8TH OECD CONFERENCE on Measuring Regulatory Performance

SYDNEY, AUSTRALIA
15 - 16 JUNE 2016

REALISING IMPACT
The Role Of Institutional Frameworks In Regulatory Policy
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The Secretariat would like to thank the Government of Australia for hosting the conference and the Government of New South Wales for its generous support for the event. The OECD Secretariat would especially like to thank Anne-Marie Wilson, Senior Advisor at the Regulatory Reform Division of the Australian Department of the Prime Minister and Cabinet, Marion Martin at the New South Wales Department of Finance, Services and Innovation and their teams for the excellent co-operation in the organisation of the conference. The Secretariat would also like to thank the Steering Group on Measuring Regulatory Performance for their invaluable support in the preparation of the conference.
KEY CONCLUSIONS

1. The 2012 OECD *Recommendation of the Council on Regulatory Policy and Governance* recommends that countries “establish mechanisms and institutions to actively provide oversight of regulatory policy procedures and goals, support and implement regulatory policy and thereby foster regulatory quality”. The *2015 OECD Regulatory Policy Outlook* and the *7th OECD Conference on Measuring Regulatory Performance in Iceland* identified a high potential for improvements to the institutional framework for regulatory policy in OECD countries to help bridge the gap between the establishment of formal requirements and implementation of regulatory policy in practice. While there can be no unique blueprints for institutional frameworks, the Recommendation outlines various ways in which oversight bodies can support the systematic implementation of regulatory policy, including through quality control in the use of instruments of regulatory policy, co-ordination of better regulation efforts, evaluation of existing regulatory frameworks from a whole-of-government perspective, and training and guidance on regulatory policy tools for civil servants.

2. The *8th OECD Conference on Measuring Regulatory Performance*, hosted by the Australian Government in Sydney, aimed to identify effective ways to improve institutional frameworks for regulatory policy to drive inclusive growth. There was broad agreement among conference participants on the general importance and functions of regulatory oversight bodies as described in the 2012 Recommendation. At the same time, discussions stressed the importance of country-specific contexts in the establishment of effective oversight functions. Findings from the *2015 Regulatory Policy Outlook* show that existing institutional frameworks for regulatory policy vary significantly across OECD countries. Most countries have instituted more than one oversight body, and there is substantial heterogeneity in the depth and range of oversight bodies’ responsibilities and their location within and outside of government.

3. Oversight bodies potentially play a crucial role in connecting regulatory policy to political decision-making:

   - They are champions of good policy development throughout the whole policy cycle and act as key facilitators for aligning and co-ordinating governments’ use of regulatory policy tools across the administration. For example, oversight bodies help ensure that ex ante evaluations inform ex post evaluations by systematically reflecting on a regulation’s goal and how it can be measured, that results of ex post evaluations feed into ex ante evaluations, and that links are created between policy developers and the regulatory agencies implementing regulation.

   - They promote greater responsiveness and effectiveness of regulation by encouraging governments to make use of the results of regulatory policy tools. The use of evidence-based approaches helps policy makers to explain the effects and rationale for the policy option they choose. It also enlightens potential beneficiaries about what is at stake, thereby building public and political support and enabling more inclusive policy-making.

   - They can be instrumental in promoting cultural change in public administrations towards a greater understanding and acceptance of regulatory policy tools and heightened responsibility for the quality of regulation. Greater horizontal coordination across the administration, partnerships with academia and the private sector and the use of innovative regulatory policy approaches, such as digital platforms, behavioural insights and the analysis of big data, facilitate such a cultural change, enabling regulators to better understand the impacts of regulation and ways of achieving better overall outcomes.
4. At the same time, oversight bodies face a number of challenges in carrying out their functions. First, attention needs to be paid to achieving balance between the independence of oversight bodies in holding governments accountable and the connections to political decision-making necessary to ensure policy impact. Secondly, government officials may try to limit or circumvent oversight mechanisms in an effort not to limit ministerial discretion in policymaking. Finally, oversight bodies need to be equipped with adequate skills and resources to be able to collect and analyse relevant data on regulatory policy performance and make sound recommendations for improvement.

5. Discussions showed that there is considerable variation in the range of oversight mechanisms currently in use across OECD countries. Their effectiveness strongly depends on the specifics of countries’ institutional structures and political environments. Hard oversight powers, such as challenge functions stopping a regulatory proposal from proceeding to the next stage, have been an important element of regulatory oversight in some jurisdictions. In other jurisdictions, and in particular in those with well-established administrative procedures, softer oversight functions can also lead to good regulatory outcomes. These should be complemented by other regulatory management tools involving reporting, guidance and capacity building and a proportionate approach to evaluation, as formalistic oversight mechanisms have a tendency to become “tick-the-box” exercises.
CONFERENCE PROCEEDINGS IN DETAIL

Introduction

6. On 15-16 June 2016, the 8th OECD Conference on Measuring Regulatory Performance brought together around 70 participants from 16 countries. Attendees included delegates to the Regulatory Policy Committee (RPC) from OECD member and non-member countries, OECD officials, the Business and Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC) as well as academics and experts from the field of regulatory policy. It was chaired by Peter Saunders, First Assistant Secretary, Regulatory Reform Division, Department of the Prime Minister and Cabinet, Australia (opening conference 15 June), and Professor Gary Banks, Chair of the OECD Regulatory Policy Committee and Dean of the Australia and New Zealand School of Government. This was the eighth in a series of expert meetings hosted by a member country that focus on a substantive regulatory policy issue of concern to OECD countries.

7. This conference aimed to identify effective ways to improve institutional frameworks for regulatory policy to enable better regulatory outcomes. Discussions centred on the institutional powers and degree of independence needed. Attendees also explored how innovative approaches to regulatory policy can enhance productivity and growth, and support inclusiveness. Results of the conference will feed into key work of the OECD Regulatory Policy Committee, such as the OECD Best Practice Principles on stakeholder engagement, ex ante and ex post evaluation of regulations, the Regulatory Policy Outlook series, and future OECD work on the institutional set up for regulatory reform.

8. The Hon. Victor Michael Dominello MP, Minister for Innovation and Better Regulation of New South Wales, opened the meeting with a keynote speech, followed by remarks by Luiz de Mello, Deputy Director of the OECD Public Governance and Territorial Development Directorate. Subsequently, Gary Banks shared some reflections on the role of institutions for regulatory policy in promoting productivity and inclusive growth, followed by a panel discussion with representatives from OECD countries, moderated by Luiz de Mello. Jenny Gordon, Principal Adviser Research at the Australian Productivity Commission, concluded the open part of the conference with a presentation on “Assessing the productivity and welfare gains from better regulation”. In a closed-door workshop, OECD delegates and experts then worked together to identify how institutional frameworks and capacities can help countries strengthen their regulatory policy and ensure that regulatory policy tools work efficiently and effectively.

Keynote speech by The Hon. Victor Michael Dominello MP, Minister for Innovation and Better Regulation of New South Wales

9. The Hon. Victor Michael Dominello MP welcomed participants to the conference. He emphasised that a cultural shift towards a customer-centric government is essential to achieve better regulation. Governments and regulators require real-time data on regulatory performance to optimise regulatory outcomes. Yet, governments continue to lag in data collection. They need to become more proactive in collecting data to measure their performance against benchmarks and feedback from citizens. Digital data collection tools facilitate this process. Better data not only supports better policy making, but it enables governments to adjust their policies faster to changing realities and provides higher accountability and transparency of government action.

10. The Minister suggested that governments reinforce intragovernmental co-operation to improve regulatory outcomes. While “silod” agencies and ministries provide expertise and independence, rulemaking in silos often leads to sub-optimal outcomes for citizens, because the government cannot see
the bigger policy picture. Government agencies and ministries should open and streamline processes through vertical and lateral co-operation.

**Opening remarks by Luiz de Mello, Deputy Director, OECD Public Governance and Territorial Development Directorate**

11. Luiz de Mello emphasised the importance of the institutional framework and oversight systems for regulatory policy. Institutional frameworks not only bridge the gap between formal requirements and implementation, but also increase the impact of regulatory policy. In most OECD countries, oversight and quality control mechanisms are far less developed than other elements of regulatory policy. Furthermore, OECD countries exhibit considerable variation in the institutional set-up for regulatory policy. Although there can be no single blueprint for institutional frameworks, the 2012 Recommendation outlines various ways in which oversight bodies can support the systematic implementation of regulatory policy, including:

- quality control in the use of instruments of regulatory policy,
- co-ordination of better regulation efforts,
- evaluation of existing regulatory frameworks from a whole-of-government perspective, and
- training and guidance on regulatory policy tools for civil servants.

12. Luiz de Mello underlined that innovation is a crucial element of regulatory reform. For example, technology provides new ways for regulators to interact with stakeholders. Governments can use big data and analysis to better understand regulatory problems. Additionally, behavioural insights can be utilized to achieve more effective design and implementation of regulation.

13. The pre-conference seminar “Towards Better Regulation: New Approaches, New Challenges”, organised by the Australia and New Zealand School of Government (ANZSOG) on 14 June, provided very useful insights which fed into the discussions at this conference (please see [here](#) for the event summary).

**The role of institutions for regulatory policy in promoting productivity and inclusive growth, Gary Banks, Chair of the OECD Regulatory Policy Committee and Dean of the Australia and New Zealand School of Government, Australia**

14. Gary Banks emphasised that institutions should foster evidence-based policy making throughout the policy cycle. He noted that this can have political as well as technical benefits. Policy makers may use evidence-based approaches to explain the effects and rationale for the policy option they choose and to enlighten the potential beneficiaries about what is at stake. All of this can build public understanding and political support and enable more inclusive policy-making.

15. Governments often fall prey to the ‘regulate first’ syndrome when faced with technical complexity, pressure from interest groups or simply bureaucratic inertia. Analysis may be used to justify their decision only afterwards. Parliament may then have to base decisions on inadequate or poor information. Regulatory agencies may in turn receive poor statutory guidance and will naturally be risk averse in implementing and enforcing the regulation. The negative impacts and unintended consequences of knee-jerk regulation go beyond the accretion of red tape. Poor regulation can also adversely affect productivity and labour force participation, detraclring from income growth.

16. The presentation outlined four types of institutions that can support evidence-based policy making.
a) **Research and evaluation bodies:** These bodies can provide evidence on the effectiveness of regulation that feeds into the policy-making process. In order to work effectively, they need to possess:

- adequate analytical capabilities,
- the ability to test their work with stakeholders while avoiding undue influence,
- and a direct linkage to the regulation-making process.

For example, the Productivity Commissions of Australia and New Zealand are independent statutory bodies operating at arm’s length from portfolio ministries. They advise on key areas of regulation and conduct in-depth research and public inquiries based on transparent processes and economy- or community-wide decision criteria.

b) **Bodies to promote adherence to good process:** The 2012 Recommendation stipulates that “a standing body charged with regulatory oversight should be established close to the centre of government […]. The specific institutional solution must be adapted to each system of governance.” Such bodies may provide some discipline on the policy-making process and help avoid a ‘regulate first’ approach. Oversight institutions can:

- raise awareness of good practice,
- provide training and guidance to regulators,
- monitor the observance of formal requirements,
- ensure quality control of Regulatory Impact Assessments through reporting or challenge (“veto”) functions,
- and oversee ex post reviews of existing regulation.

Key design issues for oversight bodies include:

- the powers at the disposal of the body, e.g. the breadth of its role across the policy cycle and if it can report or challenge government activities,
- its level of independence with regards to its funding, staffing and location within or outside of government,
- and its transparency and accountability mechanisms to publish, report and review its activities.

c) **Regulatory agencies:** Regulatory agencies themselves can be important vehicles for evidence based policy through regulatory processes that emphasise evaluation. Regulators face three different ‘balancing acts’ with regard to their activities and how they design and administer regulation in practice. They need to:

- reduce harms without unduly raising costs,
- further the public interest while at the same time ensuring fair private treatment,
- consult and engage with stakeholders without being captured.
The *OECD Best Practice Principles on the Governance of Regulators* as well as the Australian Government’s *Regulator Performance Framework* provide guidance on the institutional design and operation of regulatory agencies.

d) **Bodies responsible for system design and review:** Governments should monitor the effectiveness of the entire regulatory policy system over time. This function is distinct from ‘quality control’ for developing individual regulations. It needs to be performed by a central agency with the capacity to collect relevant data to review the overall framework and provide advice to government.

17. In all cases, political leadership remains a crucial element to ensure sustained regulatory performance.

**Panel discussion: The impact of regulatory policy: towards an enabling environment for dynamic and inclusive economies**

**Moderator:** Luiz de Mello, Deputy Director, Public Governance and Territorial Development Directorate, OECD

**Panellists:** Youngchul Kang, Deputy Minister for Regulatory Reform, Office for Government Policy Coordination, Korea; Prof Michael Hiscox, Head of Behavioural Economics Team of the Australian Government, and Professor of International Affairs at Harvard University; Anthony Lean, Deputy Secretary Better Regulation, Department of Finance, Services and Innovation, New South Wales, Australia

18. The panel discussed the institutional frameworks for regulatory policy needed to achieve effective outcomes and to maximise the influence of regulatory policy on the political decision-making process. They also explored the merits and challenges of integrated evaluations across policy tools.

19. Panellists emphasised that the government should strike a balance between an oversight body’s independence and its connection to the policy process. Simple tick-box approaches to quality control or constant blocking of government action may undermine the oversight body’s credibility. A focus on education and prevention is desirable. Oversight bodies can also take advantage of data analytics and behavioural insights to improve regulatory processes.

20. Panellists highlighted the importance of linking the *ex ante* and *ex post* evaluation of regulation in order to be able to effectively feed evaluation results into the policy making process. Oversight bodies should be champions of good policy development throughout the whole policy cycle rather than just focussing on cost-benefit analysis and RIA. Currently, regulators put more analytical effort into the design than the evaluation phase within the regulatory policy cycle. During the design of a regulation, governments need to establish clear objectives and give consideration to the time frame for evaluation and the data that will need to be collected to assess its effects *ex post*. Regulators should define numerical targets where possible, because compliance rates are often a poor indicator for verifying if policy goals have been achieved. Administrations can limit the burdens of *ex post* evaluation through a proportionate approach that focuses on higher-impact regulations. Governments can also prioritize regulations for *ex post* evaluation during the RIA process, e.g. by putting in place sunset clauses or automatic evaluation requirements.

21. Panellists suggested that governments needed to tap into the “big data” now available. Mechanisms for collecting relevant data include strategic partnerships with the research community, think tanks or the private sector. In the long run, governments could also enhance internal analytical capacities, for instance by creating research units or embedding an academic team inside government. To make use of ‘big data’ in regulatory policy, government officials could identify relevant existing datasets that would support an *ex post* evaluation of the regulation already during the RIA process.
22. Panellists also emphasised that the improvement of governments’ evaluation practices requires that government be seen as a learning institution. Government agents should recognise the need for continuous regulatory improvement instead of looking for one permanent solution, and see regulation as an asset. Evaluation may be challenging politically because results of evaluations may be negative or unexpected. On the other hand, evaluations may be a chance for governments to signal their competence as well as their willingness to evaluate and improve their performance.

23. Institutional frameworks also need to support stakeholder engagement practices throughout the policy cycle. Stakeholder engagement provides a “reality check” to regulation. Panellists suggested that governments make use of new digital tools to foster buy-in and to reach those that are most affected by a regulation. Regulators should not use stakeholder engagement only to explain regulation, but to listen to them and incorporate their feedback, even if the input received is not in line with the government’s expectations.

24. Finally, panellists discussed the merits and challenges of achieving more integrated evaluations. Integrating regulatory reviews with other areas of government would help reveal duplication and overlap and decrease regulatory burden. The customer or community point of view should be the starting point for such reviews, adapting government policies and services to citizens’ needs.

Assessing the productivity and welfare gains from better regulation, Jenny Gordon, Principal Adviser Research, Productivity Commission, Australia

25. Jenny Gordon shared experiences of the Australian Productivity Commission in reviewing regulation and making recommendations for reform. She presented a hierarchy of different approaches for assessing the gains from better regulation, ranging from methods based on recognised principles from economic theory to partial and full cost-benefit analyses.

26. For principle-based approaches to regulatory reviews, the Productivity Commission draws on a body of established knowledge of economic relationships. The Commission provides evidence and analysis that common economic principles hold in specific cases, and considers how reforms can best be implemented to apply the principles in practice. Recognised economic theories include the assumption that regulation can address market failures to correct for information asymmetries and negative externalities, and improve market functions by fostering competition, lowering transaction costs or removing price wedges. These principles need to be tested in practice on available evidence and with stakeholders. Principle-based evaluations usually yield policy recommendations involving low or no costs of changes, as they seek to maintain or reduce compliance costs, remove distortions and impose costs only on those who benefit from the status quo.

27. Partial cost-benefit approaches estimate the main economic costs and benefits of regulatory reform, and seek to determine the size that net benefits from reform need to be to generate a positive return to the reform effort. This approach aims to quantify the main first-round effects of reform (e.g. on market prices and available quantities) as well as broader economy-wide effects through econometric estimates and modelling. In addition, it identifies the beneficiaries and losers from reform. This approach is particularly useful in cases where significant benefits of reform are hard to quantify. A case for regulatory reform may be made if the analysis yields clarity on high costs of maintaining the status quo and low costs of a reform. It may also be useful to reflect on potential compensation to the losers of reform to inform implementation.

28. Full cost-benefit approaches aim to estimate the outputs, direct outcomes and overall impacts of regulatory reform. This includes the analysis of

- inputs needed to achieve and implement reforms,
• outputs, i.e. changes in behaviour as a result of regulation,
• direct outcomes, i.e. direct effects of changes induced by regulation, and
• overall impacts, i.e. changes in all outcomes over time stemming from regulation.

29. This approach is particularly useful in identifying the impacts policymakers expect to observe at each stage of the implementation process, and key review trigger elements that indicate if a policy is successful or needs to be evaluated. By itself the cost-benefit approach does not provide information on the final distributional outcomes of regulation, so a distributional analysis is still needed. Moreover, putting values on final outcomes can be challenging where they depend on community values rather than market prices. Hence most cost-benefit analyses do not quantify all costs and benefits, and consideration of how to weight any distributional impact may be left to political decision-making processes. Randomised control trials, natural experiments, equilibrium analyses and other statistical methods are helpful tools to conduct empirical impact assessments and quantify impacts. In using the evidence from these sources the potential external influences should be considered as they can reduce the relevance of the empirical evidence for the reform under examination. Tools for valuing non-market outcomes include survey-based stated preference methods, such as contingent valuation and choice modelling, that derive a value for respondents’ willingness to pay for the preservation or improvement of non-market outcomes like the conservation of the environment. Revealed preference or hedonic methods can also be used to back out willingness to pay for particular characteristics. Benefit transfer methods provide guidance on using benefit estimates from existing studies to predict non-market values in similar locations or issues. The speaker also highlighted that the ex-ante evaluation of regulatory impacts helps regulators and policy makers to systematically reflect on the main likely costs and benefits of regulation and should guide the data collected to monitor progress and ultimately evaluate the outcomes of the reform.

30. Jenny Gordon concluded her presentation by introducing a framework for measuring costs taken from the 2013 Productivity Commission Working Paper on “Deep and Persistent Disadvantage in Australia”, which conceptually disentangles different types of cost to avoid double counting when assessing the impacts of regulation. The framework differentiates between economic costs to material living standards and social costs to the quality of life, as well as between costs to the broader community and personal costs, and distinguishes different types of costs within these categories.

Institutional frameworks for evidence-based regulatory policy-making

Speakers at the introductory session: Nick Malyshev, Head; and Rebecca Schultz, Junior Policy Analyst, Regulatory Policy Division, OECD; Sean Rogers, Director, Regulatory Policy Division, Regulatory Affairs Sector, Treasury Board of Canada Secretariat; Stephan Naundorf, Counsellor of Minister of State Helge Braun and Representative of the Better Regulation Office, Federal Chancellery, Germany

31. Governments’ regulatory oversight and quality control mechanisms are generally less developed than other elements of regulatory policy, despite their important role in regulatory governance and recognition in the 2012 Recommendation.

32. Regulatory oversight bodies perform a range of different functions to support, co-ordinate, scrutinise and improve regulatory policy. Lack of effective oversight mechanisms may inhibit the adequate implementation of regulatory policy in practice. Findings from the 2015 Regulatory Policy Outlook show that OECD countries have diverse institutional frameworks for evidence-based policy making. Most countries have instituted more than one oversight body, and there is substantial heterogeneity in the depth and range of oversight bodies’ responsibilities and location within and outside of government. Three breakout sessions discussed which institutional frameworks and capacities oversight bodies need to strengthen regulatory policy tools and to ensure that regulatory policy contributes to improved regulatory
outcomes. Results of the breakout sessions were subsequently shared in a plenary session that discussed commonalities across the three areas.

33. The discussion emphasised the importance of interlinking different institutions involved in regulatory policy and connecting them to the political decision-making process. Independent institutions for evaluation make an important contribution to improving regulatory outcomes if the results of their analysis can be fed into the policy making process. Similarly, regulatory agencies play an important role in implementing and enforcing regulations. Effective regulation, therefore, requires communication and feedback loops between those designing and those implementing regulations. Finally, participants underlined the importance of political support for the implementation of evidence-based policy making and vice versa. In particular, countries in the initial stages of building their regulatory policy system should establish an oversight body with a clear mandate to support capacity building for regulatory policy in the administration. This in turn helps to generate political support and incentivise further investments in regulatory policy.

34. Participants discussed major challenges and ways forward to further improve regulatory frameworks. The panellists highlighted the importance of choosing appropriate timing, frequency and instruments for ex post evaluation. Systematic approaches to evaluating the regulatory stock and its associated costs and benefits were considered more effective than one-in-one-out approaches that look for “easy wins” to reduce administrative burdens.

**Using evidence-based policymaking to support innovation**

35. Participants discussed the role of regulatory oversight with a view to stimulating innovation. They drew different conclusions with regards to institutional settings for regulatory design and delivery functions. A centralised oversight function is vital in supporting regulatory design capabilities of line ministries to ensure an evidence-based process, whereas regulatory agencies’ independence strengthens regulatory delivery and enforcement of regulation in specific sectors. Participants also considered the merits of a balanced approach with regards to the use of ‘hard’ and ‘soft’ power by regulatory oversight institutions. While there is much focus on the use of ‘hard’ oversight powers (e.g. a veto stopping a regulatory proposal from proceeding to the next stage), participants emphasised the importance of complementary guiding and advisory functions of oversight bodies.

36. The breakout session also identified potential drivers of innovation and explored possibilities to expand the regulatory toolkit by incorporating innovative approaches in regulatory policy. Participants mentioned crises and scarce resources as ‘windows of opportunity’ to stimulate innovation, but noted that this was not the case for the use of evidence-based policy making tools. Participants suggested incorporating concepts known as important drivers of innovation for businesses into regulatory policy to complement the existing regulatory toolkit, including the notions of ownership, entrepreneurship, and stewardship.

**Institutional frameworks for ex ante and ex post evaluation**

37. Participants discussed the merits and challenges of different institutional set-ups of oversight for the ex ante and ex post evaluation of regulation, including oversight by line ministries, central government bodies, independent bodies or parliament (see Table 1). RIA was viewed as a more homogeneous instrument than ex post evaluation, as ex post evaluation covers different approaches and methods ranging from the review of individual regulations to in-depth assessments of a set of regulation in a specific policy field. Consequently, participants discussed whether ex ante and ex post evaluation may require different oversight arrangements. Participants suggested that governments should move towards an integrated
approach to evaluation across the administration that feeds into political decision-making, while at the same time ensuring independence from political pressures.

Table 1. Merits and challenges of different oversight models for ex ante and ex post evaluation

<table>
<thead>
<tr>
<th>Body in charge of regulatory oversight</th>
<th>Merits</th>
<th>Challenges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Line ministry</td>
<td>• performs RIA for a particular type of impact</td>
<td>• no integrated approach to regulatory oversight</td>
</tr>
<tr>
<td>Central government</td>
<td>• can take on a bird’s eye view&lt;br&gt;• access to information from different parts of government</td>
<td>• may lack authority/credibility&lt;br&gt;• may face more pressure for exemptions</td>
</tr>
<tr>
<td>Independent body</td>
<td>• provides an independent view to parliament and the general public</td>
<td>• may be too far from decision-making processes</td>
</tr>
<tr>
<td>Parliament</td>
<td>• independent from government</td>
<td>• actor that is involved in the development of regulations at a late stage&lt;br&gt;• not all regulations pass through parliament</td>
</tr>
</tbody>
</table>

38. Ultimately, the discussion highlighted the following critical elements of an effective evaluation system. The system should

- have built-in checks and balances to be able to resist political pressure,
- create linkages between ex ante and ex post evaluation,
- take into account the views of the regulated,
- collect relevant data and build internal capacities for data analysis,
- promote ownership of the regulatory stock within the administration, and
- be transparent about its activities.

Institutional frameworks for inclusive regulation-making

39. Participants examined the institutional frameworks for stakeholder engagement. They emphasised that the respective portfolio developing a regulation should conduct stakeholder engagement. A review and quality control of stakeholder engagement, in contrast, should fall under the responsibility of a central oversight body or a specialist body at arm’s length from the portfolio ministry. Views diverged as to how independent from government such an oversight body would need to be to preserve its neutrality, while still being close enough to the policy making process to have a policy impact. Participants underlined that oversight bodies for stakeholder engagement should be accountable and transparent about their activities.

40. Several tasks of oversight bodies for inclusive regulation-making were identified. In order to verify the quality and inclusiveness of stakeholder engagement processes, oversight bodies should look at which stakeholders were consulted, the content of input received, and how it was taken into account for the regulatory proposal. Furthermore, panellists considered the integration of oversight for stakeholder engagement and RIA processes to develop a regulation useful and practical. In addition to providing
quality control, oversight bodies for stakeholder engagement should help empower citizens to have their views represented by increasing their ability and willingness to participate in consultation processes. Governments can accomplish this by:

- promoting different methods to engage with stakeholders,
- providing assistance and raising awareness about stakeholder engagement opportunities,
- offering guidance and sharing good practice examples on how to conduct stakeholder engagement,
- and conducting comprehensive evaluations of the stakeholder engagement system using feedback from stakeholders.

Integrating the evaluation of different policy tools for better policies, Steven Kennedy, Deputy Secretary, Innovation and Transformation, Department of the Prime Minister and Cabinet, Australia

41. Steven Kennedy shared his experience and views on evaluations of regulations and other policy tools and how the policy impact of evaluation results can be maximised. Comments from Nick Malyshev, Head of the OECD Regulatory Policy Division, complemented his intervention. The speakers pointed to the need for a proportionate approach to ex ante and ex post evaluation. It should focus on high-impact regulations as a key tool for incentivising policy makers to take evaluation results into account when designing new policy. Proportionality tests and standards need to be well-designed to ensure that evaluation results are a useful input for the political decision-making process.

42. Steven Kennedy explained that both line ministries and the centre of government play an important role in policy evaluation. While line ministries have detailed policy expertise and capacity and are well-equipped to prepare high-quality evaluations, the centre of government should act as a driver of change by setting the right incentives for evaluations in line ministries. In addition, independent institutions like the Productivity Commission and the Australian National Audit Office can hold government to account on the basis of the evaluations they produce. Key ingredients for performing high-quality evaluations are effective internal governance in line ministries and the availability of timely data and analytical capacities to enable a quick response in a changing policy environment. Co-operation with external actors like academia may be helpful to increase evaluation capacities. At the same time, it is important to maintain ownership of the evaluation processes and build internal capacities within ministries. Finally, political leaders need to support evaluation processes by showing interest in better understanding the value for money of government policies.

43. Speakers underlined that linking the evaluation of different policy tools to evaluate their combined impact has great potential. For example, joint evaluations of regulation and budget expenditures may support integrated value-for-money evaluations of government action.

Closing remarks

44. The Chair and Secretariat thanked the Australian Government and the Government of New South Wales for their excellent organisation of the conference and their hospitality, as well as all conference speakers and participants for their active involvement in the discussions. The OECD Secretariat is looking forward to planning the 9th OECD Conference on Measuring Regulatory Performance, which will take place in the course of 2017.
45. The policy conclusions and outcomes of the conference will provide an important ongoing contribution to OECD work on the institutional set-up for regulatory reform, including the series of Best Practice Principles on stakeholder engagement, *ex ante* and *ex post* evaluation, the next edition of the Regulatory Policy Outlook planned for 2018, and the update of the OECD Indicators of Regulatory Policy and Governance (iREG).
LIST OF REFERENCES

- Productivity Commission Australia (2016), Report on Disruptive Technologies: What do governments need to do?
- Productivity Commission Australia (2016), Report on Digital disruptions: What do governments need to do?
- Productivity Commission Australia (2015), Report on Business Set-up, Transfer and Closure

The full agenda, list of participants, speaker profiles and conference presentations are available on the conference website.