How can regulators demonstrate they are improving outcomes for consumers?

While most of the main UK economic regulators recognise the importance of monitoring consumer outcomes, they have more to do in properly embedding consumer outcomes to guide their forward planning and prioritisation of work.

Regulators that fail to evaluate major interventions (or identify the outcome benefits of functions) are not paying sufficient attention to the overwhelming importance of good outcomes resulting from their work. Most economic regulators have a way to go before they could claim they evaluate the impact of interventions on a regular basis.

A client recently asked us to look at how far regulators have managed to incorporate the measurement of good consumer outcomes into their own performance management frameworks – both at an organisational level, and in measuring the performance of individual members of staff.

For the RPI conference, we have built on this research, looking at available information from more regulators, and we have gone on to consider how monitoring of consumer outcomes should best be used by regulators to improve their own performance and provide meaningful transparency about what they are achieving.

In the reports underlying recent NAO guidance on this issue, the NAO discusses the difficulties that regulators might face in using outcomes to measure performance, which include:

> *Generally more than one regulatory action has an influence on any particular outcome, and an individual action can affect more than one intended outcome.*
>
> *There are external influences on outcomes including, in the regulatory context, external in influences on the actions of regulated providers.*
>
> *There can be a time gap, sometimes very substantial, between regulatory actions and the associated outcomes becoming visible.*

Despite this, the NAO recommends regulators set performance indicators that:

> *Are relevant to the outcomes the regulator is seeking to achieve.*
>
> *Give a balanced overall picture of what the organisation is doing, covering all significant areas of work.*
>
> *Link overall business performance to the performance of individual business units, teams and activities.*

In theory, regulators should be following the National Audit Office's guidance, which states that a performance measurement framework should be:

> *A management tool linking all the performance information in the organisation, enabling the selection and prioritisation of performance indicators.*
>
> *A good performance measurement framework will tell the 'whole performance story' of an organisation, linking inputs, outputs, and outcomes and allowing decisions to be based on the best evidence.*

We know that measures of a regulator's use of inputs and the efficient production of outputs can be critical to making sure a regulator is run efficiently. But linking this to consumer outcomes is not straightforward for most economic regulators. It seems to us that to attempt to link the use of inputs and outputs to outcome based performance indicators – set in advance of regulatory interventions – may not always be sensible or practical.

Indeed, where a regulator is engaged in the economic regulation of a market, we think setting performance indicators based on consumer outcomes is unlikely to be straightforward. In fact it may be extremely difficult to predict the impact of a regulatory intervention in advance of implementation.

That is not to say that before a particular regulatory intervention is made, it is impossible to say how it is hoped that outcomes might change as a result. But this is very different from setting overall outcome performance indicators for a regulator perhaps a long way in advance of even diagnosing the causes of consumer harm that may be the focus of a regulator's work plan.

How might consumer outcomes be used in performance frameworks?

A regulator's view of how consumer outcome indicators are moving in its sector should play a critical role in guiding that regulator's workplan. Looking at the recent forward work plans of the main UK economic regulators, it is fair to say that regulators are keenly aware of this in the presentation of their plans. But we were rarely able to follow a line of sight from consumer outcomes, through what the regulators said about how outcomes guided their plans, to the actual plans. So it seems there is more to do in properly embedding consumer outcomes as a real guide to forward planning and prioritisation of work.

We think it is much more important that interventions are appropriately tested before implementation, and that strategic ex-post evaluation is carried out, than it is to focus on setting outcome performance indicators for the regulator which may not be practical or have the intended result. A well tested, well considered intervention (or a decision not to intervene at all) that on evaluation turns out to have failed to address a problem does not necessarily represent a performance failure by a regulator.

We looked at the public information on evaluation from the major UK economic regulators and while there are encouraging signs that the importance of evaluation is recognised, we found very few examples of in-depth evaluation of major regulatory interventions and we seem to be a long way off this happening as a matter of routine.

While it would be impractical to expect a regulator to evaluate every intervention, a regulator that fails to evaluate its major interventions (or identify the outcome benefits of its functions) is, in our view, clearly not paying sufficient attention to the overwhelming importance of good consumer outcomes resulting from its work.

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