

How does Better Regulation shape EU health policy?

A case study of unhealthy advertising regulation



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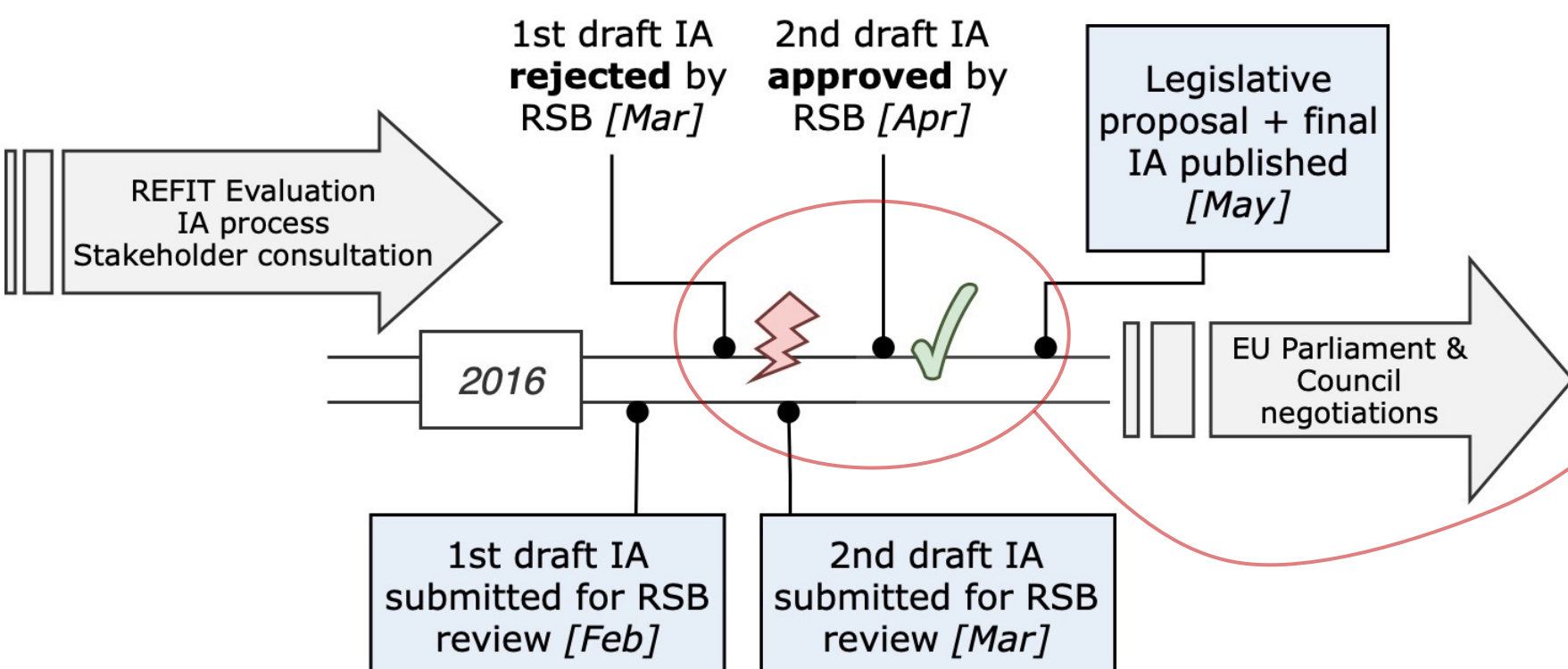
The revision of the Audiovisual Media Services Directive – a missed opportunity for public health

- The EU has the **power to regulate cross-border marketing** on audiovisual platforms, presenting an opportunity for public health
- The 2015-2018 revision of the Directive (AVMSD, Box 1) provided a **window to introduce stronger rules to reduce children's exposure to unhealthy advertising** (alcohol / high fat, salt & sugar foods)
- Despite significant pressure from the public health community & evidence in favour, the revision **failed to meaningfully strengthen advertising rules**
- Strong opposition to tighter rules primarily from alcohol & food producers, advertisers, & broadcasters

Spotlight on the process: how was this opportunity missed?

We adopt a lens that focuses on **the policy process** & the Better Regulation agenda that governs it (Box 2) to help explain the outcome.

Initial analysis shows that **stronger restrictions for alcohol advertising were on the table** early in the process (e.g., via watershed or technical measure); this changed during a revision of the impact assessment (IA, see below) – this step in the process is the focus of our analysis.

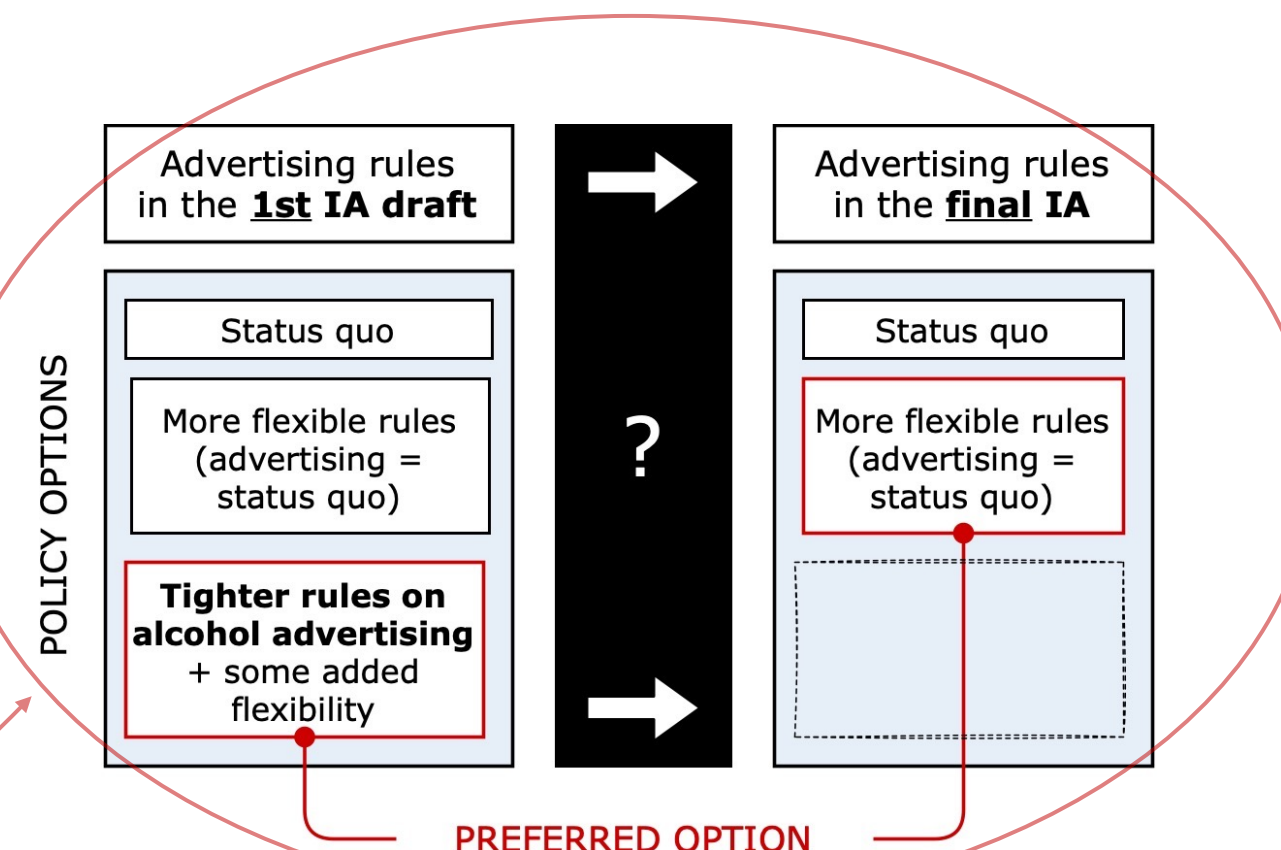


Box 1. The Audiovisual Media Services Directive

- Regulates audiovisual media services (TV, online & on-demand) across the EU
- Original directive adopted in 2007; **revised directive adopted in 2018**
- Led by DC CNECT, health not a major focus
- Provisions on alcohol & unhealthy food advertising **focus on self- & co-regulation** to reduce exposure

Box 2. Impact assessment & the 'Better Regulation' agenda

- Better Regulation = **meta-regulation**¹ or the *rules that govern the rules* at the EU level
- Impact assessment** (IA): Key tool of Better Regulation – IA is required for all significant initiatives
- Quality control: all IAs are scrutinised by the **Regulatory Scrutiny Board** (RSB), an independent oversight body
- The RSB reviews each IA, making recommendations for improvement & issuing opinions (quasi-veto power)
- The precise role & impact of the RSB remains unclear



What happened to the IA for stricter advertising rules?

Research aim & question

Unpick the **black box** – which factors might explain the weakening of policy options throughout the AVMSD impact assessment process?

Methods

Analysis: Process tracing²; qualitative tracing of alternative causal mechanisms, using evidence 'fingerprints', to establish likelihood of contribution to outcome

Data: Policy documents, scoping interviews (n = 4), non-public documentation from Freedom of Information requests

Early findings

We identified five causal mechanisms that may have contributed to the outcome:

Mechanism 1: EU Commission endogenous change (e.g., reassessment of existing evidence)

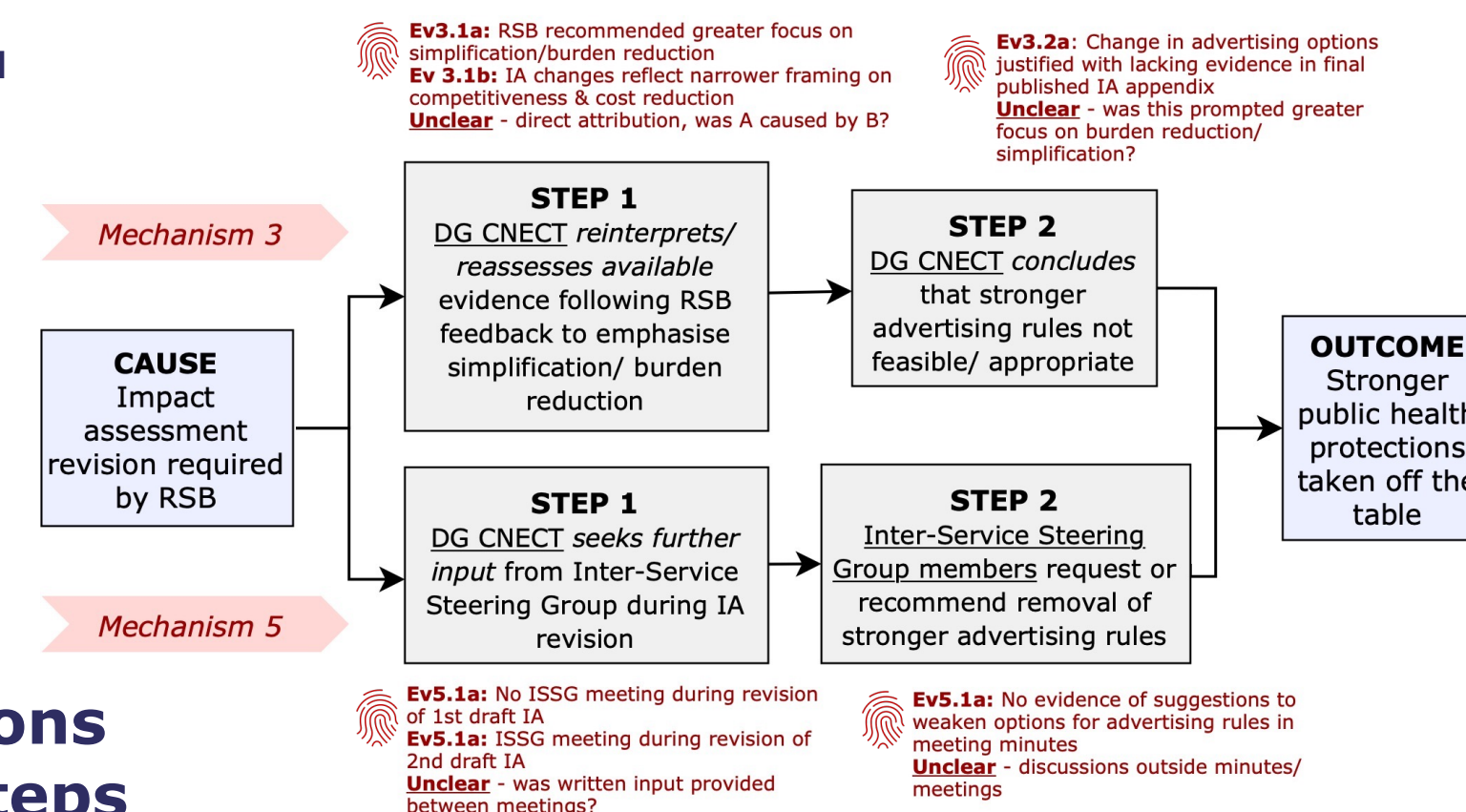
Mechanism 2: Response to new stakeholder input / pressure

Mechanism 3: Response to feedback from RSB

Mechanism 4: Response to changes in wider political context

Mechanism 5: Response to Inter-Service Steering Group pressure / suggestions

Example causal mechanisms & evidential fingerprints [3 & 5]:



Conclusions & next steps

- Substantive policy change, affecting public health, made in **black box** of IA process; RSB review likely contributor, ISSG likely less significant
- Awaiting further data (Freedom of Information requests; interviews) to establish role of stakeholder input & wider political priorities
- Public health actors need to be aware of political processes around IA & role of institutions like the RSB

References

- ¹ Morgan, B. (2003). The Economization of Politics: Meta-Regulation as a Form of Nonjudicial Legality. *Social & Legal Studies*, 12(4), 489–523.
² Beach, D. & Pedersen, R.B., 2019. *Process-tracing methods: Foundations and guidelines*. University of Michigan Press.
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Learn more about the Better Regulation for Better Health project



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