the **future** of law-making

Agenda

11th OECD Conference on Measuring Regulatory Performance

OSLO 13-14 JUNE 2019

OECD
BETTER POLICIES FOR BETTER LIVES

Norwegian Government Agency for
Financial Management

ℛR The Norwegian
Better Regulation Council

The future of law-making

Background

Regulation, alongside the ability to tax and spend are the key policy tools by which governments are able to make positive differences to the lives of their citizens and improve social welfare. With this in mind, the *OECD Recommendation of the Council on Regulatory Policy and Governance* (the Recommendation) was adopted in March 2012. OECD members recognised that new technologies have the potential to significantly affect social welfare and that just like other public policy areas, regulatory policy needs to keep pace with these changes.

In particular, the Recommendation highlighted that aspects of regulatory design, evaluation, and government service delivery are all impacted by new and emerging technologies:

- Regulatory policy principles remain centrally important and that when governments are "preparing regulations that implement sectoral policies, [they should] strive to ensure that regulations serve the public interest in promoting and benefitting from trade, competition and innovation while reducing system risk to the extent practicable"
- "As regulations usually work in concert with other regulations and administrative procedures, it is important that the processes for review look at the effectiveness of regulation in achieving their policy goals and do not simply take an incremental and atomistic approach." The Recommendation explicitly noted that regulatory reviews present strong opportunities to promote innovation.
- On government service delivery, the Recommendation provides "Rapid developments in information and communications technology are creating new avenues for streamlining the ways in which governments interact with citizens and businesses, and to make governments more efficient. It is necessary for governments to regularly and systematically consider how to employ the opportunities afforded by new technologies to harness network effects to reduce the transaction costs of dealing with governments and improve the experience from the perspective of users of government services."

The topic of the 11th Measuring Regulatory Performance Conference on the future of law-making is extremely timely as governments continue to grapple with both the volume and pace of technological change. Indeed, the focus of the OECD Ministerial Council Meeting held only last month at the OECD headquarters in Paris was titled "Harnessing digital transition for sustainable development: opportunities and challenges", and called on the OECD "to continue to provide integrated and evidence-based policy analysis, technical solutions and expertise on the digital transition, in particular in developing effective methods of measurement, including by working with all relevant stakeholders and actors." As a truly cross-cutting area, regulatory policy ought to be at the forefront of future discussions and decisions about how governments should best deal with the realities of moving towards more digitalised economies.

Conference objectives

The conference aims to improve understanding about how regulatory policy itself is affected by the digital age, and in turn, how governments can improve their regulatory systems to enable these technologies to flourish, whilst maintaining social, environmental, and economic outcomes.

The panel discussion will remind conference participants that all regulations are experiments and outline how data can be used as a check to evaluate the impacts of regulation. It will confront issues such as administrative and political culture to change, why data are often unavailable, and where policymakers might be able to locate data that they perhaps are not yet aware of.

The second session begins with recalling the important linkages between *ex ante* assessment of regulations being developed and *ex post* reviews of existing regulations. It will continue with a discussion that explores whether the 'traditional' types of regulatory management tools remain appropriate in a more digital environment. In particular, it will raise the vexed question of how policymakers should assess the potential impacts of innovation.

The breakout sessions build on both of the morning sessions, specifically:

- The first breakout session will investigate how RIA can be future-proofed in a more digitised world from both technical and policy perspectives. It will discuss whether parts of the existing toolkit are no longer appropriate, as well as assess the merits of emerging policy areas such as behaviour insights and look at what they can add to the policymakers' arsenal.

- The second breakout session will initially look at how to improve overall data collection policies during the development of regulations. It will then discuss how governments can better harness the data that are available to evaluate existing regulations, including issues of access and analytical capacities.
- The third breakout session tackles issues surrounding uncertainty of impacts. While these are often unknown *ex ante*, digital technologies have the potential to substantially reduce the duration that uncertainty lasts for. Hence, the session will investigate whether real time and continuous monitoring become reality across a number of policy areas, including their potential implications. It will also discuss how and when to dialogue with stakeholders and academia on impacts, as well as the need for public sector data to be structured in a way that it can be used for evaluation.

The 11th expert meeting is part of a series of annual workshops which fall under the Programme on Measuring Performance, and brings together experts and delegates for in-depth discussions. Previous workshops focused on "Measuring the implementation of regulation" (hosted by Mexico in Mexico City in 2018), "Closing the regulatory cycle: effective ex post evaluation for improved policy outcomes" (hosted by Portugal in Lisbon in 2017), "Realising impact: the role of institutional frameworks in regulatory policy" (hosted by Australia in Sydney in 2016), "Embedding regulatory policy in law and practice" (hosted by Iceland in Reykjavik in 2015), "Evaluating stakeholder engagement in regulatory policy" (hosted in the Hague by the Netherlands in 2014)"Identifying best practice in the implementation of the Recommendation" (hosted by Sweden in Stockholm in 2013), "Measuring and reducing compliance costs for re-boosting growth" (hosted by Germany in Berlin in 2012), "Developing a framework for measuring regulatory performance in OECD countries (hosted by Spain in Madrid in 2011), "The Use of perception surveys for measuring and communicating progress" (hosted by Turkey in Istanbul in 2010) and "The Indicators of Regulatory Management Systems" (hosted by the UK in London in 2009).

Acknowledgements

11ᵗʰ OECD CONFERENCE ON MEASURING REGULATORY PERFORMANCE

OPENING CONFERENCE – The future of law-making

Day 1 – Thursday, 13 June 2019

(Plenary Room: Saga AB)

Open to registered participants

Chair: Jeannine Ritchot, Executive Director, Treasury Board of Canada Secretariat; Chair of the OECD Regulatory Policy Committee

08.00	*Registration for the Opening Conference and the Workshop. A welcome coffee will be served outside the room. Participants are kindly asked to be seated by 08.45.*

09.00 – 09.20   Keynote speech: Regulatory policy in the digital age

Speaker
- Siv Jensen, Minister of Finance, Norway

09.20 – 09.40   Opening remarks

Speakers
- Irène Hors, Deputy Director, OECD Public Governance Directorate
- Jeannine Ritchot, Executive Director, Treasury Board of Canada Secretariat, and Chair of the OECD Regulatory Policy Committee

09.40 – 11.10   Panel discussion : Reality checks for laws: Better, bigger or smarter data?

Objective

Discuss how to make better data available for evaluating the impact of regulations

Panellists
- Anita Schjøll Brede, CEO and co-founder of Iris.ai, and staff of the Faculty in AI at Singularity University
- Mart Mägi, Director General of Statistics, Estonia
- Jeannine Ritchot, Executive Director, Treasury Board of Canada Secretariat; Chair of the OECD Regulatory Policy Committee
- Goran Vranic, Technical Lead for Technology and Business Regulation, Global Business Regulation Unit, World Bank

Moderator: Christiane Arndt-Bascle, Head of Programme, OECD Public Governance Directorate

Questions for discussion

- Why do we need better data for monitoring and evaluating impacts of laws and regulations?

- Why do regulators currently lack good data and evidence? Is data dispersed and regulators are unaware of their existence? Are capacity and resources lacking to turn data into information and evidence? Are there access or privacy restrictions? Is data of bad quality? Or is data simply not collected?

- How can institutions such as statistical offices help to improve data collection, quality and access? Are new co-ordination and collaboration mechanisms necessary including sharing data across ministries? What other institutions can help? Who pays?

- Can the public sector learn from the private sector in using big and smart data and algorithm to evaluate the impact of regulations?

- What happens if evidence tells us laws are not working? How to move to a culture that accepts regulations are experiments and is open to hear laws are not working (anymore)?

11.10 – 11.40	*Coffee break*
11.40 – 13.00	**Evidence-based policy making in a rapidly changing world**

Objective

Identify how RIA and *ex post* evaluation can inform laws in the future, helping policy-makers to stimulate innovation and address the challenges of transformative technologies

- Daniel Trnka, Senior analyst, OECD Public Governance Directorate

- Andrea Renda, Senior Research Fellow and Head of Global Governance, Regulation, Innovation and Digital Economy, CEPS (presentation only)

- Philipp Aepler, Assistant Director-International Cooperation, UK Regulatory Policy Committee (RPC)

Panellists

- Siri Pettersen Strandenes, Professor at the NHH Norwegian School of Economics and member of the Norwegian Better Regulation Council

Moderator: Céline Kauffmann, Deputy Head of Division, OECD Public Governance Directorate

Questions for discussion

- Are traditional regulatory management tools still helpful? Why (not)?
- In which cases and for what sectors RIA and ex-post evaluation need to be adapted? What adjustments need to be made? How to assess impacts on innovation?
- Given the uncertain and rapid pace of change, do we need to continuously assess impacts ? Will the boundaries between ex-ante and ex-post evaluation become blurred?

13.00 – 14.30	*Lunch (Restaurant Galleriet in hotel)*

CLOSED-DOOR WORKSHOP:[1] Better data for better laws
Open to RPC Delegates and invited experts only

14.30 - 16.45	**BREAKOUT SESSIONS** *Coffee break held at the moderator's discretion after 3.30pm*

Breakout session 1 – Making RIA fit for the future

Objective
To investigate how RIA can be future-proofed in a more digitised world from both technical and policy perspectives. It will discuss whether parts of the existing toolkit are no longer appropriate, as well as assess the merits of emerging policy areas such as behaviour insights and look at what they can add to the policymakers' arsenal.

Questions for discussion

- What concrete changes need to be made to the methodology of RIA?
- Are there elements that are not useful anymore?
- How can (big) data needs for monitoring and evaluation be integrated into RIA?
- How can learnings from behavioural insights make RIA fit for the future?
- What additional expertise is needed and where to locate it?

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[1] The workshop will be under Chatham House rules which stipulate that *participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed"*.

Speakers	• Introduction and moderator: OECD Secretariat (Daniel Trnka and Benjamin Gerloff) • Kick-off presentation: Suzanne Van Melis, Strategic Legal Advisor (Regulatory Policy), Ministry of Justice, Netherlands

Breakout session 2 –(big) data for evaluation: how to get what you need and know how to use it

Objective	To initially look at how to improve overall data collection policies during the development of regulations. It will then discuss how governments can better harness the data that are available to evaluate existing regulations, including issues of access and analytical capacities.
Questions for discussion	• How to improve data for evaluation? (including identifying data needs, finding data, collecting where necessary, ensuring quality, institutional setting etc.) • When do governments need big and/or smart data for evaluation? How to access it and how to analyse it? • How can artificial intelligence and algorithms help in monitoring and evaluation?
Speakers	• Introduction and moderator: OECD Secretariat (Christiane Arndt-Bascle and Paul Davidson) • Kick-off presentations: Mart Mägi, Director General of Statistics, Estonia Jacob Arturo Rivera Perez, Policy Analyst, OECD Public Governance Directorate Edgar Vogel, Head of Section, General Financial Stability Analysis and Macroprudential Surveillance Division, Deutsche Bundesbank, Germany and Monika Ollig, Policy Officer, Federal Chancellery, Germany

Breakout session 3 – Regulating in times of uncertainty – towards continuous monitoring of impacts?

Objective	To tackle issues surrounding uncertainty of impacts. The session investigates whether continuous monitoring will become a reality across a number of policy areas and its implications. It will also discuss how and when to dialogue with stakeholders and academia on impacts, as well as the need for public sector data to be structured in a way that it can be used for evaluation.

Questions for discussion	• When to evaluate when you regulate new areas where impacts are uncertain? • How to connect ex-ante and ex-post evaluation in practice? • How to ensure ministries feel responsible for the regulations they created? • Can new technologies help to monitor impacts continuously? • How and when to dialogue with affected stakeholders and academia on impacts? • Is public sector data structured in a way that it can be used for evaluation?
Speakers	• Introduction and moderator: OECD Secretariat (Miguel Amaral) • Kick-off presentation: Sander Mul, Senior Regulatory Policy Adviser, Ministry of Justice and Security, Netherlands
16.45	**End of breakout sessions**

17.00	***Start of social programme***
	Departure from Reception desk (outside Plenary Room Saga AB)
17:15 – 18:15	Activities: Ski Museum tour / Jump Tower lookout
19:00	Reception (venue in function of weather)
19:30	Concert pianist : Aksel Kolstad (venue: Saga B)
20:00	Dinner (venue: Saga C)

OECD
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CLOSED-DOOR WORKSHOP: Better data for better laws	
Day 2: Friday, 14 June 2019	
(Plenary Room: Saga AB)	
Open to RPC Delegates and experts only	
Chair: Jeannine Ritchot, Executive Director, Treasury Board of Canada Secretariat; Chair of the OECD Regulatory Policy Committee	
09.30 – 10.00	**The future of law-making in Norway**
Objective	Explain Norway's approach to making its regulatory system fit for the future
Speakers	• Jon Christian F. Nordrum, University of Oslo
10.00 – 10.30	**Privacy issues for data collection, sharing and use**
Speakers	• OECD • Jaime Espantaleón, Senior Tax Lawyer, Norwegian Tax Administration
10.30 – 11.00	*Coffee break*
11.00 – 12.45	**Plenary and table discussion**: *"Better data for better laws"*
Objective	Identify key policy conclusions to improve data for evaluation of laws
Speakers	Rapporteur breakout session 1: Andraž Pernar Rapporteur breakout session 2: Manuel Cabugueira Rapporteur breakout session 3: Lotte Daalgard Moderator: OECD Secretariat (Christiane Arndt-Bascle and Daniel Trnka)
12.45 – 13.00	**Closing remarks**
Speakers	• Jeannine Ritchot, Executive Director, Treasury Board of Canada Secretariat; Chair of the OECD Regulatory Policy Committee • Nick Malyshev, Head of Regulatory Policy Division, OECD Public Governance Directorate

13.00 – 14.00	Lunch (Restaurant De Fem Stuer in the hotel)

	Departure of those who are not members of the MRP Steering Group

14.30 – 16.00	Meeting of the Steering Group on Measuring Regulatory Performance (Board room 7/8)

Key documents

- OECD (2019), *Draft best practice principles on RIA*, OECD Publishing, Paris.
- OECD (2019), *Draft ex post evaluation principles*, OECD Publishing, Paris.
- OECD (2019), *Regulatory effectiveness in the era of digitalisation*, Brochure, Paris.
- OECD (2019), "Using digital technologies to improve the design and enforcement of public policies", *OECD Digital Economy Papers, No. 274*, OECD Publishing, Paris.
- OECD (2019), *Enhancing Access to and Sharing of Data (EASD): Reconciling Risks and Benefits for Data Re-use across Societies*, OECD Publishing, Paris.
- van Ooijen, C., Ubaldi, B. and B. Welby (2019), "A data-driven public sector: Enabling the strategic use of data for productive, inclusive and trustworthy governance", *OECD Working Papers on Public Governance No. 33*, OECD Publishing, Paris.

Background documents

- OECD (2019), *Better Regulation Practices across the European Union*, OECD Publishing, Paris.
- OECD (2019), *Going Digital: Shaping Policies, Improving Lives*, OECD Publishing, Paris.
- OECD (2019), *Measuring the Digital Transformation: A Roadmap for the Future*, OECD Publishing, Paris.
- OECD (2019), *How's Life in the Digital Age?: Opportunities and Risks of the Digital Transformation for People's Well-being*, OECD Publishing, Paris.
- OECD (2019), *An Introduction to Online Platforms and Their Role in the Digital Transformation*, OECD Publishing, Paris.
- OECD (2018), *OECD Regulatory Policy Outlook 2018*, OECD Publishing, Paris.
- OECD (2017), *Digital Government Review of Norway: Boosting the Digital Transformation of the Public Sector*, OECD Digital Government Studies, OECD Publishing, Paris.