



# Draft OECD Recommendation on Regulatory Policy and Governance.

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# New Recommendation

- Following the establishment of the Regulatory Policy Committee (RPC) in December 2009.
- New “draft Recommendation” proposed at OECD International Regulatory Policy Conference in in October 2010
- Existing 1995 Recommendation on Improving the Quality of Regulation and 2005 Guiding Principles for Regulatory Quality and Performance continue to apply
- New Recommendation aims to embed Regulatory Policy as “whole of Government” endeavour
- Consultation draft agreed to by RPC in April 2011
- Consultation within OECD and with public from May – August 2011
- Around 40 submissions
- Generally endorsed – some drafting changes – mostly incorporated
- Some issues outside scope

# Headline Recommendations

1. Explicit Policy on Regulatory Quality
2. Communication, Consultation and Engagement
3. Regulatory Oversight
4. Regulatory Impact Assessment
5. Reviews of the Regulatory Stock – *ex post* regulatory evaluation
6. Reviewing Performance of Regulatory Reform Programmes

# Headline Recommendations

7. The Organisation of Regulatory agencies
8. Jurisdictional review
9. Risk and Regulation
10. Regulatory Coherence across Levels of Government
11. Regulatory Management Capacity at Sub-national Level
12. International Regulatory Co-operation

# Recommendations 1 - 4

1. Commit at the highest political level to an explicit whole-of-government policy for regulatory quality. The policy should have clear objectives and frameworks for implementation to ensure that, if regulation is used, the economic, social and environmental benefits justify the costs, distributional effects are considered and the net benefits are maximised.
2. Adhere to principles of open government, including transparency and participation in the regulatory process to ensure that regulation serves the public interest and is informed by the legitimate needs of those interested in and affected by regulation. This includes providing meaningful opportunities (including online) for the public to participate in the process of preparing draft regulatory proposals and in the supporting analysis.
3. Establish mechanisms and institutions to actively provide oversight of regulatory policy procedures and goals, support and implement regulatory policy, and thereby foster regulatory quality.
4. Integrate Regulatory Impact Assessment (RIA) early into the policy process for the formulation of new regulatory proposals. Clearly identify policy goals, evaluate if regulation is necessary and how it can be most effective and efficient in achieving those goals and identify the tradeoffs of the different approaches analysed.

# Recommendations 5 - 8

5. Conduct systematic programme reviews of the stock of significant regulation against clearly defined policy goals, including consideration of costs and benefits, to ensure that regulations remain up to date, cost justified, cost effective and consistent and delivers the intended policy objectives.
6. Regularly publish reports on the performance of regulatory policy and reform programmes and the public authorities applying the regulations. Such reports should also include information on how regulatory tools such as Regulatory Impact Assessment (RIA), public consultation practices and reviews of existing regulations are functioning in practice.
7. Develop a consistent policy covering the role and functions of regulatory agencies in order to provide greater confidence that regulatory decisions are made on an objective, impartial and consistent basis, without conflict of interest, bias or improper influence.
8. Ensure the effectiveness of systems for the review of the legality and procedural fairness of regulations, and of decisions made by bodies empowered to issue regulatory sanctions. Ensure that citizens and businesses have access to these systems of review at reasonable cost and receive decisions in a timely manner.

# Recommendations 9 - 12

9. As appropriate apply risk assessment, risk management, and risk communication strategies to the design and implementation of regulations to ensure that regulation is targeted and effective. Regulators should assess how regulations will be given effect and should design responsive implementation and enforcement strategies.
10. Where appropriate promote regulatory coherence through co-ordination mechanisms between the supra national, the national and sub-national levels of government. Identify cross cutting regulatory issues at all levels of government, to promote coherence between regulatory approaches and avoid duplication or conflict of regulations.
11. Foster the development of regulatory management capacity and performance at sub-national levels of government.
12. In developing regulatory measures, consideration should be given to all relevant international standards and frameworks for cooperation in the same field and, where appropriate, their likely effects on parties outside the jurisdiction