



*“Smart governance of the internal  
market for businesses:  
the issue of gold-plating”*

Seminar “Gold-Plating”  
BUSINESSEUROPE

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14h30 – 17h00

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# Outline

- ▶ Burdens to the business sector
  - ▶ What is gold-plating: definitions and descriptions?
  - ▶ Who is to blame?
  - ▶ Reasons of gold-plating
  - ▶ Indicative case studies
  - ▶ A policy agenda
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# Burdens to the business sector

Two dimensions of classification:

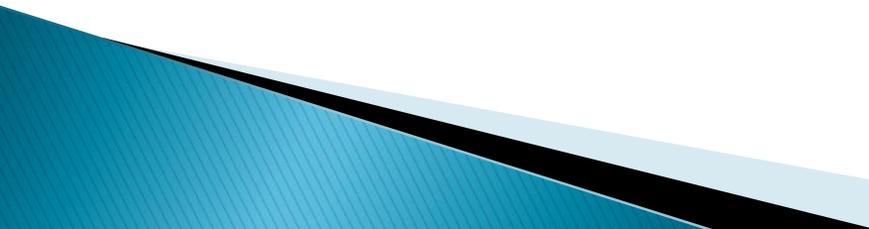
- ▶ Justified (nobody objects)  
or unjustified (who defines the criteria?)
- ▶ At the EU – national – regional – local level  
(who is entitled to act? RIFIT for the EU, national and regional regulatory boards)

**The real problem:  
what happens with burdens created in  
intersections**

# What is gold-plating

- ▶ Gold-plating is known as over-regulation when transposing an EU Directive.
  - ▶ In the EU context 'gold-plating' refers to transposition of EU legislation, which goes beyond what is required by that legislation, while staying within legality.
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# What is gold-plating (Business Europe)

- ▶ Extending the scope of the Directive and adding regulatory requirements beyond what is required by the Directive in question.
  - ▶ Not taking (full) advantage of any derogation.
  - ▶ Retaining national regulatory requirements that are more comprehensive than is required by the Directive in question.
  - ▶ Using implementation of a Directive as a way to introduce national regulatory requirements that actually fall outside the aim of the Directive.
  - ▶ Implementing the requirements of the Directive earlier than the date specified in the Directive.
  - ▶ Applying stricter sanctions or other enforcement mechanisms than are necessary to implement the legislation correctly
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# Who is to blame?

By definition gold-plating appears at the transposition of a directive.

However:

- ▶ National policy makers tend to shift responsibility to the EU
- ▶ The business sector faces additional burdens emerging from some internal interventions; they are considered also as gold-plating (applications, opinions at EU level)
- ▶ The business sector also faces significant problems at the implementation level (eager civil servants misinterpreting the transposition not the Directive)

# What is gold-plating

- ▶ There is over-regulation during the transposition of an EU Directive into national law,
  - ▶ which is not justified by local circumstances and
  - ▶ triggers additional costs (directly or via additional bureaucratic burdens) for the business sector.
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# Potential costs of gold-plating

- ▶ Additional charges on business (time/money to get products licensed)
  - ▶ Onerous record keeping (data protection rules)
  - ▶ Unnecessary bureaucracy (hampering e-commerce: complex and diverse rules on sales, promotions, labelling and web content hamper e-commerce).
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*No definition is perfect  
but  
we need an agreement  
to work with*



# Reasons of gold-plating

1. *Diversity*: EU Directives create an opportunity to address specific policy topics.
  2. *Inertia*: Often EU directives are voted after similar legislation is voted in one or more member states.
  3. *Conservatism*: Policy makers appear sometimes over-cautious, when they are unaware of transposition details.
  4. *Protection*: In some cases gold-plating takes place as a substitute for protection of national businesses or specific interest groups.
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# Indicative cases

Country	Directive
Sweden	Council Directive 95/16/EC of 29 June 1995 on the approximation of the laws of the Member States relating to lifts establishes European legal requirements for the design, installation and placing on the market of new lifts.
UK	Council Directive 98/23/EC of 7 April 1998 on the extension of Directive 97/81/EC on the framework agreement on part-time work
UK	Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering.
UK	Directive 2001/45/EC of the European Parliament and of the Council of 27 June 2001 amending Council Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at height.
UK	Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work.
UK	Insurance Mediation Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation
UK	Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work
UK	Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 (Working Time Directive)
France	Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.
Denmark	Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)
Denmark	Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances – called the Seveso directive
UK	Tobacco Directive
Netherlands	Eleventh Company Law Directive
France	Product Liability Directive

# A policy agenda

What can the EU do

- ▶ A radical change in limiting the degrees of freedom of the Member States (adopt Regulations and Maximum harmonisation Directives only)
- ▶ Soft Law: opinions, recommendations, monitoring, Open Method of Coordination
- ▶ Specific tools: “comply or explain”, Scoreboard
- ▶ Awareness Raising and capacity building

# A policy agenda

At the national level:

- ▶ Strategy of transposition with minimum requirements
- ▶ Mandatory Impact Assessments
- ▶ Awareness Raising and capacity building

# A policy agenda

## Stakeholders:

- ▶ Complementing lacking Impact Assessments (costly)
  - ▶ Involving the EU Institutions (is it wise?)
  - ▶ Prizes/reward of best transpositions (is this wise?)
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Thank you for your attention

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