodies. Whereas the UK is generally considered a pioneer in establishing behavioral insights units (cfr. the most recent wave), the Netherlands has played a strong role in the conceptualization and emergence of the administrative burden reduction strategy. Given their highly developed regulatory management systems, one can expect that the coordination challenge manifests itself clearly in these countries. We assess whether and how executive departments of the two countries deal with the different goals of the successive waves of regulatory reforms. Specifically, after a brief historical description of the evolution of better regulation policy, we scrutinized legal procedures, methodological guidelines, and oversight bodies, and searched for both formal and informal coordination practices.

## **4. UK: A dual coordination system with hierarchical and incentive-based traits**

### **4.a. Historical description**

Since 1985 the UK has been experiencing all the waves of better regulation reforms which swept across developed countries. Whereas the Thatcher government focused on business regulatory compliance costs and established a central Deregulation Unit within the Department of Trade and

Industry, in the late 1990s, the Blair government relied on a broader concept of regulatory quality. His administration adopted Regulatory Impact Assessment (RIA) as a methodology for appraising regulatory costs and benefits for all social actors. And the RIA central unit was moved to the Cabinet Office signaling a whole-of-government approach to better regulation.

In the mid-2000s, the better regulation policy agenda was controlled by the ministerial panel for regulatory accountability chaired by the Prime Minister. By requiring departments to submit their regulatory proposals and RIAs for clearance in case of impact on business, this panel was able to ensure full compliance with the better regulation policy. The last two decades have witnessed a significant return to the neoliberal and business-oriented policy agenda. Although administrative reduction targets were also adopted by the Labour governments, it was with the recent Tory governments that the pledge to deliver regulatory relief for business has become central. In the current regulatory management system, an independent body, the Regulatory Policy Committee ensures a stringent control on departmental regulators.

Another strategy to accomplish business deregulation is through behavioral science. Established in 2010, the Behavioural Insights Team can be considered as an institution that has the potential to design policy solutions alternative to traditional command and control regulations. Accordingly, nudge can be considered as a liberal approach to business regulation (Tyers, 2019).

#### 4.b. Legal procedure

The UK executive's regulatory process had been for a long time governed by internal policy and guidance, until the 2015 Small Business, Enterprise and Employment Act. Although public participation and consultation are still left out of administrative law requirements (Pünder, 2009), the act established a legal framework of the regulatory process (Warwick and Naru, 2017). It requires the government to set a target for the economic impact on business that the 2017-2022 Parliament set at the level of £9bn of savings. Through annual reports, the Parliament scrutinizes progress towards the target. To assess whether the target can be reached, departmental and independent regulatory agencies analyze the impact of their qualifying proposals, i.e., regulatory proposals with a positive or negative estimated business impact of at least £ 5 million, on business direct costs. The contribution of each department towards the target is overseen by the above-mentioned Regulatory Policy Committee, which validates every estimation of the equivalent annual net direct cost to business (Department for Business, Energy & Industrial Strategy, 2017). The 2006 Legislative and Regulatory Reform Act allows for amending primary legislations through statutory instruments in order to reduce or remove regulatory burdens. The act also establishes the better regulation principles of proportionality, accountability, consistency, transparency, and targeting, and a post-implementation review.

#### 4.c. Methodological procedure

Central to the non-statutory mode of regulatory appraisal and design is the Green Book, the Central Government Guidance on appraisal and evaluation. Drafted by the HM Treasury, this guidance helps ‘officials to develop transparent, objective, evidence-based appraisal and evaluation of proposals to inform decision making’ (HM Treasury, 2018: iv). The guidance has gone through several revisions. Whereas ‘its earlier incarnations for decades steered UK government policy makers and economists towards monetised analysis of costs and benefits for major projects’, the latest editions provide a more comprehensive approach to policy development, implementation, and ex post evaluation (Hurst, 2019: 101).

The Green Book is crucial to both the spending control process and the regulatory control process (HM Treasury, 2018: 2). The centrality of its guidance is reinforced by its ‘scope and relationship with other appraisal guidance’. The Green Book ‘applies to all government departments, arm’s length public bodies with responsibility derived from central government for public funds and regulatory authorities’ (HM Treasury, 2018: 3). It revolves around principles of welfare economics and the monetization of costs and benefits. The guidance is structured around several stages of policy appraisal, which together constitute the so-called ROAMEF (Rationale, Objectives, Appraisal, Monitoring, Evaluation and Feedback) cycle. This cycle is common also for regulatory impact assessment, and other sectoral impact assessments such as competition assessments, environmental assessments, health assessments, and risk analyses (HM Treasury, 2018: 12).

Importantly, besides cost-benefit analysis and the quantification of monetary values, the Green Book does not prioritize any other policy appraisal procedure. The Behavioural Insight Unit is not mentioned as an oversight body but rather as an advisory institution for best practices. In the Green book, nudge is considered as an option for non-intervention rather than a stand-alone evaluation technique and appraisal method. It is listed among other policy options such as payment-by-results, performance targets or bonus systems, public private partnerships, and market creation. Neither does the Green Book mention the methodological process and requirements related to the business impact target. Throughout the guide, costs are always appraised for their social value (HM Treasury, 2018: 22-26). Only at point 3.21 of the Green Book is there a general reference to ‘[t]he rules for the scrutiny and clearance processes’ related to regulatory impact on business (HM Treasury, 2018: 12). This neglect of the business impact target requirement is surprising, as in the preface to the Green Book the HM Treasury permanent secretary states that the new version takes the business impact target into consideration.

Overall, a content analysis of the Green Book reveals a strong centrality of welfare economic methods and cost-benefit analysis. The wave of randomized controlled trial and nudge has left only marginal traces. The priority of cost-benefit analysis is also evidenced in the Regulatory Impact Assessment (RIA) guidance. The RIA process recalls the Green Book and its underlying principles

through the quantification of net benefits to society and the economy as a whole (Department for Business, Energy & Industrial Strategy, 2020: 11).

#### 4.d. Institutional procedure and policy coordination mechanisms

Turning to the institutional framework, the UK regulatory management system consists of several oversight bodies with distinct functional roles. Since its emergence, the better regulation policy has been supported by a system of central units in charge of embedding better regulation in policymaking (Warwick and Naru, 2017). The central units provide guidance, advice and support to departmental units, and monitor the strategic development of the better regulation policy.

Independent bodies have always played a key role in the institutional design of better regulation. Whereas the Better Regulation Task Force only had an independent advisory role, in the current stages the Regulatory Policy Committee acts as a proper oversight body. Specifically, as a verification body this independent body certifies that administrative exclusions are correctly applied, and scrutinizes and validates evidence and analysis related to the business impact target (Warwick and Naru, 2017). The Better Regulation Task Force is also required to oversee the compliance with the statutory better regulation principles. With the dismissal of the ministerial panel and committee, the role of this institution in controlling the departmental regulators has significantly increased. Finally, the HM Treasury acts as the economic knowledge hub. By drafting the Green Book, its guidance can be conceived as comprehensive and based on principles of welfare economics.

Altogether, the actual coordination of the UK better regulation policy can be said to be characterized by the methodological prioritization of cost-benefit analysis and welfare economics principles across different policy settings. This methodological approach often clashes with the recurrent political pledge to reduce regulatory costs for business. As it stands now, the UK government seems to give predominance to two main regulatory formulation and appraisal systems, with no clear superiority of one over the other, and which are in a relatively fuzzy relationship. On the one hand, the current wave of neoliberal reform revamped a system of incentive/sanction and competition across departments based on simple metrics of business compliance costs. On the other hand, the HM Treasury's Green Book qualifies as a form of hierarchical coordination, as it prescribes how economic analysis in policymaking should be conducted. This dualism clearly confirms the tension that can be inherent to present-day meta regulatory designing. Moreover, this tension is exacerbated by the recent emergence of behavioral science as an additional repository of knowledge and evidence in support of better regulatory choices.

## **5. The Netherlands: Positive coordination with an informal emphasis on burden reduction**



## 5.a. Historical description

Better Regulation has a firm place on the Dutch government's policy agenda since the 1990s, which rationale goes back to the severe economic crisis of the 1980s. The crisis prompted a need for rigorous stocktaking of postwar economic policies and the Dutch corporatist system, which suffered from major regulatory rigidities and complexities impeding economic development. Concern about the regulatory environment resulted in the launch of the so-called MDW Program (Marktwerking, Dereguleren en Wetgevingskwaliteit—Market Forces, Deregulation and Legislative Quality) in 1994. This program attempted to improve the regulatory and structural environment for open markets, also in view of the Single European Market. Central in the MDW Program was the strategic approach to reduce administrative burdens to a level of 'what is strictly necessary' (OECD, 2010: 39). The government also made efforts to develop a more rigorous appraisal methodology by introducing ex ante impact assessments for new regulations.

A second stage in the Dutch better regulation policy, starting in the late 1990s, is marked by the explicit emphasis on the reduction of administrative burdens for business in particular, and again confirms the central importance attached to better regulation for economic performance (OECD, 2010). In this period, the Netherlands has been pioneering in developing the Standard Cost Model for the quantification of administrative burdens in order to achieve reduction targets. This stage also involved the establishment of ACTAL, the independent review body on administrative simplification. Initially, ACTAL was only charged with advising on administrative burdens on businesses, but its scope gradually expanded to other better regulation policies.

A third stage is characterized by a more explicit emphasis of the better regulation agenda to address social and public sector issues, involving the engagement of stakeholders beyond the business community (OECD, 2010). This included the initiation of programs in 2003 to address administrative citizens and burdens or regulation inside government. Other policies also gradually developed alongside the flagship program to reduce administrative burdens, such as the assessment of alternatives to regulation, reform programs for inspection and enforcement, and further work on the legal quality framework for the introduction of new regulations (OECD, 2010). Still, the linkage between the burden reduction program and other programs and initiatives for public sector modernization and reform were repeatedly criticized for being weak (OECD, 2010: 37).

The limitation of the SCM helps to explain the 2011 adoption of the so-called Integrated Assessment Framework (integraal afwegingskader—IAK) in order to enhance the assessment and accountability process (OECD, 2020: 28). The IAK was launched specifically with the idea of integrating the extensive range of disparate and partially overlapping ex ante quality tests that existed before (Meuwese, 2012; Mijs and Schout, 2015). Since its establishment, the framework has been updated with the introduction in 2015 of assessments of the impact on innovation, SME's, gender

equality, and developing countries (OECD, 2018). In 2018, the large-scale government ‘Operation Insight in Quality’ was an attempt to better integrate the monitoring and ex post evaluation regulation management system. Some specific questions have been added, which require the government to provide text in the Memorandum of the objectives, effectiveness and efficiency when introducing new legislation. But as evaluations revealed (Tweede Kamer, 2019; OECD 2020), this is not yet consistently implemented. The IAK framework is central in the Dutch approach to Regulatory Impact Analysis (OECD, 2020), and a good comprehension of it helps with grasping the present-day Dutch regulatory design process and its coordination strategy.

### 5.b. Legal procedure

Unlike in several other OECD countries, no single administrative procedure exists for developing regulation in the Netherlands (OECD, 2020). General regulatory procedures have been laid down in the Constitution and have been detailed in internal regulations within the administration and parliament. Departments required to comply with the Directives on Legislation. Developed by the Ministry of Justice and Security, agreed by the Cabinet, and issued by the Prime Minister, these Directives concern general quality criteria and legal requirements of legislation developed by the executive. An essential part in these rules is the requirement to complete the above mentioned IAK. In a nutshell, the IAK sets out a structured process that executive departments have to follow, organized via seven questions assisting policy makers to respectively define the problem; determine which intervention should be used; and determine the impact of the proposed solution and how this will be evaluated. The framework contains 20 mandatory *ex ante* appraisals or tests that assess a broad range of regulatory impacts (Center for International Legal Cooperation, 2018). Ministries are required to provide a response to each of the questions in a level of detail that is deemed proportional to the expected impact of the proposal. Ministries are strongly recommended to consult relevant stakeholders (OECD, 2020: 29-30) via the internet consultation process, and certain tests (such as the SME test) impose such consultation. Proposals are subject to scrutiny on specific aspects by different actors (see below). The Ministry of Justice and Security, for instance, is in charge of legislative screening. The administrative burden scrutiny is conducted by the independent advisory board on regulatory burden (*Adviescollege Toetsing Regeldruk*), which succeeded ACTAL in 2017. Once completed, draft legislation is sent to one of the so-called Voorportalen, where senior civil servants meet and conduct an assessment of the answers to the IAK questions, after which the bill is sent to the sub-council of Ministers and subsequently to the Council of Ministers (OECD, 2020: 29-30).

### 5.c. Methodological procedure

The IAK incorporates all impact appraisal tools, which are indeed often of a different nature, and stem from different waves of better regulation reform. Interestingly though, the framework does

not put any particular weight on specific quality requirements (OECD, 2020: 32), at least officially, and ministries are not required to produce an overall integrated assessment of the tests. As was recently observed in a fact-finding mission of the OECD (2020), there still tends to be a predominant emphasis on burden reduction, despite the above-mentioned inclusion of more socially oriented appraisal tools in recent years. The tight organization of the requirement to calculate regulatory burdens for businesses is a case in point, and echoes the long tradition of the country on this issue, including the application of the Standard Cost Model methodology. The other 19 quality requirements are felt not to receive the same level of support (OECD, 2020: 48). Of course, this is not to say that other quality tests are not well developed. For instance, the Netherlands has strong expertise in social Cost Benefit Analysis for instance, and its general guidance is one of the quality requirements. Yet, differing from the UK and the government's Green Book, this guidance does not play a central role in designing and developing regulatory policy options.

Other mandatory quality requirements associated with (economic) policy appraisal include 'instructions concerning the performance of market activities', 'instruction for granting subsidies', a 'manual for measuring regulatory costs', and an 'SME test'. The difference with the British regulatory design methodology is striking. In the UK, principles of welfare economics are central in decision-making on regulatory and spending interventions. In the Dutch system, there is no clear formal relationship across the disparate methodological procedures and quality requirements. Moreover, they include non-economics aspects such as gender equality, illegal behavior tolerance, and involve the design of an enforcement and sanction system.

Differences are also apparent when focusing on nudge and behavioral insight tools. Indeed, the Netherlands has embraced the adoption of behavioral insights (Afif et al., 2018), and established a well-functioning behavioral insights network (the so-called BIN) with representatives of different ministries. However, the actual application is not yet structurally embedded in regulatory design processes, nor in the IAK. Whether behavioral insights are used or RCTs are set up is still largely ad hoc and often geared towards testing communication tools (Dirkmaat, 2020).

Procedurally, the sequence of questions in the IAK is interesting to consider. Worth highlighting is that the impact of a proposal is calculated only after the choice of the best instrument. While this can indeed raise concerns that policy alternatives are not seriously appraised, this decision-making sequence is part of the Dutch style-consensus culture (Mijs and Schout, 2015). By formulating policy solutions, and as such taking away many possibilities to consider alternatives, the Dutch coalition agreement leaves little room for nuanced policy formulation considerations (Mijs and Schout, 2015; van Gestel, 2018).

#### 5.d. Institutional procedure and policy coordination mechanisms

The Ministry of Justice and Security takes the lead in coordinating the IAK and is formally in charge of the overall development of the IAK framework. Importantly however, its coordinating role mainly concerns the design and methodology of the overarching framework (Mijs and Schout, 2015; van Gestel, 2018), and implies a final legal check of the quality of the draft proposals. The fact that the Ministry of Justice and Security also has its own policy portfolio does take away much leverage to take up a strong enforcement role vis-à-vis cabinet colleagues (OECD, 2020: 50; van Gestel, 2018). In line with the decentralized and consensus-based administrative tradition of the country, the actual quality of the proposals remains the responsibility of individual ministries (OECD, 2020; Mijs and Schout, 2015). Which IAK sections and tests are relevant and apply to a particular regulatory proposal is also decided at the level of individual ministries. Within the latter, IAK coordinators can be consulted for advice on steps of the IAK process, and a departmental burdens coordinator can provide in-depth advice on regulatory burdens. In the early IAK preparation process, the independent advisory board on regulatory burden (Adviescollege Toetsing Regeldruk-ATR) can be consulted to support the mapping and analysis of possible regulatory impacts of all new regulations. The advisory board can also issue additional opinions before decision-making in the Council of Ministers, if changes are made to draft legislation following the review process. Unlike its predecessor ACTAL though, it no longer has a formal role in providing strategic advice on the broader better regulation policy process (OECD, 2020: 39). As mentioned before, for particular parts of the IAK quality control exists, but this is divided across a wide range of control institutions, without any strong hierarchical embedment or lead by a central regulatory oversight institution (Mijs and Schout, 2018). Particular ministries have been charged with scrutinizing specific quality requirements, once a proposal has been uploaded via a central digital tool (Toetsloket). For instance, the Ministry of Economic Affairs and the Ministry of Interior monitor regulatory burden, respectively from the perspective of the effects on business and the effects on citizens respectively (Mijs and Schout, 2015). Particular compulsory tests have also been developed by specific ministries. Noteworthy for instance is the mandatory application of the Standard Cost Model and the related manual (Manual for Measuring Regulatory Costs) produced by the Ministry of Economic Affairs and Climate Policy to conduct the Business Impact Assessment. As to capacity building, the responsibility is spread across different ministries as well. Interdepartmental working groups have been set up around particular tools, mainly with the intention to share best practice. An example is the Societal Cost-Benefit Analysis Group chaired by the Ministry of Finance. However, as the training provision in economics and policy evaluation is largely arranged by the individual ministries, there is no part in the government holding the responsibility for developing capacity building (OECD, 2020: 50). This is again symptomatic for the way how the regulatory design system is coordinated.

Positioning the regulatory meta-coordination mode in the Netherlands requires making a distinction between its formal and information approach. Formally speaking, individual ministries have the main ownership over the regulatory design process, and instrumentally rely on other sector ministries' input and quality checks of particular aspects of the regulatory design proposal. Officially, no clear weight is given to the different appraisal tools, and positive coordination tends to prevail. Informally though, the emphasis on regulatory burden assessment is important to highlight and is still prominent even after successive regulatory reform waves. From this angle, the Netherlands comes closest to the pole of prioritizing a particular tool, irrespective of the policy problem at stake.

## 6. Conclusion

Starting from the paradox that successive waves of reforms have jeopardized the functional coherence of better regulation as a horizontal policy, this contribution has highlighted the challenge of meta-design of different appraisal procedures and institutions. Indeed, among countries with a long tradition of regulatory management systems, there is an evident proliferation of diverse better regulation objectives pursued by oversight bodies with different mandates. In order to shed light on the institutional coordination design, we identified different theoretical scenarios, ranging from hierarchical coordination to *ad hoc*, extemporaneous coordination. This heuristic typology has been applied to analyze how in the UK and the Netherlands better regulation policy tools, procedures and institutions are coordinated. Our analysis revealed some major differences. With its dual priority of better regulation tools (CBA and business cost targets) the UK government lies closer to the hierarchical coordination extreme than the Dutch government. The latter traditionally tends to rely on positive modes of coordination, although informally the neoliberal goal of business deregulation still has a central position in the practices of the Dutch government. Besides these differences, the two governments display similarities in the use of performance metrics to reduce business compliance costs. Yet, whereas business impact targets are established through legislation in the UK, the pivotal role of the Standard Cost Model in the Netherlands is rather informal. Interestingly, neither of the countries seem to have developed a strategy of coordination in terms of problem solving, which would entail the deployment of particular appraisal tools and institutions depending on a specific issue at stake.

Our chapter should be seen as a first attempt to capture meta-regulatory design in practice. Follow-up studies would preferably consider horizontal coordination in a wider scope of countries, which went through different regulatory reform waves in different degrees. In the same vein, the research agenda can be widened by considering horizontal coordination across policy fields, which should reveal an even more complex coordination puzzle. A comprehensive research agenda ideally

also embarks on the connection between specific design scenarios and the actual policy choice and policy outputs, which can help us to better understand how coordination matters.

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