Executive summary

Laws and regulations affect all areas of business and life. They determine the contours of our safety and lifestyle, the ease of doing business and the achievement of societal and environmental goals. While good regulation is conducive to economic growth and well-being, inadequate regulation endangers both. But "regulating" is an increasingly daunting task. The overwhelming pace of technological change and the unprecedented interconnectedness of economies confront governments with uncertainty and complexity in terms of what and how to regulate. The validity of existing regulatory frameworks and, indeed, the capacity of governments to adapt to change are being questioned. This requires an increasingly agile public sector, able to exploit the many opportunities offered by technological change to improve rule-making and adapt to new realities and risks.

The *OECD Regulatory Policy Outlook 2018*, second in a series launched in 2015, maps country efforts to improve regulatory quality against the principles set out in the 2012 Recommendation. Based on an analysis of the extensive 2017 OECD Regulatory Indicators Survey (iREG), the *Outlook* stresses the importance of sound laws and regulations and highlights OECD countries' good regulatory practices. Critically, it also identifies areas where these countries can improve.

OECD countries are committed to regulatory quality. By the end of 2017, all OECD and accession countries had a whole-of-government regulatory policy and entrusted a body with promoting and co-ordinating regulatory quality across government. They had also made progress in adopting "traditional" regulatory management tools, in particular stakeholder engagement and regulatory impact assessment (RIA). They increasingly seek feedback from citizens and businesses on forthcoming laws and regulations, and allow more time for consultations. RIA has become an important step in the rule-making process of most countries.

Nevertheless, there is room for improvement. Consultation outcomes could be better taken into account in regulatory design. More meaningful engagement, greater transparency and better communication are needed to ensure that citizens and businesses feel included in the policy-making process, accept regulatory decisions and, ultimately, trust their government. In some jurisdictions, RIA has become over-procedural and is not targeted to the most significant laws and regulations, either because there is no triage system or because regulatory proposals with significant impacts are exempted. Where assessments are undertaken, they often focus on narrowly defined economic impacts, such as regulatory burdens for business, ignoring other significant effects.

Most strikingly, the "lifecycle" of regulations remains largely incomplete. Countries are more adept at the early stages, i.e. designing laws and regulations, than they are at the later stages of enforcing and reviewing them. Furthermore, there is still no systematic approach to evaluating whether laws and regulations do achieve their objectives in practice. Although some of them might be obsolete, imposing unnecessary costs on businesses and regulators, and potentially putting citizens at risk, countries fail to systematically collect evidence, monitor implementation and evaluate results. This

hampers countries' ability to improve regulatory quality and to demonstrate the results of better regulatory design.

Government-wide policies to promote better governance structures and processes, and to bridge the gap between the development and the implementation of regulations, are missing. Regulatory authorities and inspection agencies often lack explicit policy frameworks for strengthening their performance. To deliver results, they need sufficient autonomy, appropriate powers and resources, and transparent and predictable accountability mechanisms, as well as the capacity to manage and analyse data and effectively target their activities.

The importance of international regulatory co-operation (IRC) is increasingly recognised across OECD countries as a means to ensure that laws and regulations keep pace with globalisation. In practice, while iREG uncovers some evidence of IRC policy, only a few countries have a cross-governmental vision of IRC, and its governance remains highly fragmented. Ministries and regulators could more systematically consider the international context and international norms and standards to achieve their policy objectives. They could also provide more meaningful opportunities for engaging foreign stakeholders and assess the international impacts of their actions as part of *ex ante* and *ex post* evaluation.

The gaps in regulatory policy may stem from limited quality control and oversight – still the "missing piece of the puzzle". Oversight is a critical link in the regulatory governance framework, one that helps bridge the gap between formal requirements and implementation. There are signs that some OECD countries have established regulatory oversight capacities and functions. However, in many countries, responsibility for regulatory oversight is split among several institutions, making effective co-ordination crucial. Quality control of regulatory management tools occurs late in the rule-making cycle, and mainly focuses on the procedural quality of RIA, rather than broader policy goals.

Currently, there is much enthusiasm for behavioural insights (BI) as a tool for designing and delivering better policies. By fostering a culture of experimentation and relying on a better understanding of actual behaviour, BI is an effective tool for learning, adapting, and innovating. Applied to regulatory policy, there is scope for further embedding BI as part of RIA and *ex post* evaluation, using BI for promoting informed stakeholder engagement and applying BI to change the behaviour of institutions, regulators and regulated entities.

More than ever, there is need for rules that are transparent, based on evidence and take into account the risks as well as the realities on the ground. These rules need to be developed and maintained by sound and responsive democratic institutions. Stakeholder engagement and the systematic evaluation of impacts before and after the adoption of rules thus provide crucial inputs to the rule-making process. Regulatory authorities, inspections, and enforcement play a critical role in determining the effectiveness of regulation. Regulatory oversight is needed to guide and promote regulatory quality across government. Finally, there is an irreversible need for IRC and innovative approaches to engage countries' expertise and co-ordination on complex issues that increasingly cut across administrative boundaries.

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