

UKRN 2018 Annual Conference

Summary note

Monday 23 April 2018

Our third UKRN Annual Conference brought together UKRN members for presentations, workshops and panel discussions exploring topical issues in the current regulatory climate.

Opening the conference, UKRN Chair and Ofgem CEO Dermot Nolan outlined the UKRN's activities from the past year, notably facilitating data-sharing on vulnerable consumers, its work to improve services on mental health, its data for public good project and its cost of capital work. He noted the past year's progress achieved towards the UKRN strategy, established in March 2017, to "facilitate cooperation and communication between its members to promote better outcomes in economic regulation for consumers and the economy". He also discussed the key themes from the UKRN Forward Work Programme which were the focus of the conference:

- Innovation friendly regulation;
- Resilient sectors;
- Better ways of working together;
- Consumer fairness.

Morning session: Part I – The big data challenge: delivering fair outcomes for consumers using data

John Fingleton, CEO, Fingleton Associates, Steve Smith, Managing Director of Consumer Development and Innovation, Lloyds Banking Group, Tim Jarvis, Director of Consumer and Competition Policy, BEIS, Hannah Nixon, CEO, Payment Systems Regulator, James Plunkett, Executive Director of Advice and Advocacy, Citizens Advice.

Panellists discussed and debated the challenges and opportunities for delivering fair outcomes for consumers with the rapid increase in data collection, including defining consumer fairness, market ethics, trust and consent, vulnerable consumers, and recent policy developments, notably GDPR, open banking, and the Green Paper on Modernising Consumer Markets. It was noted that in order to have legitimacy for any consumer policies introduced, the debate on this required the inclusion of the public as the 'data owners' and subject-matter experts.

Market ethics and fairness

Panellists discussed the difficulties of defining "fairness" in the operation of markets, with a discrepancy between the treatment that consumers are subject to and the monitoring of this, exacerbated by the limited availability of data in some sectors. Panellists debated which indicators might allow for effective monitoring of consumer treatment, including identifying groups who were subject to higher prices. Other suggested initiatives towards upholding market fairness included introducing equitable pricing and increasing engagement between businesses, regulators and consumers.

Trust and consent

Panellists discussed how the rapid increase in the production and availability of data had resulted in significant debate over consumer trust of data collection entities and consent over the right to collect personal data. It was agreed that consumer trust over the handling of their data was vital for sound market functioning. Trust, it was argued, also depended on there being clear and effective mechanisms for the redress of grievances when data was mishandled.

It was also noted how the rapid pace of technological advancements that enabled data collection, particularly payments innovation, complicated the ability of regulators to assess the social consequences, and that regulators therefore had to engage in horizon scanning to ensure that their regimes were fit for purpose.

Vulnerable consumers

Panellists commented that technological advancements, particularly 'disruptors' in payment innovation, had the potential to deliver huge benefits to consumers, for example through cost and time savings. However, it was added that consumers who lacked technological proficiency may be unable to reap the associated benefit, which could widen the gap between vulnerable consumers and others. It was suggested that one way of addressing this was to incentivise businesses to support vulnerable consumers.

The rise of sophisticated marketing algorithms, which facilitated different pricing for different consumers for the same product or service, was also cited as a challenge, with some panellists proposing greater regulatory oversight of this activity was needed to avoid price discrimination. Some panellists noted that relevant regulatory authorities also required technologically-skilled staff to identify and respond to issues, such as the monopolies of selling platforms, for example Amazon.

Recent policy developments

Discussing recent developments, open banking was cited as "one of the biggest experiments" in data collection utility. It was suggested that the open banking model, and the revised Payment Services Directive (PSD) which comes into force next year, could be applied to other sectors, such as energy, to expand the benefits to consumers in other industries. It was suggested that a review of open banking followed by changes to the regime after a suitable period of evaluation may be needed to ensure that success of open banking, which ultimately the FCA and the CMA would take responsibility for, would be needed to ensure the success of the initiative.

The panel discussed the significance of GDPR, stating that its introduction signalled a shift in greater government intervention in business responsibility over data collection. Panellists also reflected that the regulations provided consumers with greater consensual rights and therefore greater control over their data.

Panellists noted that the Green Paper on Modernising Consumer Markets intended to improve the functioning of markets, rather than simply providing consumer protections, and was a "first step" in efforts to foster long-term collaboration between regulators, businesses and consumers.

Morning session: Part 2 – How can we secure the benefits of data and innovation for resilient sectors in the long-term?

Hala Audi, Director of Strategy and Policy, Infrastructure and Projects Authority, Jennifer Schooling, Director of the Centre for Smart Infrastructure and Construction, University of Cambridge, Mark Enzer, Chair of the Digital Framework Task Group, Richard Nevinson, Group Manager for Policy and Engagement, ICO.

Prior to joining the panel, Richard Nevinson presented an overview of the responsibilities and activities of the Information Commissioner's Office, including the organisation's new guidance on GDPR.

Panellists opened discussion by providing their thoughts on defining the objectives for utilising data and digital innovation to support resilient sectors, which focused on the construction and national infrastructure sectors.

Panellists welcomed the increase willingness and appetite to discuss data and innovation from both the public and private sector, including regulators, and an increase in recognition of data and digital assets as a resource.

Infrastructure, construction projects and the digital twin

Cross-sector benchmarking, the ability to monitor the performance of long-term infrastructure assets to provide greater build and design efficiency - notably a reduction in labour and capital requirements - were cited as key objectives for data use in infrastructure and construction projects. It was argued that these objectives required cross-sector sharing of high-quality data sets, facilitated by coordination and cooperation from government and regulatory entities, to support the infrastructure decisions.

Panellists noted that while engineering projects produce large amounts of raw data, this data was traditionally archived after the delivery of the project, which rendered it largely inaccessible. It was said that this was partly due to construction companies having little long-term interests in the utility of the projects. A suggested approach to overcome this was to incentivise businesses to invest in data utility where they do not have long-term interests in the data. Some said that incentives should include whole-life expenditure, not just capital expenditure, as traditionally done, and that the incentives should relate to outcomes, not outputs.

One major proposal, outlined in the National Infrastructure Commission's report 'New Technology Study: Data for the public good', was to develop a "national digital twin". This would map and create a digital model of the UK's national infrastructure to provide information on its overall performance, both as a system and as a service. It was suggested that agreeing high-level principles across policy makers to govern the operation of the national digital twin would support data quality and utility.

There was discussion on which authorities should be responsible for digital assets, with some arguing that the owners of physical assets should be responsible for their relevant digital twins. The telecoms sector was cited as the best example of how there may be multiple owners of the same asset.

Government procurement

It was suggested supporting resilient sectors also depended upon a shift on what is considered to be value for money in public sector procurement, with greater consideration given to "whole-life value", rather than viewing the cheapest options as the best value for money.

Data reconciliation and comparability

There was consensus among the panel that sectors relied upon high-quality data sets and cohesive approaches between data producers for it to be comparable, interoperable and shareable for utilisation. It was suggested that regulators may have a role to play in data reconciliation, as demonstrated by the UKRN's facilitated work on vulnerable consumers. Some panellists called for greater data sharing when its utility would lead to better public services.

Some supported recent comparisons of data with oil in the sense that both require processing to achieve their full value. Raw data relies upon processing for its use, and also needs to be comparable, interoperable and shareable for utilisation.

Panellists also noted how appropriate security environments would have to be developed with the increase in the production and use of national infrastructure data in order to protect key national assets. It was also argued that any collection and use of consumer data as part of this would need to be regulated, although it was unclear which regulatory authority would own this.

We would like to extend huge thanks to all those who took part in the panel sessions.

Market place networking

Over lunch, attendees were able to network informally at the market place, where Ofwat, FCA, ORR, and UKRN held stalls on the following initiatives:

- Ofwat – Alternative Delivery Model: delivering peak workloads using people in a smarter way.
- Ofwat – Spark: Ofwat's digital innovation channel for inspiring the water sector to go further on innovation.
- FCA – The Financial Lives Survey 2017: tracking consumers' finances to inform and underpin the FCA's consumer protection work.
- ORR – Strengthening and building the ORR's decision-making in policy profession.
- UKRN – Projects, engagement and events.

Afternoon workshops

Delegates had the opportunity to attend two workshops on topics relevant to two or more UKRN sectors. The workshops provided an opportunity to share best practice, and seek challenge from colleagues in other sectors. The topics are set out below.

Topic and lead regulators	Overview of content
Ofgem – 'Check your energy deal': can we change supplier behaviour by changing consumer behaviour? Results from Ofgem's consumer engagement trials and an update on our future plans.	<ul style="list-style-type: none"> ▪ Lessons learnt from Ofgem's consumer engagement trials. ▪ Opportunities for collaboration and areas to consider in future.

	<ul style="list-style-type: none"> ▪ Ofgem’s role in holding data and building its internal database to better understand the markets it regulates.
<p>UKRN Project Management Network – How does effective project management add value to our organisation? Three case studies to explore the role of project management in good decision-making.</p>	<ul style="list-style-type: none"> ▪ Presentations on different approaches to project management by CAA, Ofwat and FRC. ▪ Reflections on the value of UKRN Project Management Network. ▪ Increasing acknowledgement of project management as a specialised and necessary discipline. ▪ Risks of “accidental project management” with no designated project manager.
<p>UKRN Chairs and SSRO – What is the role of the Board and the regulator in addressing the financial health of the companies we regulate?</p>	<ul style="list-style-type: none"> ▪ Ofwat presented its recent consultation “Putting the sector back in balance” which includes considerations for sharing financing outperformance. ▪ Case study of the CAA’s management of the repatriation of tens of thousands of British tourists stranded following the collapse of Monarch in October 2017.
<p>CAA – Regulators working with government: a case study of CAA’s reporting to the Secretary of State for Transport on Heathrow expansion</p>	<ul style="list-style-type: none"> ▪ Discussed the opportunities, risks and challenges of working with the government as a partner and stakeholder. ▪ The complexity of managing planning with regulatory interests. ▪ Effective customer engagement. ▪ Cross cutting issues, including across airspace, economic and competition regulation.
<p>ORR – “A bad conscience is easier to cope with than a bad reputation” (Nietzsche) Is reputation the new nuclear weapon in regulation?</p> <p>Drawing on lessons from ORR’s experience of regulating Network Rail as a public sector organisation without a profit motive, this workshop looked at the growing importance of reputational and other non-financial incentives in regulation.</p>	<ul style="list-style-type: none"> ▪ Highly interactive session with teams reviewing fictitious scenarios, and considering which incentives and penalties to introduce as a regulator. ▪ Consideration of the scenarios from the perspective of the regulated companies, critiquing the incentives and penalties applied.