Chapter 3

Regulatory oversight: A key enabler of Better Regulation

Robust oversight is necessary to ensure that rules and regulations are evidence-based, consistent and forward-looking, thus helping to enhance systemic resilience.

Regulatory oversight bodies (ROBs) must promote the systematic, appropriate and consistent use of evidence and stakeholder engagement in the design and revision of rules, as well as strong institutional co-ordination and risk-based and innovative approaches to regulation.

- All members continue to have at least one ROB in charge of promoting and monitoring regulatory policy reform, and some ROBs have assumed new responsibilities;
- Close to 50% and 40% of jurisdictions report having a ROB focusing on innovation-friendly regulation and regulatory quality during a crisis respectively. Adequate capacity and resources are crucial for ROBs to fulfil such demanding roles;
- OECD members are lagging behind with regard to oversight of ex post evaluation and stakeholder engagement, and the performance assessment of key regulatory policy tools is not fully transparent or systematic.

Examples of ROBs’ innovative practices

Canada’s Treasury Board has requested advice from an external advisory committee to ensure that Canada’s regulatory system enables investment and innovation. Recommendations to date include strengthening capacity for regulatory experimentation.

The Norwegian Better Regulation Council has taken steps to scrutinise if regulatory proposals are innovation-friendly (e.g. 2019 statement on a set of proposed new rules governing the use of drones).

In 2018, Denmark set up a Secretariat for digital-ready legislation in charge of evaluating whether digitisation is considered in rulemaking and providing ministries with guidance and advice on digital-ready legislation.

The UK’s Regulatory Policy Committee will scrutinise the application of an innovation test to ensure that the impact of legislation on innovation is duly considered throughout the regulatory cycle.

There are now more jurisdictions with a body in charge of reviewing the quality of ex post evaluations compared with 2014, but these still account for under one third of the total and quality control seldom applies to all evaluations. Moreover, only a small minority of OECD members have a ROB in charge of reviewing the quality of ad hoc reviews of the regulatory stock or ex post evaluations of legislation packages. More systematic quality control is also needed to ensure the effectiveness of stakeholder engagement practices, including those involving foreign stakeholders, throughout the regulatory cycle.
Most OECD members have not yet set up bodies to review the quality of ex post evaluations or stakeholder consultations.

ROBs can help improve how the performance of regulatory management tools is tracked, measured and communicated upon, thus enhancing governments’ ability to reap the benefits from regulatory reform.

Although RIA is a pivotal element of regulatory policy, about one third of jurisdictions still do not publish online reports on the performance of their RIA system and in many of them reporting is not regular but ad hoc. Only a handful of OECD members report on the effectiveness of ex post evaluations in improving the regulatory stock on a regular basis, and, despite the widespread recognition of stakeholder engagement’s relevance, just about one third publish reports on the performance of consultation practices on draft regulations – generally on an ad hoc basis.

### Few OECD members report regularly on the performance of regulatory management tools

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Note: Data refers to the situation as of end 2020 and is based on 38 OECD member countries and the European Union. Source: Indicators of Regulatory Policy and Governance Survey 2021.
Related links

- OECD Regulatory Policy Outlook 2021
- OECD 2012 Recommendation on Regulatory Policy and Governance
- Indicators of Regulatory Policy and Governance
- Case Studies of RegWatchEurope Regulatory Oversight Bodies and the EU Regulatory Scrutiny Board
- OECD 2021 Recommendation for Agile Regulatory Governance to Harness Innovation
- Practical Guidance on Agile Regulatory Governance to Harness Innovation

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