

SMART MOVES

Modern Ways
to Regulate

FINAL REPORT

A REPORT ON A CONFERENCE HOSTED
APRIL 26, 2017 BY THE MINISTRY OF
ECONOMIC DEVELOPMENT AND
GROWTH'S REGULATORY CENTRE
OF EXCELLENCE



Ontario

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ONTARIO'S SIX PRINCIPLES FOR MORE MODERN REGULATION

- 1** Focus on the user by writing regulations in plain language and creating a single point of contact for business to access information or government services.
- 2** Use international industry standards – for example, the International Standards Organization (ISO) – where available/appropriate to eliminate redundant reporting requirements.
- 3** Move to risk-based inspections: reduce the enforcement burden on businesses with a strong safety and compliance record, using accreditation to distinguish good actors from high-risk targets; better coordinate inspections among ministries and agencies.
- 4** Create a “Tell Us Once” culture where all ministries that interact with business use the Business Number so businesses do not provide the same information to government repeatedly.
- 5** Apply a small business lens by setting different compliance paths to achieve desired outcomes, rather than using a one-size-fits-all approach.
- 6** Go digital by delivering simple and straightforward digital services and products that will modernize public service delivery and make government work better for businesses.

These principles came out of the work of the Regulatory Modernization Committee, which was created in 2016 as part of a renewed emphasis on streamlining regulation. In announcing the creation of the committee, the government stressed that regulatory modernization is a key element of its Business Growth Initiative, because a more nimble regulatory regime is essential for an innovation economy.

The committee is made up of senior leadership from across government and chaired by the Secretary of Cabinet, and has the mandate of overseeing and supporting regulatory modernization.

Another tool under the Business Growth Initiative is the Regulatory Centre of Excellence. The purpose of the Centre, which is part of the Ministry of Economic Development and Growth, is to build knowledge and support Ontario's policy makers and practitioners as they streamline regulations.

The Centre advises on best practices from Ontario and elsewhere and gives guidance on:

- developing non-regulatory approaches;
- analyzing regulatory impacts, including businesses' costs of compliance;
- when a regulation is needed, applying the six modernization principles in designing it; and
- consulting with stakeholders through the Regulatory Registry.

SMART MOVES: AN OVERVIEW

Bringing together expertise from across Ontario and around the world, *Smart Moves: Modern Ways to Regulate* conference provided deep insights into how Ontario can – and must – update its regulatory approaches to be more modern and effective.

Attendees at the one-day conference included policy analysts, compliance staff, investigators and others from across the Ontario Public Service, as well as municipalities, provincial agencies and other regulatory bodies. This report summarizes what they heard and said and provides more background on Ontario's regulatory modernization efforts.

Held on April 26, 2017 in Toronto, *Smart Moves* was organized by the Regulatory Centre of Excellence. It was kicked off by Cristina Martins, Parliamentary Assistant to the Minister of Economic Development and Growth, and Steve Orsini, Secretary of Cabinet, head of the Ontario Public Service and executive champion of regulatory modernization. They delivered a clear message: Ontario's government is driving more modern and streamlined regulation that continues to safeguard the public interest.

Each individual [regulatory] effort has a very laudable objective... but sometimes we don't step back and look at the totality of all the individual decisions ... and the accumulation of those impacts on society.

... we need people to come forward with ideas to challenge some of our approaches.

Getting this right is crucial for our quality of life. We all get it. But changing the system is a lot harder than we think.

Steve Orsini, opening remarks

Futurist Nikolas Badminton then set the stage with a glimpse at trends across several domains that will call for government to be more predictive and collaborative.

Following from this survey of the general landscape, participants heard about specific challenges – some well-known and others just emerging – that are driving a greater need for regulatory modernization: new technologies, digital culture, disruptive business models and the economic impacts as regulations accumulate.

In the first of two case studies, they learned what the state of Victoria in Australia, recognized as a leading jurisdiction for regulatory modernization, has done to address challenges, streamline its system and approaches, and change its culture.

A session on modern approaches, tools and thinking on regulatory reform explained ways of embedding design thinking, digital delivery, behavioral insights and risk management into policy and regulation to achieve greater efficiency and effectiveness. In some cases these tools, properly understood and applied, can remove the need for regulation entirely.

The second case study looked at regulatory reform in British Columbia, recently honoured by the Canadian Federation of Independent Business for its achievements in reducing regulatory burden. The case highlighted the evolution of regulatory reform in the province from a focus on reducing the quantity of rules and regulations to an effort to achieve higher quality in regulation and greater accountability. This evolution has included giving the public and other stakeholders the opportunity to propose ideas and provide input in highly transparent ways.

At this point, having heard about drivers, tools and the experiences of other jurisdictions, attendees came together in small teams for a “pop quiz” on four mini-cases. Once the votes were tallied, presenters – who got the cases at the same time as attendees – provided their insights.

Interaction continued with a session that asked participants what they personally, their organization, and the government as a whole – particularly through the Centre of Excellence – could do to support innovation, cultural change and regulatory reform. This report sets out the general themes that emerged.

The conference wrapped up with a discussion of the way forward – including how to continue to champion regulatory reform in Ontario.

N.B. See ideas discussed on page 29.

Throughout the day, six themes around regulatory reform emerged. They can be summarized as:

- *Be more predictive*
- *Integrate innovation early*
- *Focus on users*
- *Take a more holistic view*
- *Use risk knowledge*
- *Change the culture*

The report goes into the themes in more detail.

SIX WAYS TO MORE MODERN REGULATION

1. Be more predictive and forward-thinking

- Government must regularly scan emerging ideas and understand their potential impacts on its regulatory domains; this requires both skills training and closer ties to innovators
- Develop “candidate policy” – not final decisions, but possible directions – early in the innovation adoption cycle
- Because of the close ties between innovation and the standards governing their adoption, Ontario and Canada need to take a leadership role in standard-setting

2. Bring other perspectives and new ideas into policy-making early on

- Engage partners within and across government, as well as the regulated community and other experts, in the earliest stages of developing or updating regulation
- Early stages of policy-making should be open to considering innovative approaches and ideas that supplement or even replace traditional regulation

3. Put the user at the centre

- See the policy framework from the perspective of users, and think about what is likely to encourage – or frustrate – them

- Use the insights of behavioural economics and behavioural science to support better decisions and reduce the need for formal compliance
- Recognize the need for different approaches for different users, especially smaller or less sophisticated ones
- Experiment and test ideas rigorously from the user viewpoint
- Provide simple-to-use interactions, especially on digital platforms, that can be user-tailored

4. Build a more holistic approach across the regulator community

- Create greater awareness of the economic impact of the accumulation of regulation, not just a single new regulation
- If an appropriate standard is available nationally or internationally, adopt it
- Integrate policy and compliance more closely to build mutual understanding of opportunities and constraints and better inform each type of work

5. Use risk knowledge to streamline regulation and enforcement

- Address the growing demand for the advanced skills needed to correctly interpret the wealth of data now available to improve policy and streamline compliance
- Understand the need to match regulatory approaches to the level of risk involved
- In building decision hierarchies and risk management models, ensure that they are flexible enough to deal with rapidly changing industries and technologies
- Ensure consistent understanding of risk throughout the organization, from senior management to front-line staff

6. Change the culture

- Use plain, simple and concise language in all documents, including legislation and regulation
- Break down silos and recognize the value of a range of perspectives in problem-solving
- Embed regulatory reform into processes – for example, make it a priority in mandate letters, letters of direction from ministers to regulatory agencies/authorities, and cabinet submissions
- Build a strong community of practice among policy-makers and practitioners through online engagement and face-to-face meetings, and recognize innovative approaches
- Show continuous support from regulatory champions

INTO THE FUTURE WITH “THE FANTASTIC SIX”

In his keynote address, futurist Nikolas Badminton sketched out six domains which are undergoing – or about to undergo – exponential growth, creating both huge opportunities and major challenges for society, and by extension for regulators and policy-makers.

Dubbing them “The Fantastic Six,” he listed them as:

- Big data
- Artificial intelligence
- Internet of things
- Renewable energy
- Additive manufacturing
- Genetics and personalized medicine

He then outlined how he believes these six areas are changing society and business.

Big data: “Data is the new oil – it’s the thing that runs the world. ...All the decision-making, progress, research and development comes off the back of the data that we have access to,” Badminton said. This is why, he added, the most valuable companies in the world today are software companies. Gathering, analyzing, understanding and using the insights of big data are critical skills in the modern world.

Artificial intelligence (AI): “Every single part of our lives will be drastically affected by AI. We won’t even know it’s there most of the time,” Badminton predicted, noting that it is becoming more intuitive, more creative, and more anticipatory – and being embedded into more systems.

TOP 5 JOBS MOST AT RISK

Retail salesperson.
Administrative assistant.
Food counter attendant.
Cashier.
Transport truck driver.

<http://www.cbc.ca/news/business/automation-job-brookfield-1.3636253>

AI and the closely related field of robotics will greatly alter manufacturing, he said, producing more output with less human employment. There are significant implications for Canada and Ontario, he added, noting a recent report from Ryerson University's Brookfield Institute for Innovation which forecast that 62 per cent of Canadian jobs will be affected by automation in the next 10 to 20 years. For example, new self-driving technology is likely to do away with the job of long-haul trucker. On the other hand, however, there is – and will continue to be – strong demand for programming and other technically-related skills, a demand that is not currently being met.

The internet of things: This is “a lot of things, from self-driving cars to the phones in our pockets, all connected through the cloud to optimize how the world works,” Badminton explained. This connectivity is growing greatly, bolstered by major corporate investments, with the expectation that it will be a \$60 trillion industry within fifteen years.

What participants said:

*“...engaging and thought-provoking.
Made you really think about the future!”*

*“...a lot to consider in terms of what
potential impacts the Fantastic 6 will bring
for regulators and their regulated sectors”*

Connectivity across physical objects allows for the collection of increasing amounts of data which, when properly analyzed, can be hugely beneficial: “As we capture more data, we can exploit that responsibly to be more efficient, to reduce waste.”

A major frontier is the “smart city,” which uses data from sensors and other technology to reduce costs and enhance services. Badminton cited the example of Barcelona in Spain, where a Smart City initiative has helped save \$58 million on water, increased parking revenues by \$50 million a year, and generated 47,000 new jobs. The city reports saving a further \$37 million a

year through the adoption of smart public lighting.

Renewable energy. The growing interest in such energy sources as wind and solar power is triggering exponential growth in this sector, Badminton said. He predicted that in the next 20 to 30 years, traditional fossil fuel companies like Shell and Exxon will transform themselves into renewable companies. The acceleration is being fuelled by cost-effective technological innovations like a solar cell material that looks and acts like clear window glass.

As for how it will play out globally, “Asia is going to be very important,” he predicted, with countries there already investing heavily and strategically in renewables and developing a multi-national “super-grid” for electricity to support the shift.

In terms of the employment impact, “people aren’t going down mines [any longer], they’re building the infrastructure for renewables,” he said. “It’s the new blue collar job.”

Additive manufacturing. The best-known form of additive manufacturing is 3D printing, in which digital, three-dimensional design data is used to build a physical component by depositing thin layers of material. The innovative technique is already being used in novel applications, such as 3D-printing entire houses in remote locales – an option being explored by at least one First Nation community.

It’s also very attractive for auto part manufacturing, allowing for the rapid design and prototyping of parts in “a couple of hours,” Badminton said.

He went on to describe a related innovation: a portable pharmaceutical unit that can create a wide variety of drugs on site – making it ideal, for example, for supporting humanitarian

efforts in natural disasters and other emergencies when the exact type and quantity of medication needed isn't immediately known.

Genetics and personalized medicine. The drastic reduction in the cost of genome analysis and other gene-related techniques is leading to effective therapies for certain kinds of hearing and vision loss, cancers and other diseases, Badminton told the conference. Gene therapy is curing some genetic diseases already, he said, and researchers are looking at how it might combat ageing.

This area raises many regulatory and ethical questions, he noted. As an example, he described how another emerging technological innovation, the autonomous vehicle, is likely to reduce the number of organs available for transplant because road fatalities are now a leading source of donors. But with autonomous vehicles, highway travel is expected to be much safer.

This has given rise to speculation that with genetic modification, organs for human transplant could be grown inside domestic pigs – not so wildly far-fetched an idea, he pointed out, since this is already done for heart valve and tracheal implants.

What it means for society – and regulators

Clearly, the Fantastic Six – and other innovations – are already changing society. People are becoming less concerned about personal privacy, as more and more data and information is routinely shared – leading to a future, he predicted, in which “everything everywhere is going to be recorded and uploaded to the cloud.” At the same time, security is an increasing concern, with anonymous cyber-highjackings – of power grids, transit systems, hospitals – an increasingly common phenomenon.

How can we think about these things ahead of the curve of the tech companies?

We see them leaping ahead, kind of telling us how the world is going to be.

We don't necessarily want that.

See graphs on the following page.

Legitimate companies are looking for the next disruptive technology, he said, because there are rewards for “being completely disobedient [and] changing the game.” Rules and regulations are of little interest to entrepreneurs until “someone tries to put regulation and policy around it.”

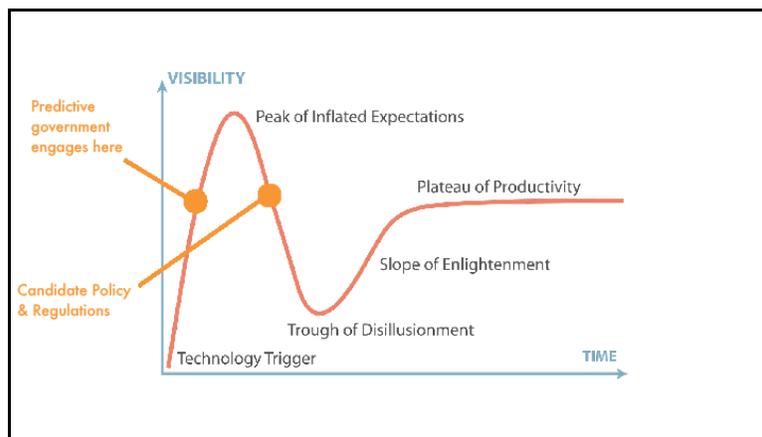
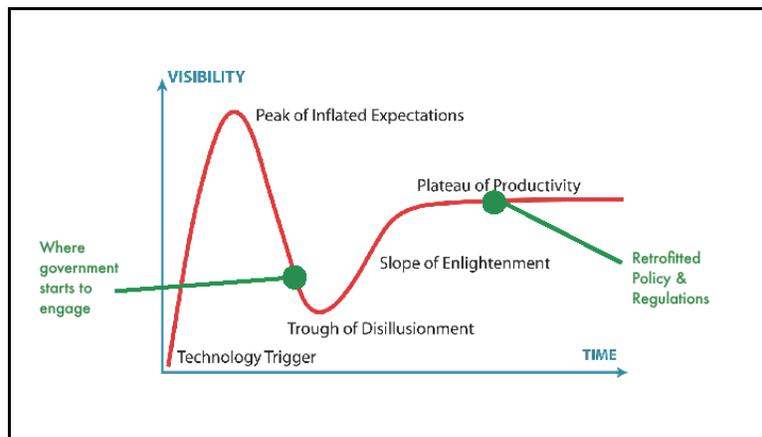
The problem is, he continued, that this intervention tends to happen at the worst point in the technological “hype cycle:” what is known as the trough of disillusionment. This trough comes after the initial hype proves too optimistic but before the innovation, often with changes, settles into wider and steadier adoption. At this point the innovator is preoccupied with getting the new idea back on track.

Policy makers should instead engage much earlier based on taking a more predictive outlook and thinking about “candidate policy” – not a final approach, but a range of options and ideas – based on talking to and working with innovators and other stakeholders.

Futurology needs to be in the middle of this, he said. This involves scanning what is happening at the leading edge today and looking ahead at how it might develop – including understanding the possibility and implications of exponential growth. Framing is also important, to work through the potential impacts in a specific domain, like agriculture, medicine or smart cities.

Addressing change and the possibilities and problems it presents needs to involve a collaboration among government, citizens and solution providers. Government may be able to share the costs with solution providers because they will benefit, too. The outcomes of

collaboration can include the testing of potential solutions, the spinning off of multiple projects, and the development of a viable solution or set of solutions that is widely accepted and adopted.



NIKOLAS BADMINTON IS A FUTURIST SPEAKER, AUTHOR, TEACHER, AND CONFERENCE PRODUCER

WHAT'S DRIVING THE NEED TO CHANGE?

In a rapid-fire session, experts in four specific areas outlined the challenges and opportunities that are driving regulators to embrace change.

'One standard, one test, accepted everywhere'

John Walter, head of the Standards Council of Canada, noted that while standards can have great value as regulatory mechanisms, the value is eroded and compliance costs soar without consistency across jurisdictions. Regulators should aim for "one standard, one test, that is accepted everywhere."

A key step, he said, is for Canada to adopt uniform standards internally, which is one of the aims of the recently signed Canada Free Trade Agreement.

But Canada must look beyond its own borders, he added, and be involved from the start in setting international standards. Early engagement not only provides Canadian exporters with better market intelligence, it also helps to ensure international standards are not developed in a way that hurts Canadian businesses.

Engaging internationally also supports home-grown innovation and protects Canadian intellectual property, he added. He cited how other jurisdictions, especially China and Japan, are not just innovating new products, they are setting the global standards for them: one example is "fine bubble" technology, which can dramatically reduce water consumption.

The standard-setter has a major impact on how new technology is adopted globally, he pointed out, adding that "we could do the same with every new piece of technology in this country, giving small Canadian companies a huge boost internationally."

He urged both policy developers and technical experts to "move to a higher level" and leave behind the belief that a sub-jurisdiction or even a country needs its own standard when an appropriate global one is available. He also reminded attendees that once a standard is written into regulation, it must be monitored regularly to avoid becoming outdated.



JOHN WALTER IS THE CHIEF EXECUTIVE OFFICER OF THE STANDARDS COUNCIL OF CANADA

Meeting the expectations of an increasingly digital culture

With elementary students today learning code and developing apps, Raphael Ly of KPMG LLP told the conference, the shift to digital culture – one in which users expect experiences tailored specifically to themselves, and are willing to share their data in return – is accelerating.

This has profound implications for government, he noted, especially in the area of privacy protection. But the impacts go further, he said, to encompass such ethical and legal questions as responsibility for errors made by artificial intelligence programs or the data-gathering abilities of self-driving vehicles when an accident happens.

He lauded government for generally responding in measured and thoughtful ways to seismic shifts of this nature, which is key to maintaining the trust of citizens. At the same time, he offered advice on how government can move its own culture toward one that more seamlessly meshes with the digital culture being created across society:

MADE IN ONTARIO

An innovative approach will use “crowdsourcing” to improve information about how accessible businesses are to people with disabilities. The Big Idea project is a non-regulatory approach developed by the Accessibility Directorate of Ontario and implemented by the Inclusive Design Research Centre at OCAD University. The centre will moderate and maintain a digital platform where businesses are profiled and users of their facilities can rate their degree of accessibility.

Be citizen-centric. This goes beyond broad demographic data to learning about the motivations, frustrations, likes and dislikes, and preferences of citizens. Together, these define what the private sector has long called “personas.” Using this concept can help government deliver a tailored citizen experience in support of a desired policy outcome, he said.

Iterate to drive improvement. Policy isn’t “one and done,” Ly said. It needs to be created based on robust experimentation and testing, and then constantly monitored and the outcomes measured. The results of iteration can be used to improve existing policy or inform upcoming efforts.

Engage broadly. Ly noted that high-performing digital organizations break down silos. For government to do the same, it must work across ministries as well as upwards and downwards. Moreover, a variety of perspectives must be welcomed. “Throwing more people with the same mindset at a problem won’t result in an acceptable outcome,” he advised.

Acquire new skills. A particularly vital one is data science, he said, to give regulators the ability to analyze and leverage the vast amounts of data that digital culture is making available. Another key skill, he said, is often underrated: the ability to listen to and act appropriately on the feedback and input that comes through social media and other digital channels.



RAPHAEL LY IS DIGITAL DIRECTOR AT KPMG LLP

Disruptive business models: what to do when “breaking the rules” spells success

Innovation creates an inherent dilemma for regulators, Jerry Koh of MaRS Solutions Lab said: the key to the success of innovators is that they break rules and conventions, but government lives by rules and standards.

Not only does this lead to ethical, political and other complex conflicts, he continued, but it also means that existing research and past experience are of little help in developing a response. If an idea or business model is truly new, there are no precedents.

He pointed to characteristics of modern, digital innovators that add to the challenges. Their offerings often provide “democratized value” by making products or services more widely

available – an example is improving access to low-cost private rooms in tourist cities – but this can create tension between what the market wants and the perceived public interest.

MADE IN ONTARIO

To improve and streamline its requirements, the Ontario Securities Commission hosted the first “hackathon” by a securities regulator in Canada. RegHackTO brought together more than 120 members of the Canadian fintech community who competed to find solutions to regulatory problems in several areas. An online video at

<http://www.osc.gov.on.ca/en/reghackto.htm>

provides an overview of the event and highlights participants’ enthusiasm at being involved in designing solutions. As the commission chair put it in describing the innovative event, “We must be open to new and sometimes uncharted ways of doing business.”

Convergence across sectors and platforms is also creating new categories of products like “fintech” (financial technologies) or the internet of things. This can challenge regulation in multiple areas, and not just within one jurisdiction but at different levels of government.

Koh noted that digital innovators also provide users with tailored and continuous experiences and are experts at getting and using data. These characteristics are aimed at triggering higher consumption but create concerns in areas like privacy and consumer equity.

His advice to regulators facing disruptive innovators is to take a leaf from their book – be more daring in their own thinking and more willing to take risks, question existing rules and experiment with potential solutions.

JERRY KOH IS DIRECTOR OF SYSTEMS INNOVATION AT MARS DISCOVERY DISTRICT

As rules accumulate, the drag on the economy grows

The steady accumulation of rules, regulations and requirements can create a drag on the economy, Patrick McLaughlin of the Mercatus Center at George Mason University explained.

Looking at the U.S. economy since 1980, he noted, regulatory restrictions on businesses grew from about 400,000 to more than one million, a trend that was likely accelerated by the creation of numerous regulatory agencies. McLaughlin and other researchers were able to estimate the size of the growth gap that this opened: if the 1980 regulatory level had been maintained, the U.S. economy would have been 25 per cent bigger by 2012 – that is a formidable \$4 trillion in foregone output.

The underlying problem, he explained, is that regulators seldom consider the rules already on the books when adding a regulation. Even when a new rule on its own makes perfect sense, layering it onto existing regulation creates an increasingly complex landscape – one that can easily deter businesses from innovating.

Economic growth is largely the result of innovation – new products, processes and services – boosting productivity, he said. His research showed, however, that regulatory accumulation hinders innovation. This pattern was seen across 22 different industries that together comprised about half the American economy.

There need to be incentives for people to incorporate reform into their jobs – to be rule managers, not rule makers.

McLaughlin cited British Columbia as a jurisdiction that has successfully rolled back the accumulation of regulation, he said, noting the improvement in the growth of its economy as those efforts unfolded. While this did not prove causation, he said, the correlation certainly suggested a positive effect. Moreover, he added, a simpler and clearer landscape allowed for a higher quality of regulation.

McLaughlin set out three high-level principles for reducing regulatory drag:

- Information. Gather information at the start for benchmarking and measuring progress; learn which rules are working and which are not.
- Incentives. Put in place mechanisms like the “net zero increase” commitment (for every new rule, an existing one was eliminated) in British Columbia. This underscores to regulators that their job is now broader than simply writing new rules.
- Implementation. Adopt best implementation practices, such as gathering feedback about impacts of rule changes/eliminations and the rate at which reduction happens.

What participants said:

“enjoyed this format very much. The speakers having limited time to present keeps the audience engaged.”

“All very interesting and offering a snapshot of their varied experiences.”



DR. PATRICK MCLAUGHLIN IS DIRECTOR, PROGRAM FOR ECONOMIC RESEARCH ON REGULATION, AND SENIOR RESEARCH FELLOW AT THE MERCATUS CENTER AT GEORGE MASON UNIVERSITY

Case Study

INTERNATIONAL BEST PRACTICES: BETTER REGULATION IN THE STATE OF VICTORIA, AUSTRALIA

In this engaging session, Anna Cronin, the Commissioner for Better Regulation in the Australian state of Victoria, described her efforts to better support regulators across the state government. She also shared her insights into effective ways of achieving desired regulatory goals, and the characteristics of regulatory culture.

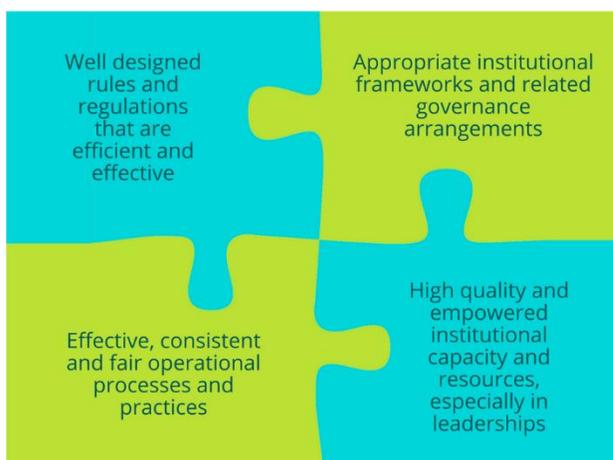
The Commissioner for Better Regulation advises the government on the adequacy of impact assessments for legislation and regulation, on regulatory policies generally, and on opportunities to improve regulation. Created in 2015, it represents a “re-branding” of a previous commission with a similar role.

A major focus of the work is assessing Regulatory Impact Statements or “RISs.” The RIS, which government departments must put forward in support of certain proposed regulations, should clearly explain the regulation’s goal, provide an evidence-based, objective and logical analysis of the impacts of various options, and identify a preferred option. The Commissioner then comments on the RIS’s adequacy.

For years, Cronin said, departments saw the RIS as purely a compliance activity – “a box to be ticked” during the decision-making process – and, given the complex and convoluted guidance on how they should be prepared, largely outsourced that work to consultants. Those dealing with the earlier commission came up against a culture that appeared pedantic, obscure and unhelpful.

The result, she added, was that relationships between the commission and departments were poor to non-existent, and the RIS was of little or no value to decision-makers.

Cronin said that on stepping into the newly created role of Commissioner for Better Regulation, she worked to “to take the groan out of RISs.” A first step was to show the link between the purpose of the RIS and best regulatory practices.



PRINCIPLES FOR THE GOVERNANCE OF REGULATORS, OECD 2013

The new commission has done considerable work to improve the process. It has shifted from commenting late in the process and taking a quasi-judicial stance to engaging earlier, more proactively and more collaboratively. Commission staff now offer support through the process, and guidance material has been re-drafted into plain English. In short, as a staff member told Cronin, now “we’re a teacher, not just a marker.”

In the first year of the new approach, the percentage of RISs outsourced to consultants fell from 85 to 45 per cent, providing cost savings on the order of \$2 million. Just as important, the approval rating for the new Commission is 93 per cent.

Cronin emphasized that the improvement has not come with a loss of rigour. Departments are still asked to make improvements if a RIS does not meet the adequacy test.

Indeed, Cronin said, improving the process and the culture around RISs has improved their value. Now, she said, a properly prepared RIS clearly sets out a problem, the options for managing it and a conclusion in the way that any effective briefing document should do. This means that departments should not see it as a separate exercise, but part of their overall strategy for managing the underlying issue.

Drawing on her experience as Commissioner and other roles in government, Cronin offered attendees several broader insights. She noted the value of using social media – especially in catchy ways – to engage and inform citizens, especially those who are hard to reach by more traditional routes.

She also spoke to striking the right balance in regulatory design, especially between a more prescriptive approach and one that focuses less on specific measures and more on the ultimate outcome.

The outcomes-based approach, which is more flexible and open to innovation, needs a clear expression of the goal and good data collection to measure outcomes, she noted. As well, those being regulated need the capacity to develop their own effective solutions. Smaller entities may be more comfortable being given specific and clear rules to follow.

What participants said:

“...provided good ideas on how we can look at reforming the way we develop and review regulations.”

“Really spoke to the issues we face as regulators in our language”

She noted an additional risk of the outcomes-based approach: it is so high-level that regulators often feel they must provide guidance material, which becomes de facto prescription. If someone follows the guidance but the outcome isn't achieved, the result can be uncertainty as to who is to blame.

Finally, she noted, the public is not likely to accept an outcomes-based approach alone where the consequences of a wrong decision on the part of a regulated entity – for example, a hospital – are high.

In terms of how to select the right approach, she said, she had found this guidance from the Ontario Ministry of Labour insightful: “Different types of regulations are needed for different situations. A good regulation must be flexible, recognize that one size does not fit all, consider the possibility of changing circumstances and find a good balance between ensuring safety and enhancing innovation.”

Finally, Cronin discussed her experiences with the regulator culture, which she described as being, at its worst, resistant to change, old-fashioned in business operations, and wary of new approaches. At the same time, however, regulators can be incredibly knowledgeable, aware of the risks in their sector, and strongly committed to meeting their responsibilities.

One key point, she said, is that regulators need direction: if they should be developing better and more streamlined approaches, they need to be told that explicitly. This is being addressed, in the state of Victoria, through a regulators' forum that meets regularly for updates and discussion.

As well, ministers send an annual statement of expectations to their regulators, and it now includes requirements to be more efficient, effective and modern.

The purpose of these and other measures is to enable and encourage regulators to re-think how they do their jobs, she said, which supports a more open and modern regulatory culture.



ANNA CRONIN IS THE AUSTRALIAN STATE OF VICTORIA'S FIRST COMMISSIONER FOR BETTER REGULATION

MODERN APPROACHES, TOOLS AND THINKING

In a second rapid-fire session, four experts outlined approaches, tools and thinking in their respective areas of expertise to support more modern regulation.

Design thinking: focusing on user needs, testing solutions

Ariel Sim of Doblin Canada introduced human-centred design, which reflects approaches first used in industrial design and architecture, as “a problem-solving philosophy that focuses on users’ needs to create offerings that are intuitive and offer value.”

The process is structured and contains multiple phases, she said, and recognizes that “users’ needs” should take into account their motivations and limitations. “Offerings” include programs, products and/or services. They should be intuitive physically, cognitively and emotionally, she noted, and should deliver value to users and the entity serving users.

Sim pointed out that it is easier to achieve these goals with private-sector offerings, because the characteristics of users are easier to identify and the offering is usually fairly specific.

With policy design, however, the impacts are much broader and must encompass the needs of several groups. She thus provided an additional definition of design thinking, as “the art of planning and creation using structured thinking from engineering and design.”

Design thinking can help to pull together diverse perspectives and develop approaches that are more broadly accepted, she said. A key way to do this is to bring industry experts, academics, and other appropriate stakeholders together early in the

MADE IN ONTARIO

The Ministry of Transportation took a collaborative and inclusive approach to drafting a new motor vehicle safety standard. The old standard was outdated and difficult for users – typically, auto mechanics – to understand and follow. The ministry worked in partnership with users, vehicle engineers and enforcement staff to prepare the update and create a plain language, user-friendly guideline. The ministry also undertook a communications campaign to build awareness and understanding among users before the new standard was launched.

policy development process. Once at the table, they can provide their input, listen to others, and work in groups to test, challenge and prototype solutions so that the draft policy better integrates viewpoints.

This is in marked contrast to the traditional approach to gaining input, she said, which is highly structured, with contributions made and reviewed at fixed points and in fixed ways, and often results in approaches that are polarizing instead of integrated.



ARIEL SIM IS A FUTURIST AND SENIOR CONSULTANT FOR INSIGHTS & DESIGN AT DOBLIN TORONTO

Digital delivery and tools: building trust in on-line government

Margus Sarapuu, head of Estonia's Zero Bureaucracy task force, talked about the achievements of the Baltic republic in creating and building on-line government. Estonia's investments in electronic infrastructure and its efforts to speed adoption of on-line services have led to its first-place ranking among European Union countries for submission of individual forms to government on-line. It also ranks eighth on the EU's digital economy and society index.

Combined with a mandatory electronic identity card, Estonia's electronic infrastructure is being used for three main purposes:

Enhanced democracy. Estonia is the only country in the world that offers the option of e-voting (remote Internet voting) for all elections, to avoid long queues and reduce vote-counting time. The increasing share of votes cast this way shows growing trust in the system, he said. "If a government puts the most sensitive democratic process on-line... [it shows that] this technology can actually be trusted."

Increased economic space. Estonia now makes e-residency available for a fee to those outside its borders, with the goal of having 10 million e-residents by 2025. A major reason is to increase the economic activity in the country by providing services to location-independent entrepreneurs such as software developers. E-residents can form Estonian companies and use the country's banking and payment processing systems as well as public Internet infrastructure. Applicants are interviewed in Estonia or at an Estonian embassy, and can set up bank accounts through a remote video link. Since Britain's exit from the EU, there has been an uptake in British citizens applying for Estonian e-residency.

MADE IN ONTARIO

Moving from a "one-size-fits-all" approach, the Ministry of the Environment and Climate Change introduced a risk-based regulatory framework. Companies with less complex activities can simply register on-line with the ministry. For companies that must still apply for environmental approval, applications are now filed digitally and a modern helpdesk is available. A searchable map on the ministry's website shows all registrations and approvals by location. Use of a single business number across the system has saved Ontario businesses an estimated \$45 million since 2011.

Zero bureaucracy. The Zero Bureaucracy task force, created on March 31, 2016 with a two-year mandate, includes representatives from ministries and businesses. Its three pillars are reducing the administrative burden on businesses, deregulating economic activity by eliminating unnecessary requirements, and reducing bureaucracy within the public sector. The task force surveyed businesses and learned that taxation and statistical reporting were their main concerns, while a larger EU survey identified registration as an added concern. This information has provided a focal point for the task force's efforts, which also rely on asking front-line government workers for their suggestions on streamlining.



MARGUS SARAPUU IS HEAD OF THE ZERO-BUREAUCRACY TASK FORCE AT THE MINISTRY OF ECONOMIC AFFAIRS AND COMMUNICATIONS IN THE REPUBLIC OF ESTONIA

Using the insights of behavioural science to “nudge” improved outcomes

“There are all sorts of quirks in the way our brains work that lead us to make certain very predictable mistakes,” Elspeth Kirkman of the Behavioural Insights Team explained to attendees after leading them through an exercise with exactly that outcome.

That’s because the human brain has two systems for thinking – fast and slow. The fast thinking system is intuitive, almost automatic, and driven by rules of thumb that are internalized over time. The slow system is thoughtful, analytical and methodical, but the effort and cognitive energy it requires limits its use.

We’re not saying behavioural insights can replace regulation. We’re saying it’s a very powerful complement.

MADE IN ONTARIO

The owners and operators of Ontario’s approximately 400 children’s camps are typically responsible for the water systems that serve their campers. To help them safeguard campers’ health, the Ministry of the Environment and Climate Change used behavioral insights to address common non-compliance issues with potentially serious consequences. The ministry crafted a simple letter to go to camps before the season started. It listed major compliance requirements with a check-off box next to each, making it easy for camp management to see what they needed to do and confirm it had been done. The ministry saw an increase in compliance in the targeted areas as well as a general improvement in inspection results over all.

As a result, people tend to outsource many decisions to the fast thinking system. Unfortunately, the outcomes, when closely examined, are not always rational.

It’s the job of Kirkman’s team to understand what all of this means for public policy. One thing they’ve learned: using behavioural insights can trigger major changes at a negligible cost.

A key finding is that giving people information doesn’t always lead to the right decision. In fact, if there is too much and it’s too complex, decisions may become worse. As a result, Kirkman said, “we’ve done work to simplify and clarify information.”

Other small changes can also have dramatic impacts. As an example, she pointed to participation rates in voluntary employer pension plans. Even though participating is

highly rational, many passed when they had to fill in an additional form as they started a new job. By making enrolment automatic, and requiring a form to be completed to opt out, the British government boosted participation from 61 per cent to 83 per cent within six months.

Behavioural science has also shown that the most powerful motivation for people is not always money. A study done in the United States, she said, showed that peer-to-peer counselling of diabetics was twice as effective as a monetary reward for lowering blood sugar. (A third strategy, advice from a physician, was found to have almost no impact.)

Kirkman noted that social networks can also be activated in support of regulation. In China, to help ensure companies reported their sales, the regulators turned receipts into lottery tickets: consumers now demand them, making tax evasion much harder.



ELSPETH KIRKMAN IS SENIOR VICE PRESIDENT, NORTH AMERICA, FOR THE BEHAVIOURAL INSIGHTS TEAM

Getting risk right to lighten the regulatory burden

Better understanding risk in the public policy context from the outset could likely result in a major lightening of the regulatory burden, Srikanth Mangalam of the Prism Institute told the conference.

“This is probably where people don’t spend enough time getting it right,” he said. As an example, he noted that retirement homes in Ontario are subject to 18 different regulations. But “if we properly understood what the expectations of citizens are, that would probably be one, maybe two, regulations – and different ways of administering them.”

He suggested that a strong decision hierarchy model could help achieve the right balance among public interests in regulation. Such a model should involve innovative regulatory frameworks, be built on effective institutional capacity, understand motivations and leverage risk knowledge. It should also measure results and be subject to peer review.

Within an organization, he said, examining institutional capacity can raise such questions as “Can inspections be done by a third party? Do we need to do them at all? How would the risk change in either case?” Thinking more broadly about capacity might call for the creation of an

MADE IN ONTARIO

The Regulatory Compliance Ontario Centre of Excellence is working to build a modern regulator compliance community. Inspectors and investigators across the Ontario Public Service benefit from the centre’s focus on modern practices, starting with setting clear expectations in plain language and focusing resources on areas of the greatest risk. The centre uses a range of carefully considered tools to promote compliance and correct non-compliance. It also works to improve coordination and collaboration among policy makers, technical experts and compliance staff, and across all ministries with regulatory activities.

overarching mechanism to ensure all regulatory activities are efficient and coordinated. Combined with better understanding of motivation, it might even shift the job of changing behaviour to an entity outside government. In India, for example, a social entrepreneurship project that rewards women for selling low-emission cooking stoves is improving indoor air quality and reducing greenhouse gases, while addressing gender equity.

Risk knowledge is changing dramatically in a more digital world, he warned, and regulators can no longer fall back on “expert judgement” in making decisions about risk. There is now a wealth of data available that is better in terms of understanding and managing risks. With the increasing crowdsourcing of data, some of this is even being collected by individuals.



SRIKANTH MANGALAM IS ADVISOR TO THE CEO FOR ONTARIO'S RETIREMENT HOMES REGULATORY AUTHORITY AND AN EXPERT CONSULTANT TO THE WORLD BANK ON PROJECTS IN AFRICA AND EUROPE

THE QUICK QUIZ

The brief quiz aimed to spark a lively discussion of potential regulatory issues. It consisted of four mini-cases created for the conference. They were a mix of examples of real-world situations and others that had been purely imagined as possible scenarios.

Attendees broke into groups to discuss the mini-cases, and were given 12 minutes to mull over four possible responses. Then they voted individually using instant “clickers,” and the vote totals were displayed. Presenters were given the cases at the same time, and asked to comment on their responses.

One option that came up repeatedly was using public education to supplement or, in some cases, replace the need to regulate.

1. RISK-SHARING: DOES IT AFLOAT YOUR BOAT?

A software company launches a website called aFloat, with a splashpage announcing “A new breakthrough in the sharing economy!” A link to a page called “About aFloat” says that it is a platform that allows boat owners to risk-share by contributing to a pooled fund that pays out against damage or theft. It also states: “aFloat is a voluntary risk-sharing platform, not an insurance company or product.”

Another page on the site allows interested boat owners to enter details like the boat’s length, age and power source and describe any past insurance claims related to boat ownership. The page then generates an annual “contribution amount” that the boat owner would have to make to the pool. It displays this next to the insurance premium that would be generated from the same data, showing that the “contribution amount” is typically one-half to two-thirds the premium.

Before participating in aFloat, participants must click on a box confirming that they have read and understood material explaining in detail the nature of aFloat, and in particular acknowledging that they accept that this is a voluntary exercise in risk-sharing, not insurance.

What to do about aFloat?

32% There is no need for Ontario to get involved

45% Use an alternative to regulation

16% Use regulation

7% Impose a ban and study the issue

This case sparked discussion about whether regulators had enough information to make a call on this product. Some participants wondered how the platform differed from conventional insurance, which is regulated. Others thought that compelling the provider to distribute clear marketing and communications to inform the public might be a potential solution, once the nature of the product being offered was clarified.

2. HOME-MADE LIQUOR: “STILL” ILLEGAL?

Numerous “you-brew” stores in Ontario, which sell equipment and supplies for brewing wine and beer legally at home, are now offering home distillation units. These products are clearly marked as being for the distillation of water or perfume only. They normally share shelf space, however, with small bottles labelled as flavouring for “whiskey,” “tequila,” “gin” and so on. Both the distilling equipment and related supplies represent a strong growth niche for you-brew stores.

On-line forums abound with questions about the legality of distilling alcohol in Canada. One on-line participant claimed that a home distiller in Ontario was charged a few years ago, but the judge dismissed the case because the product wasn’t being sold. Unofficially, a police officer is reported to have said: “It’s definitely illegal. But we won’t even respond to a complaint unless we hear that there is selling going on.” This relates to a frequently discussed aspect of alcohol regulation, which is ensuring taxes are collected on its sale.

There are also lingering questions about the safety of home-distilled alcohol. One home distillation website addresses these as follows: “Will home-distilled alcohol make me go blind? Not if you’re carefull (sic). The concern is due to the presence of methanol (wood alcohol), an optic nerve poison, which can be present in small amounts when fermenting grains or fruits high in pectin. This methanol comes off first from the still, so it is easily segregated and discarded.”

What to do about home distillation?

45% Use an alternative to regulation

17% Use regulation

6% Impose a ban on the sale of all distillation equipment while the issue is studied in more detail.

32% There is no need for Ontario to get involved at all

While it is in fact illegal to distill alcohol at home in Ontario, most felt that the “effort to impact” ratio of trying to regulate the sale and use of distillation equipment made it not worth enforcing. At some individual tables, however, there were concerns about public health and safety, as well as the integrity of alcohol tax system if the home distiller sold the product. One

suggestion was to study the outcomes in New Zealand, which made home distillation legal in 1996.

3. CROWD-FUNDED “SCAMPAIGNS:” A GROWTH INDUSTRY?

Numerous crowd-funding websites like GoFundMe and Kickstarter allow anyone to post their business ideas and solicit small contributions from investors, who in turn are promised a benefit, like a sample of the new product to be developed with the funding. While the best-known of these are international, some are specifically Canadian. Many innovative products, like a new gaming headset, an open-source game console and an affordable 3D printer, have been developed through the billions of dollars raised every year by crowdfunding.

But as one website notes, “the fact that absolutely anyone can create an account, set up a campaign page and accept donations without any background check from the crowd funding source offers up several ways for investors to get scammed out of their money.”

While there aren’t precise numbers of out-and-out scams, as opposed to simply bad ideas that didn’t pan out, the U.S. Federal Trade Commission has noted that as more fraud charges are laid, the publicity and media attention appear to have led to more consumer complaints. Several websites have posted advice to consumers on how to avoid being scammed via a crowd-funding site.

What to do about “scampaigns”?

- 5% Use regulation
- 0% Impose a ban on crowd-funding websites based in Ontario while the issue is studied in more detail.
- 66% There is no need for Ontario to get involved at all
- 29% Use an alternative to regulation

This was a case where most participants felt that little or no intervention was needed, because the market should be able to police itself. As one of the presenters put it, “If these websites turn into platforms for scams, people won’t see them as credible and they’ll go out of business.” At most, a light consumer education program might be appropriate.

Attendees noted that the worst-case outcome of a “scampaign” would be a financial loss (probably small, as investments made on these sites are typically not large), and regulation isn’t as important as in a case where public health or safety might be compromised. As well, some participants were concerned that heavy-handed regulation might hamper the growth of new companies with this business model, as well as limit consumer choice.

What participants said:

“... a good opportunity to get to know other participants better, and to hear a range of perspectives...”

“I liked discussing the case studies and entering my answer with the ‘clicker’. Faster than having one person speak from every table...”

“Great opportunity for group discussion – particularly around ‘public harms’ and alternatives to regulation.”

4. FOOD WASTE: ARE YOU GOING TO EAT THAT?

Using Statistics Canada and industry information, an international study estimates that more than \$31 billion worth of food is wasted every year in Canada. About half the waste occurred at home and the rest in the food supply chain, including food processors, wholesalers, grocery stores and restaurants. Food production, processing and retailing are important and highly competitive industries in Ontario. Many participants oppose any waste-reduction measures that would increase their costs.

Discarded food, however, is a major contributor to Ontario's waste stream. Separating and managing organics is becoming increasingly costly for Ontario's municipalities, and food that ends up in landfill adds significant greenhouse gases to the atmosphere as it decays.

The Province has committed to develop an action plan to focus on both how to prevent food from becoming waste and how to recover organics from the waste stream. Federally, however, the minister of agriculture has indicated that his department will be developing a food policy, and it is inappropriate to identify food waste as a federal priority before consulting stakeholders on broad changes in food policy over the next year or two.

What to do about waste in the food industry?

24% Wait until the federal government completes its stakeholder discussions

5% There is no need for Ontario to get involved at all

57% Use an alternative to regulation

14% Use regulation

Almost one-quarter of voters thought that waiting for the outcome of federal discussion made sense, because coordination among levels of government would be key to an effective solution. Some, however, felt that Ontario should be more forward-looking and explore its own solutions – which would not necessarily involve regulation – in the meantime because continued inaction has negative implications.

The presenters weighed in on this issue, with one noting that behavioral insights might be helpful in reducing waste, and that financial incentives to businesses for reducing waste – instead of enforcement and fines for allowing it – might be a valuable approach.

Case Study

THE BRITISH COLUMBIA EXPERIENCE

Christine Little, assistant deputy minister in British Columbia's Ministry of Small Business and Red Tape Reduction, outlined to conference attendees the evolution of that province's efforts, starting in 2001, to reduce the regulatory burden.

These efforts, she said, have been focused in three main areas:

- Reducing the quantity of regulation
- Improving its quality
- Enhancing accountability

The province began its efforts by developing a baseline measure of the number of regulatory requirements facing residents and businesses, as well as the related policies and forms, and setting out a plan to reduce what became known as "the count." The primary goals were improving access to services and streamlining regulation.

The division charged with reducing red tape gave ministries clear guidance on assessing the impact of new regulations, and also built awareness of "the count" across government and especially among senior leadership by including impacts in cabinet submissions and similar documents. To maintain an accurate count and further build awareness, a database that all ministries must feed into was created and the results regularly reported.

By 2004, these efforts had resulted in a 40 per cent reduction in the count, significantly better than the one-third target that the government had set. That year, it added a "net zero increase" commitment that the burden would never go above the 2004 level. The result, she said, has been a more streamlined experience for citizens and businesses that is easier to understand and navigate.

With such progress on reducing quantity, the province started to focus on improving the quality of regulations. It put in place a regulatory reform policy that is regularly updated.

Elements include ensuring that any regulatory requirements are necessary and are developed with the end user in mind. This involves asking end users for their input and analyzing it in a systematic way. The new policy also added a small business lens.

In applying the policy, Little said, the first step – identifying the best option – is probably the most important. This might involve non-traditional approaches, such as using behavioural insights or streamlining processes.

Other activities include assessing the impact on stakeholders, engaging and communicating with them, streamlining the design and ensuring the effectiveness of the proposed solution.

Ministries then complete a regulatory impact assessment checklist, similar to that used in the state of Victoria. This must be signed by their minister, underscoring the large degree of accountability. (Ministerial accountability is also emphasized through the Premier's mandate letters to ministers, which set reducing the regulatory burden as a priority.) The checklist goes forward as part of the cabinet decision-making process by being included as an appendix to legislation or order in council packages.

In the fall of 2015, Little's division created an on-line engagement process to ask citizens, businesses, and organizations across the province for their ideas on how to cut red tape. "We really wanted to get at those irritants that citizens and businesses had," she explained.

What participants said:

"a practical example of process, which was helpful and easy to learn from."

"The presentations from Victoria and B.C. were great grounded examples of how to address regulatory burden."

The initiative was originally supposed to last six weeks, but proved so popular that it was made into a permanent feedback channel.

Over the 17 months since it launched, British Columbia has received more than 500 ideas covering a wide range of topics. Every idea was referred to a line ministry for assessment using a green/yellow/red rating system, where green meant it was feasible and easy to do, yellow meant feasible but more complex, and red meant it was not feasible. To date, the government has acted on 249 ideas and more are under way.

For transparency, ideas, responses and progress are posted on-line publicly. As well, Little's division goes back every quarter to ask ministries for progress on ideas rated as yellow and whether red-coded ideas might now be feasible.



CHRISTINE LITTLE IS ASSISTANT DEPUTY MINISTER OF THE SMALL BUSINESS AND REGULATORY REFORM DIVISION WITHIN THE BRITISH COLUMBIA MINISTRY OF SMALL BUSINESS AND RED TAPE REDUCTION

INTERACTION: ONTARIO'S REGULATORY COMMUNITY WEIGHS IN

Conference attendees were asked to discuss three questions about moving reform forward in Ontario. This section summarizes their responses.

WHAT CAN I DO AS AN INDIVIDUAL?

Seek opportunities to better connect with stakeholders, the public and other public servants:

- Make connections and build relationships
- Find new ways of working
- Break down barriers to information-sharing

Keep learning:

- Know and apply best regulatory practices, such as clear writing and a small business lens
- Maintain active awareness of trends: organizational, educational, societal
- Learn from one another

Be open-minded and passionate:

- Be a catalyst for change
- Challenge risk-averse culture
- Actively seek out new ways of thinking

WHAT CAN MY ORGANIZATION DO?

Improve internal processes and collaboration:

- Simplify and streamline approvals, documents, required licenses, etc., around decision-making
- Set visible goals and measure progress
- Draw clearer links between strategic objectives and daily deliverables
- Engage operations in policy development
- Support Red Tape Reduction Day
- Streamline the procurement process
- Provide ways for frontline ideas to feed back up to senior management

Encourage innovation and enhance capacity within government:

- Automate and incorporate technology, where possible
- Provide more ongoing training opportunities for staff
- Collaborate with the public and organizations like MaRS
- Share data among OPS and with other regulators, even failures

WHAT HAS TO HAPPEN?

Better inter-ministry cooperation, standardization and data sharing:

- Designate “connectors” across the OPS (for example, Open for Business) to facilitate more effective inter-ministry cooperation and avoid duplication
- Know what’s there: create one uniform checklist for regulators, an OPS-wide “information aggregator,” an inventory of regulations, associated policies, forms; common reporting requirements; a centralized way to procure
- Have an integrated profile management system to support all ministries
- Relax government standards on data-sharing
- Better integrate regulators and day-to-day operations staff so the regulators understand the impact of their work
- Connect with municipalities to tap into their expertise dealing with “customers”
- Leverage existing work in other ministries – for example, coordinate inspections between ministries

Internal culture change:

- Promote the adoption of a “growth mindset” across the OPS
- Build higher risk tolerance, specifically at the middle management level

- Encourage more piloting or experimentation
- Be more positive; for example, learn from the humorous tweets shared from Australia
- Encourage ministries to see the value of alternatives to regulation
- Bring in political leadership: for example, have minister's office staff at conferences

More smart approaches to regulation and compliance:

- In lieu of legislation, consider codes of practice in some areas as a form of self-compliance
- Work side-by-side with industry, which needs to be part of the development process
- Where applicable, make greater use of principles and standards as opposed to heavy-handed, prescriptive regulations
- Harmonize regulations with other jurisdictions where possible
- Modern tools and techniques always!
- Set up financial incentives rather than penalties for compliance
- Create recognition programs for the good actors, like Toronto's green/yellow/red certificates after restaurant inspections
- Focus on a risk-based approach to regulation and inspections, but keep important safety mechanisms in place
- Explore using sunset clauses more regularly, perhaps make mandatory for all net-new regulations

WRAP-UP: ONE MINISTRY'S JOURNEY TO MODERN REGULATION

Wrap-up speaker Sophie Dennis, deputy minister at the Ministry of Labour, described her ministry's journey toward modern regulation, especially in the delivery of enforcement.

The modern regulatory approach, which began in 2008, is based on:

- Analyzing data to better manage risk
- Communicating and being more transparent
- Training

Dennis noted that risk management is driven by data: with good data and analysis, the ministry can focus its efforts and measure the outcomes properly.

But while frequent inspections and reports make it rich in data, she continued, the challenge is analyzing it – a challenge that is growing constantly as data complexity increases.

Every regulation should have the components of “what are you trying to achieve?” and “how do you know you’ve achieved it?” and “how do you communicate that?”

Like other speakers, she noted the central role that data analytics is beginning to play not just in the regulator community, but across government. Beyond that, however, the need for greater data clarity and sharing can be hampered by organizational structures within and across ministries, and she suggested that this will take concerted effort to address.

MADE IN ONTARIO

The training and awareness branch in the Prevention Office of the Ministry of Labour takes a modern approach to regulation by striking the right balance among key priorities like worker health and safety and economic growth. It works to help businesses, especially small ones that typically face many competing demands, to better understand requirements and how to meet them. New businesses registering on-line are linked to a checklist, for example, that provides simple compliance guidance from the start. A new initiative to recognize employers that go beyond minimum requirements will help them to become health and safety champions, providing a non-regulatory boost to the ministry's efforts.

– something that was both easier and more necessary in the past, with large workplaces, highly unionized workforces, and limited means of sharing messages and information.

But today's regulated community – accustomed to modern technology and generally made up of smaller, often non-unionized companies – expects tailored experiences. Dennis said that responding to this expectation does not mean lowering standards, it is simply about how the ministry carries out its mandate.

Differentiation can also affect the design of legislation and regulations in a modern framework, she said, as the ministry has learned through the recent (and continuing) overhaul of its major pieces of legislation. With the workplace changing, often very rapidly, laws and rules need to be adaptable, she said – and modern regulation might also mean considering alternatives in some cases to a regulated solution.

Dennis also spoke to the value of open and honest communication, whether through social media, getting together to share experience and ideas through forums, or re-drafting legislation and rules to be easier to understand and enforce. Communication is the key, she said, to the culture change that must go hand-in-hand with modern regulation.

On training, she emphasized the importance of not just training ministry staff as demographic shifts bring new employees into the organization, but learning from them what the future training needs are likely to be. Beyond the ministry, getting training and tools to the regulated community is also essential, because when employers and workers are empowered through training, the ministry can focus its resources in more critical areas.

Underlying all of this, she said, was a common theme: the need to use differentiated approaches as a modern regulator. The traditional view was that enforcement and compliance activities always had to be the same

What participants said:

“to hear [the modernization message] come from a DM's mouth gives weight to it.”

WHERE WE'RE GOING NEXT AND HOW WE'LL GET THERE

In closing the conference, Kevin Perry, assistant deputy minister with responsibility for Open for Business at the Ministry of Economic Development and Growth, acknowledged the challenges facing regulators in the public sector. He went on, however, to stress the importance of continuing reform.

Regulation can provide the illusion of a risk-free society, which gives the public a sense of safety, he noted. In reality, however, it is impossible to achieve zero risk. Adding more regulation in support of that illusion might have the unintended consequence of actually increasing risk – for example, if regulations become so complex and onerous that they stifle innovation and growth. This tension is something Ontario must confront as it moves ahead with regulatory reform.

The conference showed Ontario that there are real opportunities to approach both regulation and alternatives to regulation in an innovative and modern way, he said. Speakers had set out different paths to regulatory reform, and Ontario could learn from what worked and what didn't in other jurisdictions.

He urged attendees to think about how they could do their work differently. He invited them to explore behavioural insights and user-centred approaches. To set themselves the goal of making it easier for stakeholders to comply with policy intent. To incorporate elements like plain language and digital platforms for accessing or submitting information. To ask whether policies are placing additional burdens on business, and whether a softer touch might be better. Above all, he told attendees, be willing to experiment.

Recognizing that many attendees were already using these approaches and ideas, he urged them to share their knowledge with colleagues. One channel for this is the Modern Regulator Group on Yammer, which he encouraged attendees to join.

He also reminded attendees of the many resources available in the Ontario Public Service in addition to the Regulatory Centre of Excellence to help policy makers and practitioners, including:

- The Behavioural Insights Unit within the Centre for Evidence-based Decision Making
- Digital Government
- Communicating for Compliance
- Regulatory Compliance Ontario Centre of Excellence
- Policy Innovation Hub
- Enterprise Risk Management Unit

In closing, Perry reminded attendees of the value of visiting the Regulatory Centre of Excellence early in the policy development process to help assess the impact of various regulatory and non-regulatory options.

For more information contact the Regulatory Centre of Excellence:

Access our Tools: <https://intra.ontario.ca/regulatory-centre-of-excellence>

Join the Conversation: join the “Modern Regulator” Group on Yammer

https://www.yammer.com/ontario.ca/#/threads/inGroup?type=in_group&feedId=10919287&view=all

WHERE REGULATORS WOULD LIKE TO GO NEXT...

Among conference attendees who filled in an on-line survey, 97% said they would attend similar events in the future.

Their detailed answers showed that they valued the opportunity to learn and network, both to get them thinking differently and to build a community of practice. Some suggested making the event annual and inviting other jurisdictions.

Top picks for future conference topics included:

- Successful modern regulatory approaches in the Ontario Public Service, with more “real experience” stories
- Specific examples and case studies on alternatives to regulation and non-regulatory tools
- Leveraging data to implement risk-based strategies, risk management and instrument choice
- Futurism: Regulators of the future, futurist thinking and practical government policy-making
- Using modern regulation to harness the benefits of disruptive technologies
- Behavioural economics and insights
- Performance-based and “open” regulation development
- Citizen-centric regulatory processes and digital service delivery
- Evaluation and performance measures of regulations
- Looking at enforcement and compliance activities in modern regulation

Participants who filled in the survey were more in favour of case studies from Ontario (87%) than from elsewhere in Canada (70%) or outside Canada (69%).

Respondents said the Regulatory Centre of Excellence could help them by:

- Showing how to use alternatives to regulation (73%)
- Partnering with other centres in the OPS to provide training opportunities and case study examples (70%)
- Helping ministries apply the six regulatory modernization principles (60%)
- Supporting regulatory impact analysis and the regulatory cost calculator (59%)
- Supporting the use of the Ontario Regulatory Registry to consult on policies (33%)

Other suggestions (12%) were that it could serve as a community of practice/secretariat for modern regulatory tools; collaborate with the federal government and other jurisdictions; and incorporate agencies into regulatory discussions.

How would attendees like to learn? Top choices were:

- Conferences (94%)
- Hands-on formal training (for example, in the use of the Regulatory Cost Calculator) (62%)
- Presentations at ministry-wide meetings such as division/branch days (52%)

- 
- Networking (47%)
 - Lunch and learn events (47%)

Other suggestions (8%) included Job shadowing, brainstorming sessions through teleconference meetings, and community of practice.