Regulators' Forum - Behavioural Insights

'Behavioural insights' has become the latest policy boom across governments. Among the many calls for 'more' behavioural insights and the attraction of 'Nudge'-type thinking in regulation, less is known about how behavioural insights inform regulatory practice. In this session, the discussion focused on the experience with, limitations of and opposition towards behavioural insights.

This session focused on the way in which different regulators utilised 'behavioural insights' to inform their work. The discussion was supported by initial findings of an international, cross-sectoral survey of different regulatory and other governmental organisations. That survey offered the basis for the discussion of a number of questions.

One was the range of interventions that were being applied. Most of the surveyed organisations reported on interventions that were supposed to enhance consumer choice, either by supporting the informational basis on which choices are made, or by altering the 'default position'. Examples of behavioural insights therefore focused on questions of public health, financial products, tax and consumer choice in liberalised utility markets. During the discussion, such a transactional relationship was seen as somewhat separate from critical regulators' concerns. It was particularly evident that regulators were interested in using behavioural insights to influence regulated organisations rather than individual choice, especially in situations where organisations were to move from 'good' to 'excellent'. A transactional focus was also seen as being somewhat problematic in areas where the key interest was in motivating long-term changes in the quality of regulated organisations. The concern with generating long-term sustained change in behaviours raised particular difficulties when it came to monitoring and how to maintain such monitoring over time.

The key issue for regulators was about understanding what kind of organisation one was dealing with, how individuals and organisations were processing information, and how busy and resourceful organisations and individuals within organisations were. Furthermore, one central question was how one could deal with organisations' choice architecture. Regulators were said to need an advanced understanding of the ways in which organisations made their choices. For example, one regulator reported that regulatees did not like discretion but wanted to know what particular minimum standards were supposed to mean exactly. Similarly, when looking at reporting patterns more carefully, it became evident how regulated entities were complying. This allowed regulators to develop interventions that related to existing organizational practices.

Other regulators also reported that while they had an advanced understanding of the market choices of individuals, there was less knowledge about regulatory issues. There seemed to be a constraint in the way regulators were thinking about using information - commercial or charity organisations were arguably less constrained in utilising knowledge about the behaviour of their target population.

A second issue was the question of organisational support and the presence of potential opposition and scepticism. The survey revealed general support from organisations' leaderships as well as from particular directorates within organisations (usually economics/statistics units).

A third key issue was the matter of cost. Much has been said more generally about the cost factor in inhibiting the wider trialing and application of behavioural insights in policy. However, the survey suggested hardly any awareness of costs. Most responses suggested that there was hardly any cost or that interventions had been 'cost neutral'. The discussion here focused on particular reasons for this survey response, suggesting that the costs for these activities might have been, for example, already incorporated in particular budget lines; they therefore did not reflect additional costs. Developing studies informed by behavioural insights did not appear as 'extra' costs and were therefore difficult to estimate. Organisational leaderships' support for behavioural insights was therefore critical - it had just become part of doing one's work. One could use small devices to test certain things, such as the way in which organisations were responding to different messages. Again, this suggested that behavioural insights did not require considerable financial resources.

An interest in how organisations behave put the emphasis on better understanding the culture(s) of organisations and how individuals experienced their 'journey' through a process. A change in the way individuals were being addressed could lead to significant changes in the way consumers experienced the service. This is one way in which regulators could shape organisational behaviours - it potentially offered a way to develop a shared sense of relationship between regulators and regaled organizations and individuals. There were also differences in terms of when one could intervene. With professions, it was possible to intervene at the training stage, but then it was more problematic to sustain that kind of commitment to a particular behaviour over time. There were countervailing pressures - there were questions as to how individuals identified with their organisations and this put an onus on social norms.

A further potential challenge was to marry an emphasis on being 'outcomes based' with an interest in behavioural insights. One required a view about particular outcomes and that they required to be tackled - dealing with choice architectures might not be seen as compatible with being solely outcomes-based. One way was to rely on guidance. Another was to emphasise the importance of having to address outcomes by tackling behaviours. Considering the use of behavioural insights was therefore not necessarily incompatible with a commitment towards outcomes-based regulation.

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