

**REGULATORY COMPETITION IN THE SINGLE EUROPEAN MARKET:
RE-THINKING THE 'MARKET FOR REGULATIONS'**

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By

Henri Tjong

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Abstract

This paper analyzes the phenomenon of regulatory competition with a view to ascertaining its role in the European integration process. Regulatory competition has been seen as a serious strategy to achieve policy integration. If, analogous to a market for public goods a market for regulation can be said to exist, there would *a priori* be no reasons for excluding that competition could function as a discovery procedure. By allowing for experimentation, competition would thus bring invaluable opportunities for learning and innovation in policy making. Moreover, provided a regulatory market exists, it would in principle be possible to arrive at a optimum in regulation which would better reflect the preferences of constituents. The paper challenges the conventional wisdom of this argument. It scrutinizes the various mechanisms of regulatory arbitrage and develops a theoretical framework in which the differences of regulatory competition can be compared to market mechanisms. Application of the theoretical framework is sought in the areas of corporate law and securities regulation. The case studies agree with the theoretical prediction that regulation cannot be likened to a regular product for which competition can be used to award the producer with the best product. The paper therefore concludes that a market for regulations does not exist. Consequently, regulatory competition in the strict sense cannot be used as a justification for decentralization. Moreover, mutual recognition cannot be expected to induce spontaneous convergence toward the most beneficial legal regime. This leads the author to conclude that competition among rules should not be considered a serious policy strategy for achieving European integration.

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