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Thinking ahead for Europe

PMR INDICATORS ON PROFESSIONAL SERVICES

APPRECIATION AND CRITICAL ASSESSMENT

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Contents



- PMRs: realise where we came from, then assess
- OECD's U-turn: from 'economic' to 'risk regulation'
- The "right" balance: justification & proportionality
- Does 'restrictiveness' catch all regulatory issues?
- **Six routes to deepen understanding:** refining PMRs, better identifying market failures, studying processes of competition, case-studies of lobbying, cost/benefits analysis, does 'digitalisation' change proportionality?
- OECD 2018 PMRs in professional services
- What does the OECD 'laboratory function' tell us?
- Conclusions



PMRs [and their architects] deserve praise

- PMRs have transformed debates on regulation (since 1998), for PMRs on prof. services regulation (say, since 2008)
- Because regulation, surely that on prof. services, is complex, greatly advantages professions in reform debates
- With serious asymmetries of information, and given such complexity, reforms are ill-understood and easily pre-empted or toppled by the professionals
- Worse, lobbying prompted ‘fractionalisation’ & ‘ratcheting up’ over time
- PMRs >> ‘staccato’ summary, with quantitative proxies
- Advantages : (i) greatly reduces asymmetries of info; (ii) comparison (between countries) & quantification



From 'economic' to 'risk regulation': not quite the same thing

4

- initial PMRs were on 'economic' regulation, a funny term for regulation NOT economically justified
- But OECD Member States and economists quickly shifted to 'risk regulation', i.e. about market failures
- Right: Nicoletti et al. have shown with the(ir) PMRs that 'economic' regulation was on the way out
- Risk regulation cannot be on the way out, as many market failures (in goods & services markets) are permanent
- Market failures are about 'societal risks' : SHEIC
- SHEIC = safety, health, environment, investor/saver & consumer protection



RISK REGULATION, about 'balance'

- Whereas in economic regulation, “less” is better, in risk regulation it all depends
- Overcoming market failures (usually) requires regulation, BUT subject to (A) a suitability rule (i.e. relevant [for the market failures] and effective), (B) proportionality (‘no more than necessary’).
- Hence, a question of ‘balance’
- much more challenging to ‘catch’ in PMRs
- some ‘restrictiveness’ of such regulation is a conditio-sine-qua-non for addressing market failure
- such PMRs must be non-zero and differ (sectorally)



Market failures & strict regulation



- professional services are often ‘credence goods’ due to extreme asymmetries of information, hence, market failures might include the following
- (a) consumer & customer protection, esp.
 - [i] sound and reliable conditions for ‘trust’ in the capabilities of professional service providers
 - [ii] the ‘integrity’ of these providers (incl. conflict-of-interest issues)
- (b) health & safety of recipients of these services [e.g. medical, para-medical, pharmaceutical, engineering and architects]
- (c) investor protection (accounting & auditing)
- Some ‘failures’ might be addressed with clear and specific, verifiable regulatory objectives [esp. (b)]
- Other such market failures leave some scope for distinct governance and regulation approaches, so what is ‘suitable’, proportional, effective, or ‘strict’ is less obvious



6 routes to deepen analysis



- 1. improving/refining **PMRs** (incl. EU PRO-SERV indicator)
 - 2. identifying **market failures** more precisely
 - 3. studying the processes of **competition** in professional services markets [today's workshop]
 - 4. analysing typical **lobbying** approaches (and cases of success and failure) in professional services
 - 5. **cost/benefit** analysis
 - 6. does '**digitalisation**' impact on proportionality?
- I shall deal with (1), briefly, but especially (2) and (4) deserve more attention. Item (6), see recent Prometeia report and next session



Improving/ refining PMRs



- revision of PMR indicator of 20 yrs before, also prompted a revision for professional services (10 yrs)
- explained by success, by sharp criticism from lobbies, by OECD MS and by the EU initiative to publish a new much richer indicator Pro-Serv
- This 2018 revised PMR for professional services is not fundamentally different
- nonetheless it is richer, has greater coverage and is more sophisticated, and no longer fully comparable with the old one



Some new PMR specifications

- Estate agents added
- Notaries separate from lawyers
- Auditors no longer included with accountants
- Reserved activities, now also with title protection
- No. of licenses; national or regional validity
- Share-holding requirements
- Econ. Needs test dropped (and quotas)
- Local exam required
- MRAs with other countries, recognition

Note: for EU countries, 'reserved activities' apply to 72 % of relevant professionals, another 11 % with title protection, so it matters a great deal; so how much weight?

Comparing 6 PMRs of professions

- **Accountants** >> from 0 to (almost) 5 which is very high indeed [mix-up of accountancy and auditing?]
- **Architects** >> from just-above 0 to 3 ½
- **Civil Engineers** >> from 0 to 3.2
- **Real estate agents** >> from 0 to 3 ½
- **Lawyers** >> from 1 to 4 ½ (average 3.2)
- **Notaries** >> from 3.3 to 5.6 (!) [in 10 OECD countries notaries do not exist as an independent profession, e.g. with lawyers]
- Unless one finds market failures (in low PMR countries), these discrepancies suggest disproportionality

some further notes

- A number of 'zero' scores are the result of forms of regulation or inspection of the **deliverables**, rather than **ex ante** for the profession [ex. Scandinavian] itself
- Hence, less on entry and more on exercise/conduct
- Possibly, this might be incorporated into the PMRs but in any event it must be understood before casting judgments
- When using the 2017 EU PMR indicator for these cases, it clearly shows that regulatory constraints are applied on exercise; in some British cases of other professions, as well



OECD's & EU's laboratory function 12

- The OECD's interest in reforms and the pursuit of higher productivity growth is driving the PMR work
- As noted, one finds a puzzling heterogeneity between OECD countries and beyond, what does this really mean for firm reform recommendations?
- Should PMRs be decisive for reform conclusions ?
- The EU has attempted to exploit the 'proportionality' requirement, for professional service regulation of Member States
- A special directive has been enacted !
- Results are painfully disappointing; 'tests' are soft and many MS seem incapable of rigorous tests



EU's laboratory function, works or fails?

13

- Criteria such as 'justification' (economic rationale, market failure) and 'proportionality' are badly done by MS; directly challenged by EU's **great diversity**
- Regulating tourist guides when half the EU sees no need? Very restrictive craft regulation when other MS only stick to relevant education/qualification?
- Bridal photographers and chimney sweepers (or barmen in Portugal !) do not lead to barriers; others do
- How can Latvia justify some 70 types of engineers? How can Hungary defend having over 550 regulated professions as against less than 100 elsewhere?



Some conclusions

- PMRs in professional services proven useful
- Our understanding has been helped by PMRs
- Best be complemented with ‘proportionality test’
- But...EU experience with ‘proportionality’ very soft
- Also requires sharp articulation of ‘market failures’
- Difficult to articulate market failures sharply
- disproportional reservations exposed by digital
- Would (at times) a ‘regulator’ or co-regulation be superior, if PMRs are very high ?

THANK YOU

