

REGULATION VS DE-REGULATION: WHICH ROUTE FOR EUROPE'S LABOUR MARKET?

- It is often argued that regulation of the labour market is a major cause of high unemployment throughout much of the European Union.
- The case for de-regulation rests on the belief that regulation in broad terms employment protection and minimum wage legislation, plus support for collective action by workers – renders labour markets less flexible and less adaptable.
- This *Economic Report*, by David Marsden of the London School of Economics, assesses the merits of de-regulation.
- The report finds that while regulation may indeed harm employment prospects in some segments of the market it can improve matters in those segments where 'co-operative exchange' is important for cementing productivity enhancing relations between employers and employees.
- The report concludes that it will be important for EU countries to make the right choice of labour market regulation. In particular, if co-operative exchange is to be sustained within the European Single Market it will be necessary to encourage 'social dialogue' between firms and workers.

Introduction

It is widely argued that one of the main causes of the current high levels of persistent unemployment, especially in the European Union, lies in excessive regulation of labour markets. Much of the debate about labour market regulation is made unduly confusing because the main arguments and policies proposed are more relevant to some sections of the labour force than to others. To help cut through the confusion, I propose to divide the active labour force into three main groups, roughly according to their level of pay. The first consists of a low wage, and mostly low skill and low productivity, section; the second of skilled blue collar and junior professional workers on middle pay levels; and the third, of managerial and higher professional workers on higher incomes. Indeed, this might be illustrated by a rather simplified diagram, dividing the labour force into three levels, A to C (Figure 1).

Figure 1: Three broad, schematic, 'sections' of the labour market



All three sections are relevant to the jobs debate:

Section A concerns employment of low productivity, low skilled workers. Section B is often thought of as the critical section of the labour force (skilled and professional) because its productivity, quality, skills, and innovation are the key to firms' international competitiveness, and thus to jobs overall in the economy. In section C, that of managerial and higher professional groups, incentives may be important to encourage initiative and risk-taking.

There is inevitably some over-simplification in this picture. For example, for some groups low pay is the result of discrimination rather than low skill, and many groups may span two sections. However, the primary aim is to classify the employment effects of the 'de-regulation' and 'regulation' approaches.

This *Economic Report* therefore tries to assess the implications of deregulation for incentives for each group. It also contrasts the individualistic approach to incentives of the 'deregulation school' with the problems of promoting cooperative work relations and information sharing. A contrast is drawn between the British and German/Dutch models, arguing that the latter achieve better co-operation in the workplace, and that both have more flexibility to respond to economic shocks than is widely supposed by the 'deregulators'. Nevertheless, not all labour market regulations are good for jobs in either the short or the long run, and a framework is needed in which change can be discussed and agreed.

The arguments for deregulation

The impact on low paid workers

A great many of the unemployed lack vocational training and skills¹ and are especially vulnerable to being priced out of work by minimum wages, or collective agreements, which set pay at too high a level for them to be attractive to employers. Workers at any level of skill can price themselves out of work, but the problem is more acute for the low-skilled. Employers can more easily find ready substitutes for their labour as the unskilled tasks can more easily be reallocated to skilled workers than the reverse, and it is easier to substitute machines for simple tasks than those requiring judgement and discretion.

Apart from low-skilled workers, many low paid workers are young and receiving some kind of training, often largely at the employer's expense. Such training is costly: even 'sitting by Nelly' will distract Nelly from her own work while she instructs a new recruit. Thus the employment cost of trainces usually well exceeds their earnings, especially early on. For skills which are easily transferable to other firms, employers face the risk of losing their investment should the trainee leave. According to Becker,² firms will be more ready to provide such transferable training the more trainees share the cost, which is normally in the form of a low rate of pay, such as that of apprentices. However, the more costly training is to employers making them less willing to hire school leavers and other trainees.

Restrictions on firms' ability to lay-off workers may also discourage them from hiring. This argument is of greatest relevance to the lower paid since it is among them that jobs tend to be of shortest duration. Many lower paid jobs emerge in response to transient demand, and do not involve large investments in skill development. Firms looking for short-term labour to deal with fluctuating markets often take on less-skilled workers on a short-term basis, but on the expectation that they can lay them off later. Such shortterm jobs have often been used by young people moving between school and permanent work.^{3, 4} But restrictions on lay-offs and on temporary work could close off this area of employment.

During the 1980s, the United States and Britain led the way in developing employment at the lower end of the earnings distribution. Although this appears to have been the result of de-regulatory policies, it raises a number of questions. The jobs are mostly low productivity ones, and although they can be of value to many on a temporary basis, and arguably are preferable to the stigma of unemployment, they do not offer a solution for anyone on a long-term basis. The emergence of a group of 'working poor', that is people in work but unable to earn enough to escape conditions of poverty, now recognised in the US, cannot be an acceptable solution.

The impact on the overall competitiveness of the economy of deregulation at this end of the market is likely to be indirect and fairly small. Most low-paid jobs are not in the internationally traded sectors, with the possible exception of tourism, and only indirectly affect the input costs of traded sectors. Thus, while policies to remove or reduce restrictions on minimum pay rates and on lay-offs may help boost jobs, the overall contribution to material prosperity and economic growth will be fairly small.

The impact on the skilled workforce

The impact of labour market deregulatory policies on raising productivity among the middle group of workers is less clear and more indirect. Most are not directly affected by changes in minimum wages. Usually, employers hire such workers on a fairly long-term basis, so legal or agreed restrictions on lay-offs are less relevant. Indeed, even without restrictions, lay-offs can be costly to employers siace the announcement of impending job cuts is likely to create uncertainty, damage morale, and encourage those with the best external job prospects to leave.

The main effect of deregulatory policies is likely to come with measures designed to reduce the power of organised workers to resist management attempts to raise productivity by reorganising work or introducing new equipment. Although unions clearly provide a focus of bargaining, and a vehicle for discussing change with management, it is not so obvious that unions greatly increase their bargaining power. Such workers already have a good deal of individual bargaining power by virtue of their power to resign and get a job elsewhere. The employer then has the expense of finding a replacement. For workers with transferable skills, such as craft and professional skills which are widely recognised by other employers, outside job prospects are mostly fairly good. For those with firm specific skills, built upon long experience, the cost of leaving may be higher for them than for those with craft and professional skills, but the employer's difficulty of finding a replacement is also greater. The cost of replacing leavers also diminishes employers' power to threaten workers with dismissal for disciplinary reasons. A number of sociological studies, such as those of Crozier,⁵ testify to the considerable bargaining power of small groups within organisations even where formal union organisation is extremely weak.

For these reasons, it was perhaps not surprising that Brown and Wadhwani⁶ found that Mrs Thatcher's trade union legislation had relatively little effect upon productivity. Much more important had been the dire commercial straits of many large, unionised firms and the recognition by both workers and management that fundamental changes were needed simply in order to survive, as occurred in the car industry during the early 1980s.⁷ The most significant change, which lay outside the labour market, was probably the government making it clear that it would no longer act as 'employer of last resort'.

The impact on higher paid professionals and managers

In the 1970s earnings inequalities declined in many western European countries, partly as a result of union bargaining policies, and partly, government income policies. In Britain and Italy, and to a lesser extent France, such policies limited the freedom of firms to reward their managerial and higher professional staff, and so it was widely argued that incentives suffered. Apart from any effect on higher paid workers themselves, it can be argued that their high pay helps motivate those who are still seeking promotion, and who thus hope to become high paid in the future. By stimulating competition among less senior managers, they are encouraged to take initiative and to assume responsibility for their decisions, rather than opt for a quiet life.

Government deregulatory policies may not have a great deal of direct influence on remuneration policies of private firms, but they may use a number of signals. Reducing marginal tax rates on higher salaries makes higher pay worth more to those getting it. Changing employment contracts of public service managers and raising their pay is another signal.

A low wage sector 'pour encourager les autres'?

A final effect of deregulatory policies could be to increase the cost to workers of losing good jobs. If the pay of the least skilled jobs is allowed to fall, then the potential cost of losing a well-paid job is increased. This could strengthen the sanctions employers have over dissident or less co-operative workers. Thus a low wage sector could have the effect of encouraging higher paid workers to be more compliant.

The essence of the deregulatory case hinges largely on incentives for workers, and on costs to employers. The general evidence available suggests that employers' hiring decisions are sensitive to relative wage levels, particularly for categories of lower paid workers such as women, young and unskilled workers. In contrast, measuring the productivity effects of wage incentives is very difficult, and although the arguments are plausible, good evidence is hard to come by, and controversial.

Deregulation and co-operative work relations

Co-operation and productivity within the skilled group

The middle section of the labour force is the most important one for the achievement of international competitiveness and long-run employment levels. The efficiency with which it works, the quality of skills applied, and the general quality of the work done are critical to the production of goods and services which can be traded internationally, and which can hold their ground in domestic markets that are increasingly open to international trade. Success in this area can then generate the incomes to pay for locally based economic activities.

Co-operative exchange between skilled and professional workers and their employers is critical to achieving high productivity levels and good quality output. Two elements in particular stand out: flexible working, and effective information sharing. Both contribute to high levels of resource utilisation, and the latter especially to continuous incremental improvement. It is almost a truism that rigid working patterns make it hard for firms to use resources efficiently. Product market pressures are ever changing, and require continuous adaptation from firms. If they cannot redeploy staff to meet new and varying needs, the only way they can meet variable sales demands is by hiring more labour than they need for most of the time. Job demarcations have their justification: qualified and properly trained people are needed to undertake particular jobs. But there are often pieces of related work, bits of preventive maintenance and minor trouble-shooting, for example, which can be done by others provided they are given some basic instruction.

Effective information sharing between groups of workers, and between workers and management has also been shown to be central to achieving continuous improvement and innovation.⁸ Bits of information gleaned from contact with customers can give vital leads to product improvement. Gaining an overview of the whole process of production or service provision can reveal weaknesses in the organisation which make providing a reliable and good quality service difficult to sustain.

Nevertheless, because both flexible working and information sharing are essential ingredients in power relations among groups in all organisations, they are hard to achieve in practice. They depend upon co-operative exchange, and thus on the ability of the different groups involved to trust each other. In entering a co-operative relationship one is usually exposing oneself to possible exploitation by others. For example, the skilled workers who teach their semiskilled colleagues how to do some preventive maintenance, share knowledge which they might otherwise use to protect themselves against possible job cuts. Indeed, many skilled and professional job demarcations originally developed in order to protect workers' job opportunities. The skilled workers in this example expose themselves to possible exploitation by both the semi-skilled and management by adopting a co-operative stance. Equally, management might offer great employment security in return for job flexibility.

It might demonstrate its good faith by not laying people off in a recession, whereas the workers' offer of job flexibility might not be tested until the upswing.

In the past, management has been able to minimise the need for co-operative exchange in the workplace by using Taylorist patterns of work organisation, with narrowly defined jobs, tight management control and little individual discretion. In practice, it did not avoid the problems of small group power relations. Because it cannot predict all eventualities and organise for them, inevitably unforeseen circumstances arise which create bottlenecks in the flow of resources within the organisation. These then become a source of power for the small groups which control information and the flow of resources at these points. Again, Crozier's study⁵ of the problems of bureaucratic management control highlights many examples. Management often responds to these problems by issuing new instructions or rules, which themselves become new sources of organisational rigidity: Crozier's 'vicious circle' of bureaucracy. Dissatisfaction with boring jobs has also contributed to poor worker motivation in this kind of model.

More recently, the emergence of 'lean production' in manufacturing, and its equivalent forms in the services have achieved greater levels of efficiency as compared with the older 'mass production' management methods.⁹ By eliminating buffer stocks, firms with lean production have developed a powerful means of searching out organisational inefficiencies, but they have also placed a premium on cooperative exchange. Information sharing about potential improvements is at the heart of this process. Equally, by removing buffer stocks, the power of discontented workers to disrupt production is greatly enhanced.

What conditions are necessary for co-operative exchange to occur? The biggest obstacle referred to earlier was the fear that the other party would not reciprocate and would seek to take advantage of the first party's co-operative stance by grasping all the fruits for itself. Recent work in game theory suggests that it is very difficult to achieve mutual cooperation without the presence of trust, which we might define here as a mutual expectation of co-operative behaviour, and without some social or institutional framework to sustain that trust. This is where the problem of deregulation emerges.

It is hard to achieve a co-operative outcome among individual groups unless there is some higher level institution to police grievances, and to prevent small group power relations from degenerating into a kind of guerilla war within the firm. Such institutions provide a degree of countervailing power to underwrite co-operation with management. They also provide a means of prioritising the claims among different groups of workers, deciding which should be pursued, and in which cases groups were just being opportunistic. In Britain, Brown's10 study of piecework bargaining showed shop stewards playing just this role. In Germany and the Netherlands, works councils play a central role in the same process. However, the more encompassing nature of works councils, representing practically all the employees in a given firm enables them to take a broader view of the problems of co-operation, and at the same time, the legal status of their election helps to protect individual works councillors from being too strongly identified with particular work groups.

Apart from sanctions against possible non-co-operative action, the institutional framework provides a means of communication. Because the pressures on firms are constantly changing, and as a result, so are management's demands of its workforce, reciprocity cannot always be guaranteed. Both sides know this, but there is a problem of recognising genuine cases of 'force majeure'. These can really only be judged when there is regular and open communication among the different groups and management.

Multi-employer organisations and industry-wide unions also have a role to play in underwriting enterprise level cooperation. Should co-operation break down at the enterprise level because one party seeks to exploit the other, then the higher level organisation provides additional support. The possibility of escalating the conflict can deter some attempts by one party to exploit the other, and the costs of such conflict encourage both industry level organisations to develop effective means of policing their own sides.

Wage incentives and co-operation

It is notable in the countries in which co-operative exchange has developed most fully in the workplace that occupational wage differentials tend to be somewhat smaller than in countries where this is not the case. This suggests that wage incentives may work in a different way in the two kinds of environment.

If one thinks of organisations with a strong management role, and a heavy emphasis on individual managers' responsibility, then it seems reasonable that high wage incentives could induce better performance. However, the essence of more co-operative structures is that the managerial role is more diffused among a larger number of people who take responsibility. A striking illustration of this is that the highly trained and qualified skilled workers, and middle managers, in Germany should enjoy a smaller differential over semiskilled workers than their counterparts in France whose training is less good, and whose relative skill advantage is smaller. The greater diffusion of authority, and the greater responsibility assumed by skilled workers in German firms contrasts with the concentration of decision-making within the managerial hierarchy in French firms.¹¹ Similarly, in Japanese firms, where management authority is widely diffused among jobs, and decision-making is of a more consensual nature than in many western firms, there is less focus on management rewards as a key to motivation and performance.^{12, 13} There are, of course, major differences between the organisation of German and Japanese firms, but in both cases, the greater use of co-operative exchange implies more information sharing, and that in turn implies a lesser role for managers as key individuals. Not only may the co-operative model not require such large pay differentials, but it is likely that they would be harmful as they imply a concentration of rewards on key individuals.

A second influence on rewards associated with the cooperative model arises from the role of encompassing representative organisations. Dutch and German works councils, and Dutch, German and Swedish industry unions belong to this category as they generally represent all the workers in their respective constituencies. Japanese enterprise unions play a similar role in their firms. Such organisations have an inherent tendency to promote reduced pay inequalities among their members. The reason is that their more powerful members could usually do better by going it alone, so that in terms of their own selfish group interest they are getting a bad deal. Hence the need for some moral or ideological goal to motivate them, such as wage solidarity or greater equality.

Thus, policies designed to promote greater wage inequalities in order to increase incentives for individuals could be counter-productive if, at the same time, they undermine the basis for co-operation.

Is regulated co-operation in Germany really less flexible than the deregulated UK?

It is worth contrasting some features of more regulated systems with those of some of the more deregulated ones, and focusing the contrast around Germany and Britain. A number of features of co-operative work relations would appear, at first sight, to inhibit swift economic adjustment. A rapid look at the experience of some of the countries known to have more co-operative systems in comparison with those with more 'deregulated' systems suggests that the appearance may be deceptive.

Long job tenures could be regarded as a sign that firms are slow to adjust employment to changes in output, and thus that they face formal and informal obstacles. A recent survey of job tenures across several economies in about 1990 showed that Germany and Japan had among the highest, with approximately 60 per cent of workers with five or more years tenure. In contrast, the equivalent figures for the UK and the US were respectively 45 per cent and 38 per cent.14 On the other hand, estimates for the 1980s of the short-run sensitivity of employment levels to changes in output for Germany were similar and if anything slightly greater than for the UK. In Japan, employment was a bit less sensitive, although in the US it was about twice as sensitive as in the other three countries.¹⁵ Thus, a greater degree of employment security does not necessarily prevent firms from making employment adjustments when needed.

It is often suggested that industry-wide bargaining which sets minimum rates of pay for different grades of skill across a whole industry prevents individual firms from adjusting to market pressures. Thus, encouraging enterprise bargaining and discouraging industry-wide bargaining has been a part of the deregulation agenda. Nevertheless, German industry bargaining in fact offers a good deal of pay flexibility at enterprise level. While some firms pay just about the minimum, others might pay as much as 40 per cent above as a result of negotiations between company management and works councils.^{16, 17} Employer representatives at the industry level know that there will be further negotiations at company level, and allow for this in calculating what concessions to make.

One considerable advantage the articulated system of bargaining has in Germany is that industry unions know they will have to live with the macroeconomic consequences of the pay settlements they reach, and so have a strong incentive to pay moderation. Because the works councils and company management have, by law, to reach agreement within the framework set at the industry level, there is little danger of 'leap-frogging' of the kind that has bedevilled local bargaining in the UK.

A third example is the quasi veto power vested in German works councils over a whole range of employment-related issues. Employers and works councils are obliged to reach agreement on a wide range of questions such as training, redundancies and redeployment of staff. There is also a considerable spill-over effect from these issues. Although a works council could not legally threaten to block a redundancy plan until it obtained satisfaction on, say, new patterns of work organisation, management knows the works council can make its life more difficult or easier depending on its attitude to the questions which are important to the works council. Although some works councils may have used their veto powers to gain advantages on related issues, reports such as that of the 1970 parliamentary commission chaired by the Christian Democrat senator, Biedenkopf, found that in general, the powers of co-determination were used co-operatively.

In addition, the powers given to workers through their works councils have generally meant that skilled workers, unlike their British and US counterparts have not had to rely upon skill demarcations and seniority rules to defend their skills.¹⁸

A fourth illustration that regulation need not conflict with high productivity concerns vocational training. In Germany, trainee and apprentice allowances are fixed in industry agreements, the employment status of apprentices is strictly maintained, and training is undertaken according to industry-wide standards, and not according to the requirements of individual enterprises. This would seem to be a recipe for a high cost and inflexible training system causing employers to cut their training intakes. Yet, generally, German employers have proved more willing to pay for the training of large numbers of apprentices than their British counterparts. Marsden and Ryan¹⁹ argue this is because the industry-wide and firm level structures facilitate wider acceptance of cost-sharing between workers and employers, with trainees contributing to the cost of their training by means of low traince allowances. In a low-trust environment, such trainees are always a potential threat to the status of skilled workers, especially in the latter years of their apprenticeship when they can undertake a good deal of skilled work. Similarly, because apprenticeship-based skills are transferable among firms, employers always face the risk that others will poach their expensively trained workers. The strong powers of German works councils over training provide a good deal of protection against trainees being used as cheap substitutes for skilled workers, and the broadly based membership of industry employer organisations and local chambers of industry and commerce provide powerful channels for peer group pressures against employers who do not train.

Thus, what at first sight looks like a cumbersome regulatory apparatus in fact provides the basis for a strong, high quality, training system. Because individual workers gain a good deal of protection from this they do not need to develop rules which restrict job flexibility of the kind found in British, French or US firms.

Finally, the weakening of workers' collective institutions in Britain, and the encouragement of a more enterprise focused system of employee relations does not appear to have generated greater identification with the goals of the enterprise. A recent review of the effects of a number of new management practices on workers' attitudes in Britain showed they did little to reduce 'them and us' attitudes.²⁰ The deregulatory environment in the UK, on this evidence, appears to have done little to increase trust and co-operative exchange, but then the deregulatory path relies on a different set of incentives.

Conclusions

Often, apparently co-operative industrial relations may conceal a low level of trust, with little information sharing and little flexibility. Management and workers avoid the critical changes needed to raise performance because of entrenched positions: they adopt a policy of 'live and let live'. This is bad for the competitiveness of the firms involved, and bad for jobs as a whole as these firms are not generating the spending power needed to support other activities.

Should reform proceed by means of policies to deregulate labour markets, or seek ways of changing 'live and let live' relations into co-operative exchange? It has been argued so far that the deregulatory path would be unlikely to transform relations towards more co-operative exchange. An alternative set of policies includes increasing product market competition, and broadening access to jobs.

Although the British car industry still lags behind its German counterpart, the changes since the late 1970s owe much to increased product market competition. During the 1970s, its industrial relations bore many resemblances with a 'live and let live' trench warfare. Relations often looked peaceful, but this was because management did not feel able to introduce productivity enhancing measures, and so let relative performance levels drift downwards compared with those of plants in other major car producing countries.

By the late 1970s, erosion of domestic market shares and loss of export markets left the British-based producers in a very weak position. Increased competition from UK entry into the EEC, and from the rise of the Japanese car producers forced the UK-based management to press for change. Equally, on the employee side, realisation that firms as large, and as important to their local economies, as the former *British Leyland* (BL) could go out of business began to change attitudes on the employee side.⁷ Similar pressures lay behind the wave of flexibility agreements in the early to middle 1980s.

Looking at the economy more generally, Brown and Wadhwani⁶ concluded their analysis of the impact of 1980s industrial relations laws on productivity with the observation that product market changes had been the most important factor.

The second policy, broadening access to jobs, concerns training and skills. Because of the egalitarian bias of cooperative systems, training programmes are also needed to enable the unskilled to share in the fruits of economic progress.

In so far as commercial success in world markets now seems likely to depend more on co-operative exchange, it is important for European countries to make the right choice for labour market regulation. Deregulation and reinforced management control would seem to be a recipe for lower productivity and more inegalitarian societies. Co-operative exchange has much to recommend it, but it does depend upon trust relations. These are vulnerable in periods of major economic change, and depend heavily upon employer and worker representatives pursuing consistent policies which will sustain each others' expectations of mutual cooperation.

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