Risk&Regulation

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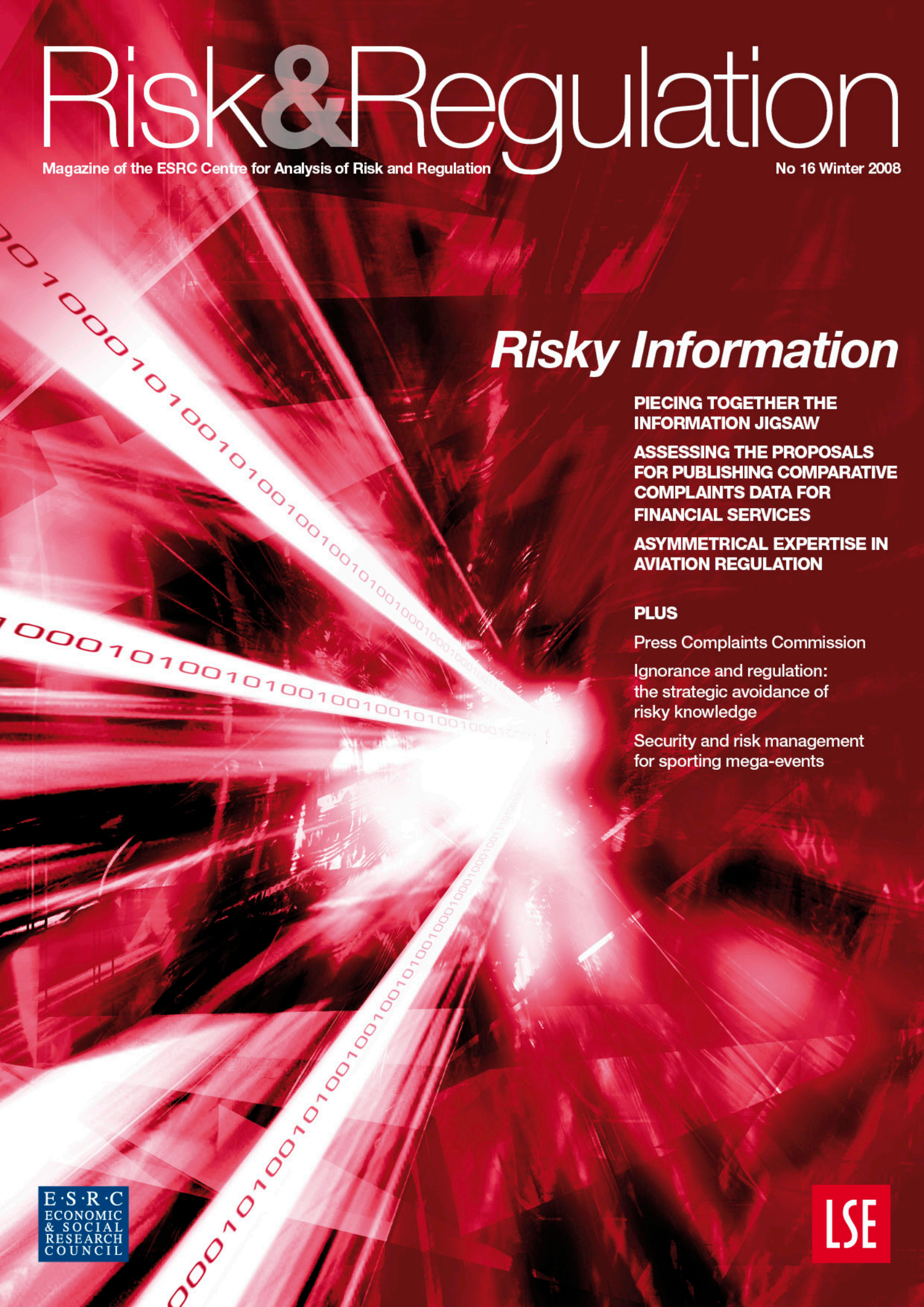

Risky Information

PIECING TOGETHER THE INFORMATION JIGSAW

ASSESSING THE PROPOSALS FOR PUBLISHING COMPARATIVE COMPLAINTS DATA FOR FINANCIAL SERVICES

ASYMMETRICAL EXPERTISE IN AVIATION REGULATION

PLUS

Press Complaints Commission

Ignorance and regulation: the strategic avoidance of risky knowledge

Security and risk management for sporting mega-events

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RISK&REGULATION: CARR REVIEW
NO 16 WINTER 2008

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Sources of information, **sources of risk**

CARR Director **Bridget Hutter** discusses the biases and imbalances that are inherent to the use of information in regulation.

Knowledge and information are crucial to risk regulation, most especially in an era which purports a commitment to evidence based policy making. Regulators need to assess information at all stages of the regulatory process, from deciding the strength of evidence of risk in policy making arenas through to assessing the risks of enforcement actions in individual cases. And such assessments are not always straightforward, they may well represent risks in their own right as regulators struggle to assemble and assess the information at their disposal and use it for policy making, and enforcement decisions.

This issue of *Risk & Regulation* considers a variety of sources of regulatory information, ranging from complaints to the Press Complaints Commission and financial regulators; intelligence and its use in the organization and mitigation of security risks at the Olympics; the knowledge of experts and of the public by the Office of Fair Trading; and self-reporting systems in the aviation and pharmaceutical industries. It cannot be assumed that these sources of information are always accurate and reliable. Yet they frame and influence regulatory decisions in particular, and often unexpected, ways. They can create ambiguity as much as they elucidate issues.

How regulators use the information at their disposal is something one should not take for granted nor their ability to always critically assess this information. There is a growing risk regulation literature about conflicting information and of course the multiple interpretations which may attach to risk information by different groups. As Sophia Bhatti observes, regulators need to piece together a jigsaw of information sources.

Regulatory relations are shaped by differing levels of information asymmetry between regulators and businesses. Linsey McGoey shows how regulators may be powerless when information is withheld. John Downer argues that imbalances in knowledge and information between regulators and those they regulate underline the necessity of some form of self-regulation. These differences in knowledge and information are well documented in the regulation literature and extend also to other features of regulatory capacity, for example, experience, information and resources.

Such inequalities shape the parameters of policy making and enforcement. Indeed, the greater regulatory capacity of many businesses is a major reason in favour of regimes whereby organizations self-regulate and capitalise on their superior knowledge of the risks they encounter. But it has to be remembered that there are very considerable variations in businesses. Large national and multi-national companies may well have very great regulatory capacity and also considerable political clout, but the multitude of small and medium sized businesses are typically in a much less privileged position, often being in need of regulatory guidance.

As the present economic crisis demonstrates, knowledge and information are also undoubtedly crucial in maintaining trust. Sharing and interpreting information is a way for market players to know each other's intentions. Missing or contradicting information about the behaviours of banks and their share of problematic assets greatly contributed to a general breakdown of trust.

This goes far beyond the trust between regulators and those they regulate but points to the social bases of markets and economic action. As economic sociologists have long pointed out, economic institutions and activities are embedded in social, cultural and political contexts. Rebuilding and stabilising the economy will necessarily involve re-establishing trust and confidence in the economic, social and political contexts of financial activities. In such circumstances, the blame game can be destructive. As risk scholars have observed, when crises develop, individuals and their decisions become the focus of blame rather than the circumstances surrounding any substantive risk event. Such processes avert attention from the systemic nature of such events which, as in the present situation, surely involve difficulties of government, governance, regulation, expert risk models and the behaviour of economic actors and financial institutions.

This is a systemic and global crisis, and it is vital that any reorganizations are evidence based. As CARR work has demonstrated, efforts to reorganize involve multiple actors, contests over the direction of change and the legitimacy of participants, and they encounter inequalities in exposure to risk. Reorganizations taken in haste can create new risks and undermine legitimacy and trust; there has to be intelligent and informed learning.

Bridget Hutter
CARR Director

MEET THE REGULATOR

Press Complaints Commission

Can journalism and quality of information be regulated? We talk to **Tim Toulmin**, Director of the Press Complaints Commission, about its action towards the newspaper and magazine industry.

What does the PCC do?

The PCC is a non-statutory body – set up by the UK newspaper and magazine industry but given complete operational independence – which aims to keep the quality of journalism high by enforcing the terms of an agreed Code of Practice. The Code affects nearly 40,000 journalists, and covers areas such as accuracy, news gathering methods, and privacy. If someone complains, we will investigate the matter with a view either to making a ruling under the Code, or negotiating the publication of a correction, apology or other remedy. If we uphold a complaint, the publication must publish our criticisms unedited and with due prominence. This is an effective 'name and shame' sanction.

Who uses the PCC?

Anyone who is the subject of stories in newspapers, magazines and their websites can complain. So, while the overwhelming majority of people who approach us are ordinary members of the public, we also deal with celebrities, royals, politicians – even foreign heads of state. We also do a lot of work with organizations who work with vulnerable people – police family liaison officers; the Samaritans; coroners' offices and so on.

What are the priorities for the organization over the next few years?

Media convergence has completely changed the landscape for the print and broadcast media, their regulators, and the consumer. The structural changes are enormous and permanent: competition is now global; there are no entry bars to publishing because it is so cheap and there is no scarcity of resource; and press and broadcasters are now going head to head online. The greatest challenge – already underway – is how to keep standards of journalism high in this new world.

Fortunately, the element of buy-in from editors and journalists that is inherent in a system of self-regulation means that we are working with the industry – and therefore with the grain of these developments – rather than against them. I think any form of imposed regulation on online journalists would be completely unworkable as well as offensive in principle. So the best hope for the maintenance of standards going forward is independent but voluntary regulation.

Finally, as our competence now extends to video and sound on newspaper and magazine websites, our relationship with Ofcom is increasingly going to be important to ensure that there is nothing wildly contradictory about our online activities and that our respective jurisdictions continue to be respected.

Is there a secret to being a successful regulator?

Getting the tone of the relationship with the regulated industry right. This might be different for statutory forms of regulation, but for the PCC this means maintaining the respect of the industry while keeping a suitable distance from it.

How do you engage the public in your work?

Three times a year we hold public meetings in towns and cities across the UK. This year so far we have been in Leeds and Bridgend. Members of the public ask us any questions they like, or put proposals to us. After one meeting in Belfast, when some health professionals presented us with evidence of the phenomenon of copycat suicides, the Code of Practice was changed to address this. Members of the public also sit on our board – anyone can apply to be a member of the PCC – and in fact they are the majority. Industry representation is kept to just 7 out of 17 members, making the PCC the most independent press self-regulatory body anywhere in the world. And there are no journalists or civil servants on the full time staff. We also, of course, research public attitudes to current issues such as privacy and social networking.

What is the most common myth about your organization?

That we are not proactive. The problem is with the name 'Press Complaints Commission' – it sounds as if we have to wait for complaints to come in. In fact, the PCC is highly active in training journalists about the Code so that breaches are avoided in the first place; in spotting where and when vulnerable people might come into contact with the media and offering to help before there is a problem; and in working behind the scenes, for example to minimize the impact of media scrums. Another common misunderstanding is about the power of peer pressure: some people don't rate it and think that only a system of fines would be an adequate deterrent or punishment. They couldn't be more wrong. When the PCC sharpens its claws for a public criticism of an editor the howls of pain are loud and clear. No editor wants their decisions held up in public by their professional standards body as an example of bad practice. On the other hand, fines are a corporate rather than a personal punishment, and therefore not as keenly felt.

What sort of measures are taken to ensure the PCC's independence from the industry?

This goes to the heart of the PCC's credibility. For an effective system of self-regulation it is essential for the organization to be funded by the industry (albeit at arm's length and with no strings), and for members of the profession to sit on its board. But, of course, some people will be suspicious of these arrangements. That is why, in addition to the PCC being run independently, there is an audit panel which publicly scrutinizes our work; an independent reviewer (Sir Brian Cubbon) who will take any complaints about the way in which PCC cases have been handled; and a finance committee (responsible for overseeing the budget) made entirely of public members of the Commission.

CARRNEWS

CARR IMPACT

Bridget Hutter has been appointed a member of the World Economic Forum's Global Agenda Council on the Mitigation of Natural Disasters.

Mike Power helped to co-organize (with **Julia Black** and Roger McCormick) three seminars (April, July, and October) with Herbert Smith LLP as part of the Law and Financial Markets project. The seminars dealt with issues in legal and compliance risk management and were attended by leading practitioners in the City.

Mark Thatcher's book, *Internationalisation and Economic Institutions*, published by Oxford University Press 2007, has won the Charles Levine Prize for the best book in Comparative Policy and Administration awarded by the International Political Science Association's Research Committee on the Structure of Governance and the international journal *Governance*.

ACADEMICS ABROAD

Jeanette Hofmann presented 'The interplay between governments and private sector in transnational rule making' at the Politics and Society in the Globalized Economy conference Grüne Akademie (Green Academy), Potsdam, in July.

Jeanette Hofmann spoke on 'Mobilizing bias in internet governance' at The Planetary: Culture – Technology – Media in the Age of Post-Globalization conference held in Cologne in October.

Bridget Hutter and **Jeanette Hofmann** presented at the ISA World Forum of Sociology, Barcelona, in September. Bridget Hutter organized the 'Rationalities of Governance and Regulation' stream and gave a keynote talk on 'Anticipating risk and organising risk regulation: governance in public and private spaces'. Jeanette Hofmann gave a paper on 'Transnational self-regulation in the shadow of hierarchy'.

Bridget Hutter presented a paper on 'The role of private actors in regulatory regimes' at a conference on 'New regulatory strategies for European integration?' at the Florence School of Regulation and the Robert Schuman Center, European University Institute, in October.

Bridget Hutter participated in the World Economic Forum Summit on the Global Agenda 2008, Dubai, United Arab Emirates in November.

Will Jennings attended a meeting of the Comparative Agendas Network in Barcelona, in June.

Martin Lodge presented a paper at SOG Paris, 'What do we learn about the transformations of the state in the age of multi-level governance' in May.

Martin Lodge presented a paper (with **Kai Wegrich** – Hertie School of Governance) 'Benchmarking the inspectors: performance indicators in the European risk regulatory state' at Transatlantic Dialogue, Bocconi, Milan in June.

Peter Miller delivered a presentation titled 'Figuring out organizations' at the Nobel Symposium on 'Foundations of Organization', Saltsjobaden, Sweden in August. (see page 16 for details)

Peter Miller and **Andrea Mennicken** gave presentations at the conference 'Market orders and new directions in institutional research' at the University of Bamberg, Germany in November.

Mike Power participated in the Inaugural Seminar at the Institute for Advanced Studies, Nantes in June, on the topic of 'Research Evaluation'.

Mike Power presented 'Making security auditable' at the EGOS conference, Amsterdam in July, where his book 'Organized Uncertainty: Designing a World of Risk Management' was discussed.

Mike Power was a discussant at 20th Anniversary of SCANCORE conference, Stanford University, California, in November.

CARR VISITORS

Neil Gunningham visited CARR between April and October. Professor Gunningham is an interdisciplinary social scientist and lawyer who specializes in safety, health and environmental regulation and governance. He currently holds Professorial Research appointments in the Regulatory Institutions Network, Research School of Social Sciences, and in the School of Resources, Environment and Society, at the ANU.

Fran Osrecki is visiting CARR between September and December. Since October 2006 he is a doctoral fellow at the IWT (Institute for Science and Technology Studies), University of Bielefeld. His main interests are sociology of scientific organisations, sociology of risk, and sociology of time. In his PhD thesis Fran Osrecki examines in what way sociological theories create risk discourses by using a particular chronological scheme of narration. The working title of his dissertation is 'Diagnosing the Present: How Sociology Creates Unprecedentedness.'

STAFF NEWS

Sharon Gilad has been appointed as an ESRC Research Officer. Her research interests include corporate responses to regulation, citizen-consumer complaints and complaint handling, and retail financial services regulation.

We bid a fond farewell to **Will Jennings** who is leaving CARR to take up a post as a Hallsworth Research Fellow in Political Economy at the University of Manchester.

Pranav Bihari has joined CARR as Web and Publications Administrator.

Will's duties as *Risk&Regulation* editor have been inherited by **David Demortain.**

Have you moved or changed jobs recently? Please keep us informed of any changes in your contact details so you can continue receiving *Risk&Regulation*. **Email: risk@lse.ac.uk or Tel: +44 (0)20 7955 6577**

Piecing together the information jigsaw

Sophia Bhatti, from the Office of Fair Trading, argues that combination of information sources and awareness of their limitations are critical to target risks.

'A targeted approach to regulation'

'Principles-based not rules-based'

'Being more risk-based in focusing regulatory effort'

In the modern regulatory world you would be hard pushed to find a regulator or equivalent authority who hasn't voiced similar ambitions. The logic and sense, on the face of it, seem inescapable – focusing effort on the areas of risk, whilst reducing regulatory burdens, keeping the cost of regulation down, and delivering effective protection. The merits are obvious. However, putting these principles into practice – moving from commitment to implementation – is a tough task, and one that many people are currently grappling with.

In *The Government of Risk*, Hood et al. state that 'There is … no single correct way of conceiving risk regulation regimes. No one has ever seen a risk regulation scheme'. Yet, however diverse the nature and style of regimes may be, the principle of targeted regulation implies the need for precise indicators.

Risk indicators offer both the backbone as well as the Achilles heel. Reliable and robust indicators are vital, but equally they are difficult to pin point. What information exists and is available? What sources of information are relevant and reliable? If there isn't a direct indicator, what proxy measures are available?

The OFT has a broad remit as a competition and consumer authority, focused on its mission of 'making markets work well for consumers'. How to identify which markets are not operating well? What are the causes of these market failures? What can/should be done about such issues? Is regulation the remedy? Which failures pose the greatest risk? These are amongst some of the relevant and important questions which we, and no doubt many others like us, are considering in our daily work.

The natural development of regulation, coupled with the likes of the Better Regulation agenda, the *Hampton Report*, and what some refer to as the rise of the audit society, have seen an embedding of risk and targeted approaches to regulation and in turn a greater appreciation of the need to understand the nature of risk more effectively. Understanding the nature of risk requires carefully piecing together a jigsaw of information sources – something which regulators have been doing for decades but are now getting smarter at.

Systemized intelligence databases

Day in and day out, organizations are generating vast amounts of intelligence about a whole host of issues. Monitoring systems able to collect and analyse this information are able to identify potentially avoidable risks. The National Patient Safety Agency's National Reporting and Learning System (NRLS) is one such system I came across during my time in healthcare regulation. Plugged into every Trust across England and Wales, it is designed to confidentially capture reports of patient safety errors and systems failures by health professionals. As of March 2008, over two million patient safety incidents have been reported to the NRLS. The system is not without its critics, but it has it shown itself able to identify trends and priorities within otherwise impenetrably vast resources of information. The NRLS experience teaches us a number of important lessons.

Firstly, breadth of coverage is vital in order to balance out the potential bias introduced by localized factors. However, this said, being able to assess and interrogate the information at a local level may well be where the virtue of such systems lies. For instance, why does error X occur in environments a and b, but not in c? What are the differentiating factors?

Secondly, the plurality of sources is vital, not just for the sake of numbers but also for perspectives. One person's error is another person's minor oversight. An elephant always looks different depending upon which side of it you stand. A system such as the NRLS can reduce the distorting effect of localized perspectives by taking inputs from patients as well as NHS staff.

Thirdly, recognizing the system's limitations, and not being over reliant on the data, is crucial. The NRLS has worked well gathering information about some types of events, such as minor trips, slips and falls, but has been generally less successful in others, such as serious harms and deaths. Being aware of such systemic biases and blind-spots helps avoid over-confidence.

If we only have part of the picture, where does the rest come from?

Looking back

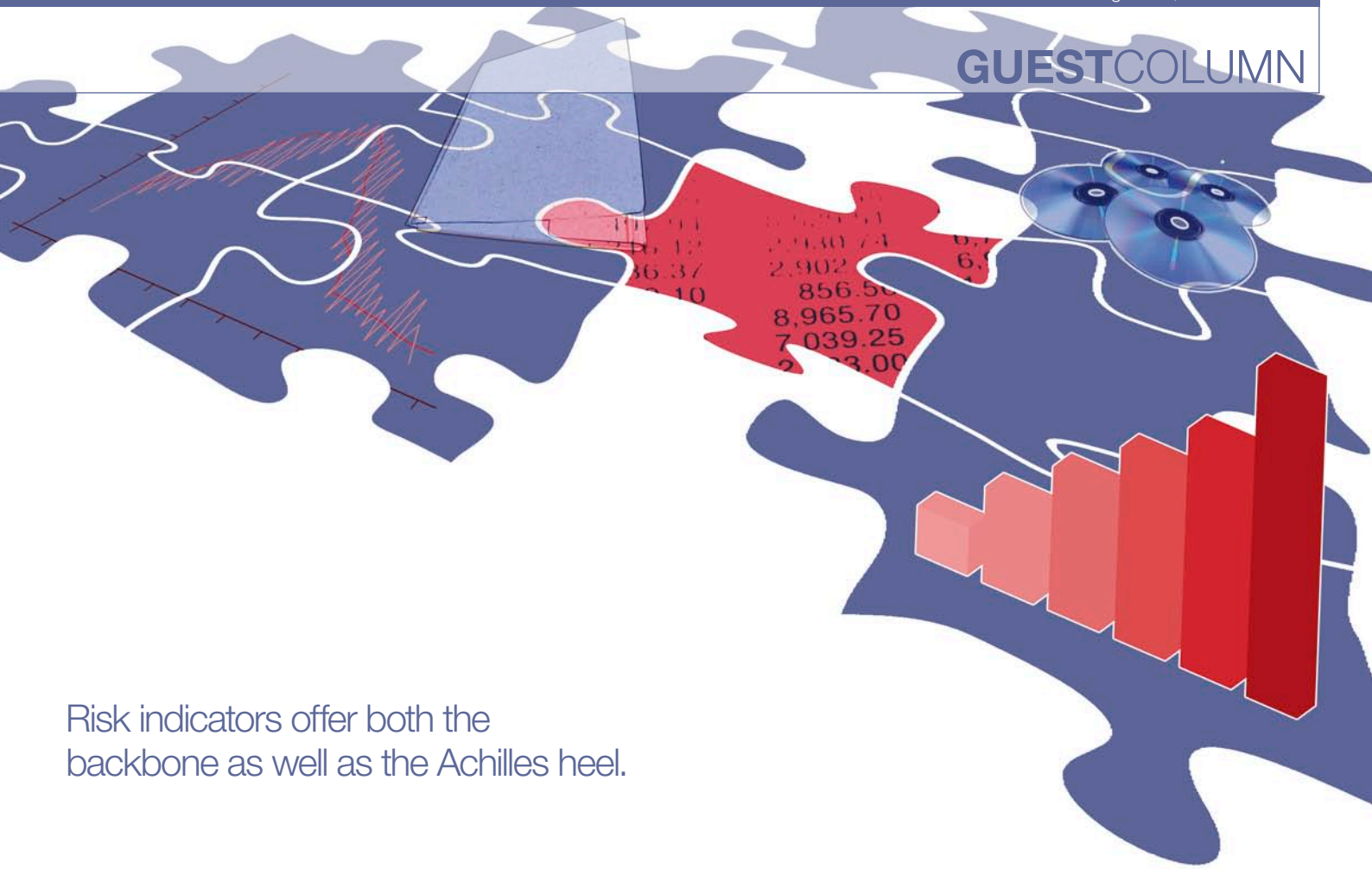
Induction is a notoriously imperfect mechanism (as the stockbroker's caveat has it: 'past performance is no indicator of future success'). But when trying to prevent things happening in the future the past is all we have to look to, and there is a wealth of information to be harnessed from examining what factors have led to which events before.

For instance, in predicting the emergence of cartels – what does looking at previous cartels tell us? Well, it tells us that cartels are more likely to occur when certain characteristics about the market are in play, such as a limited number of players, high entry barriers, and so on. In any litigious sector, one might find a wealth of information buried in the depths of insurance files which often contain detailed analysis of events. Again, these mechanisms are not perfect, but in the absence of a more reliable method – and in conjunction with other indicators – inductive analyses can provide us with a better sense of what to look out and prepare for.

The experts

We may well be living in an age of decreasing deference, but there remains a place for the experts. Those who have been immersed within a field for a length of time have a degree of understanding that borders on intuition, but ought not be ruled out just because it is difficult to quantify. Relying on situated expert knowledge is not to suggest that regulation be guided by hunches, but these insights are far more than this, they are informed judgments, based on years of experience – a tacit knowledge which we ignore at our peril. Often this can be aligned with robust research which can elicit some of the deeper understandings of how a particular sector operates and what its weaknesses are, what its strengths are, and importantly, what the most effective regulatory responses might be. Increasingly, regulatory organizations are 'recruiting' these very people to provide the inside track.

The OFT's recent 'Emerging Trends' consultation is a prime example of one such approach. It sought to identify what emerging trends could affect business practices and consumer behaviour, with the aim of ensuring that its approach is (as much as possible) future-proofed. One of the key values



Risk indicators offer both the backbone as well as the Achilles heel.

of the exercise was that its content was solely the product of the opinion of an expert panel, drawn from a variety of fields, to discuss emerging social, economic, political and technological trends and their impacts. Taking the back seat may not come easily to some but sometimes it is worth its weight in gold.

We are all experts, of one thing or another, and consumers or patients or citizens are experts of their own experiences. As Morgan argues, 'Everyone is their own expert … In a democratic community, such personal experience claims a legitimate place in knowledge discussions'.

What happens at the grassroots level is crucial to developing a proper understanding of the nature of risks, their potential and importantly, the appropriate responses. How does one go about getting first hand experience, that is representative, unbiased, reliable, and isn't subject to failures of recall, etc? The first step, of course, is to accept that such sources of information are going to be subject to some bias, and that there will be some degree of recall degradation, and so on. But surveys and statistics are grounded in the notion that local biases cede to regularity in sufficient aggregation. There are still valid and often incredibly useful nuggets of information which taken together and triangulated with other sources begins to build a better picture.

Although required by some situations, there isn't always a need to commission a bespoke survey to gather this input. Simply enabling our regulatory policy making to listen to those who get in touch is worth the investment and time. Although these experiences rarely allow a regulatory intervention to prevent an action (as in many cases they are post-event contacts), the trends can help identify potential earlier interventions to prevent reoccurrence. In 'Is transparency good for consumers?', Sharon Gilad offers one such example through the case of consumer complaints in the financial sector. The OFT, through its Consumer Direct operations, answered more than 1.5 million calls and emails from consumers in 2007 and logged 819,815 complaints on its database. The GMC received 5,168 enquiries in 2007, undertaking 1,388 full investigations. The Legal Complaints Service and the Solicitors Regulation Authority between April 2007 and March 2008 jointly received 19,219 new cases – a vast number of contacts, which if used intelligently can provide enormous insights. Of course, the data is not without biases – bias towards those sorts of incidents that warrant the effort of getting in touch, bias towards those sorts of incidents which certain groups of people are able and willing to get in touch about. Nonetheless, they have value, if for no other reason than they provide a ready-made sample of events which have led to some form of harm, detriment, or loss.

Are we alone?

The answer is probably no. Neither alone nor unique. Someone, somewhere, is, or has, thought about the very same issue. Peer sectors and regimes, nationally and internationally, often grapple with similar issues. Risk indicators in one domain are possibly relevant indicators in another, and if not, then at the very least they help elucidate the issue – Do price fixers in the USA operate in any different way than on this side of the pond? But the international dimension is deeper than this. Our shrinking world also increasingly means that our regulatory responses need to be fit for the transnational arena – where individuals can cross borders with ease, working in a number of jurisdictions, where funds are held in globally dispersed accounts, and where business operate in global markets. The sources of information required are increasingly found beyond our shores. Do we know what these sources are? Do we know how to get hold of them? And can we use them productively? The failure in the 1980s which led to Richard Neale being allowed to continue to practice in the UK despite his record in Canada is a stark reminder that our reach for information must be long, or else we risk missing a key part of the picture. The OFT's coordinated operation with the US Department of Justice in the 'marine hose' case, which led to the first ever convictions for a cartel offense since the Enterprise Act 2002, was a prime example of needing and taking a global approach.

So we have slowly begun to piece together the jigsaw. This article doesn't purport to list all the sources of information one might seek to use in exploring and understanding the risks, but I hope I have made two important, yet simple points. Firstly, it is unlikely that any single information source will provide the holy grail, and secondly, that there are more sources than one could care to count – they simply need to be used carefully and with a full understanding of the limitations.

Sophia Bhatti is team leader in Strategy and Planning at the Office of Fair Trading.

Is transparency good for consumers?

Assessing proposals for publishing comparative complaints data in financial services

Sharon Gilad explores the possible consequences of the publication of complaints data by financial regulators, such as firms' decreasing reponsiveness to complaints.

What might consumers learn from comparative information regarding complaints against service providers? What is the likely impact of such publication upon the future quality of service delivery by these providers? These questions arise in light of a recent consultation paper, which recommends the publication of comparative statistics regarding the volume, handling and success rate of consumer complaints against financial firms. This article examines the likely consequences of making complaints data public by exploring three alternative scenarios. It opens with some historical background to this debate.

Consumer complaints regarding the selling of financial products and services in the UK are made, in the first instance, to the relevant financial firm. If dissatisfied, consumers are entitled to pursue their complaints further to the Financial Ombudsman Service (FOS), which is a statutory third-party complaint handling body. The Financial Services Authority (FSA) that regulates financial firms and the FOS have to date resisted consumer groups' demands for publication of comparative information regarding the volume and success rate of consumer complaints against firms. The FSA has not given publicity to information that it regularly collects from firms regarding the volume of complaints that they receive, their handling of these complaints and the ratio of cases in which complainants are offered redress. Whilst the FOS publishes anonymous summaries of its selected adjudication of consumer complaints against firms and general information regarding the overall number of complaints that it receives and their success rate, it does not publish the breakdown of this information by firms. Firm-specific information from complaints has been treated by the FSA and the FOS as private and confidential to the extent that they have been reluctant to share this information even with one another.

However, more recently changes to the above policies is emerging. The independent *Hunt Review of the FOS* (published April 2008) opened the door for the FOS's publication of firm-specific information from complaints. The scenario that is envisaged by Lord Hunt is that such publication is likely to prompt competition between firms around service quality and enhance consumer choice in the retail financial services market. In Lord Hunt's words:

'Economic theory tells us that the availability of *accurate* information to consumers helps to make markets as a whole work more effectively ... There can be little doubt that transparency can help to improve performance, particularly amongst weaker firms, by giving strong incentives to make visible public progress … *information about complaint performance is one relevant factor that consumers may wish to take into account in making a purchasing decision and I see no legitimate justification for withholding it as a matter of principle*' (*Hunt Review*, 2008: 54, emphases in the original).

Despite this endorsement for publication of comparative complaints data, the *Hunt Review* acknowledges a number of possible problems, which might undermine the legibility of the FOS's data and may lead consumers to make misleading inferences. In particular, it highlights that aggregate statistics of the overall number of complaints regarding any firm and the FOS's uphold rate per firm may conceal important variance in firms' service quality. For example, a firm's mis-selling of one product may be masked by the FOS's low uphold rate of its other complaints. Equally, aggregate complaints statistics do not account for the variance in complaints' time lag. Whereas some complaints regard consumers' dissatisfaction with recent financial transactions (eg. bank charges), other types of complaints arise long after the sale of a product and therefore reflect consumers' dissatisfaction with firms' historical performance (eg. complaints regarding the suitability of a pension). In light of such potential sources for data misinterpretation and the opposition of many firms and industry trade bodies to the publication of FOS complaints data, Lord Hunt proposed that in the short term the FOS would publicly acknowledge outstandingly high-performing firms, 'name and shame' the poorest-performing firms, and consider the publication of more comprehensive comparative information in future.

In July 2008, shortly after the publication of the *Hunt Review*, the FSA published a consultation paper entitled 'Transparency as a Regulatory Tool'. Among other things, this paper proposes that the FSA will make public firms' self-reporting of the volume of complaints which they receive relative to their market share and transactions, their swiftness in dealing with these complaints (specifically, the ratio of cases which are handled within four weeks, eight weeks and over eight weeks), their uphold rates (ie. the ratio of cases which are resolved in favour of complainants) and the overall amount of redress paid out to complainants. In common with the *Hunt Review*, the FSA justifies its proposals on the basis of their expected enhancement of consumer choice and the quality of firms' products and services to clients.

'The main benefit of publishing complaints data would be to give consumers (and intermediaries including consumer groups and the media) additional information relating to the underlying quality of firms, helping them to make better product and provider choices. If the information becomes embedded in consumers' decisions, even if only for a minority of consumers, this will incentivize firms to improve their products and services, including their standard of complaint handling. These benefits depend on the information provided being used and correctly interpreted by consumers, which depends on how the information is presented' (FSA, 2008: 39).

Like Lord Hunt, the FSA's consultation paper proposes that transparency to complaints data will intensify firms' competition on service quality to the benefit of consumers. The underlying assumption of the FSA is that consumers' exercise of choice in response to complaints data will prompt firms to analyse the drivers of their complaints, and to introduce improvements in light of these analyses. Such improvements may involve clearer information to consumers regarding financial products, more stringent internal monitoring of the suitability of retail financial products to the consumers who buy them and better post-sales services to clients. Yet, like the *Hunt Review*, the FSA's consultation paper recognizes the contested nature of complaints data and its potential for signifying wrong messages to consumers. Importantly, it acknowledges that a firm's high volume of complaints or its high uphold rate do not necessarily entail that its products

and services are of low quality. Rather, such statistics may reflect a firm's superior accessibility to complainants, and its lenient redress policy. To these concerns about the validity of complaints statistics one might add that a firm's high volume of complaints may be a positive sign of its good customer relations. Research on consumer complaint behaviour suggests that most consumers avoid complaining when dissatisfied because they do not trust service providers to take their concerns seriously. In contrast, those consumers who have high trust in service providers are more likely to complain. Hence, a firm's high complaints volume may well reflect the trust of its clientele that they will be listened to and cared for. Consequently, both professionals and lay people will find it extremely hard to draw reliable conclusions from aggregate complaints statistics, since the same indicators (high complaints volume and a high uphold rate) may be a symptom of high levels of dissatisfaction and failure and/or of high levels of trust and responsiveness. Thus, firms' aggregate complaints data may be inherently flawed as a signifier in the market place, resulting in inefficient competitive pressures.

In addition to the above mentioned limitations of complaints data as a source of reliable information for consumers, a second plausible scenario is that the publication of complaints data might actually decrease firms' responsiveness to complaints.

Studies of publication of comparative performance tables in other domains suggest that transparency might result in firms' focus on achieving the 'right' appearances, rather than improving the quality of their services to clients. The FSA's consultation paper recognizes that some firms might achieve good appearances without improving their underlying performance, by reporting false statistics. Yet, one could think of less extreme forms by which firms might 'game' the system, without engaging in illegal behaviour. For example, if high volume of complaints is considered a sign of low service quality, consumer-responsive firms will become less amenable to complaints, for instance by limiting the means for filing complaints. Equally, if a high uphold rate is likely to be interpreted as indication of a 'problem', firms will become more stringent in their approach to complaints. In fact, consumer-responsive firms will have to become less accessible to complaints and to restrict redress payments to customers, not only because the publication of a high uphold rate of complaints will damage their corporate reputation, but also because such publication is likely to drive even more complaints against them due to consumers' heightened belief in their likely success. With increasing number of complaints, these firms' executives will come under pressure to toughen their approach to complaints because of the increased financial burden and its adverse implications for their profits.

Finally, there is a third scenario, which seems especially likely in the UK financial services sector. Large firms' share in the market place depends on their ability to attract intermediaries to sell their products, more than upon their direct competition over retail consumers. Under these conditions, claims for superior service quality to the consumer might not be a firm's main strategy. Moreover, as should be apparent from the discussion thus far, the meaning of aggregate statistics of complaints is contested, and the same statistic might be interpreted as indicating good and bad service quality. Since what 'good' looks like is extremely uncertain, reputation-sensitive firms are likely to aim for their complaints statistics to resemble the industry average. Financial firms are already individually setting for themselves targets for complaints volumes, the swiftness of their dealing with complaints and their uphold rates. The publication of comparative data is likely to result in the industry average becoming the target for individual firms. That is, firms will aim for their complaints statistics to conform to the industry average score, in order to protect themselves from regulatory, media and consumer groups' criticism. Thus, paradoxically, the publication of comparative information may render firms more similar to one another rather than induce competition between them.

Does the discussion above imply that the FSA should forego its transparency agenda? Not necessarily. One possibility would be for the FSA to support consumers' reading of complaints data by providing qualitative commentary of its interpretation of firms' aggregate complaints statistics. FSA supervisors are already conducting such analyses as part of their assessment of firms' internal controls and fair treatment of consumers. However, it is unlikely that the FSA (or any other regulator) would risk being blamed by consumers for making wrong purchase choices on the basis of its qualitative commentary.

A more realistic suggestion might be for the FSA to publish those statistics that are least open to firms' influence, or such that are most likely to create a positive incentive for firms' consumer-responsive behaviour. One example of the first type of statistic are FOS uphold rates. With all their problems, as highlighted by the *Hunt Review*, they are less malleable for circumvention when compared with firms' internal complaints data. An example of the second type of statistic is the percentage of complainants, out of a firm's overall complaints, who pursue their complaints to the FOS. This ratio is one indicator of complainants' satisfaction with – and trust in – firms' handling of their complaints. Its publication is likely to result in firms' enhanced responsiveness to complaints. Some would argue that this would result in firms' excessive responsiveness to some consumers' unreasonable complaints. Indeed there seems to be no distortion-free solution.

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On evaluating one's self:

the implications of asymmetrical expertise in aviation regulation

John Downer shows that the experience and knowledge needed to control complex technologies resides with regulatees, making self-regulation a quasi-necessity.

Casual attendees of the Flight Safety Foundation's 43rd annual International Air Safety Seminar, in 1990, might have been surprised to hear a senior Federal Aviation Administration (FAA) official declare that 'The FAA does not and cannot serve as a guarantor of aviation safety.' Asserting instead that 'The responsibility for safe design, operation and maintenance rests primarily and ultimately with each manufacturer and each airline.'

After all, guaranteeing airline safety is what the FAA does. They regulate all aspects of US aviation, not least the engineering: testing and assessing new aircraft designs to ensure they meet the regulator's requirements for safety and integrity. The FAA – as with parallel regulators in other countries – are proxies for the people: protecting their interests by overseeing, on their behalf, a complex, inscrutable and potentially dangerous technological system.

The FAA official from the conference was no maverick and his opinion was not aberrant. The Government Accountability Office (GAO), the Department of Transport, the Office of Technology Assessment (OTA), and the Aerospace Industries Association have all come to similar conclusions about the aviation regulator's limitations at different times.

The explanation most commonly given for the FAA's shortcomings is that aircraft have gradually become sophisticated to the point where regulating them requires more resources than the FAA could muster (or the government could realistically fund) if the FAA demanded they do all the work themselves. Aeronautical engineering has split into more specialties, each deeper and narrower than before, to a point where mastering them all is beyond the FAA's budget and manpower. When the FAA certified the DC-10, in 1971, for example, the process generated about 1,400 compliance documents for them to review and approve. By the time they certified its successor, the MD-11, in 1990, this number had more than doubled to 3,069.

This raises an obvious question: if the FAA lack the manpower to independently regulate the design of new civil aircraft, how then do they perform their regulatory mandate?

The answer to this question is as straightforward as it is extraordinary: the FAA delegate the bulk of their regulatory work to the bodies they regulate. In the case of overseeing new aircraft designs ('type-certification'), this means delegating to the manufacturers. This relationship is formalized in the FAA's Designated Engineering Representatives (DER) programme. The 1958 Federal Aviation Act authorizes the FAA to 'deputize' engineers and let them act as surrogates: overseeing tests, calculations, and designs to ensure that the manufacturers meet the FAA's regulations. DERs are employees of the manufacturers themselves. They are usually senior

'I am lord of myself, accountable to none.' Ben Franklin

engineers with 15 to 20 years' experience, holding key technical positions and heavily involved in design of the systems they oversee.

Although this arrangement may seem counter-intuitive, it is in fact common for manufacturers of complex technologies to play an active role in regulating their own products. The FAA and its predecessors have relied on designees, in some form or another, since the practice was first authorized by congress in the 1920s. By 2004, there were approximately 13,400 designees performing a variety of functions: overseeing pilot exams, assessing airworthiness, and much else besides. The FAA choose and train designees (although DERs are usually nominated by the manufacturer), oversee their work, set the regulations, and make the final determination as to whether the manufacturers have satisfactorily met the relevant requirements. Or at least in theory.

In practice, even the limited role the FAA preserves for itself has grown increasingly untenable with the soaring complexity of civil aircraft. In a 1996 report, the GAO concluded the FAA were increasingly delegating tasks they traditionally reserved for themselves, such as authoring test plans and performing failure analyses. (The extent of this kind of delegation varied widely, being highest in branches responsible for certifying advanced computer systems and lowest in branches that dealt with less innovative fields such as aircraft structures.)

In line with their increasing responsibilities, the number of DERs overseen by the FAA's two main branches rose 330 percent between 1980 and 1992 (from 299 to 1,287) while the number of FAA certification staff rose only 31 percent (from 89 to 117) bringing the ratio of DERs to FAA staff from about 3 to 1 in March 1980, to 11 to 1 in 1992. (Again, this varies between branches, reaching 30 to 1 in some areas.) Overall, the GAO concluded that between 90 and 95 percent of all regulatory activities are now delegated to DERs.

Despite its practicality, such a close relationship between regulator and regulee poses its own complex questions. The ostensive purpose of a regulator is to make sure an industry 'behaves', and when the two work very closely there is a danger that the regulator will lose its effectiveness: a phenomenon that academics refer to as 'regulatory capture'.

In aviation it is arguable that capture has reached an extreme level. There is, as the GAO concede, the appearance of '... a conflict of interest for the designee, who is in the position of serving two masters: the aircraft manufacturing firm that pays him, and the FAA to which he is expected to report problems.' Ralph Nader, road-safety reformer and perennial US presidential candidate, frequently complains that the airline industry 'believes in the honour system for regulatory compliance'. He is not the only such critic. The designee system has a long-standing credibility problem: by all appearances, it is as if the asylum is beholden to its inmates.

A succession of external investigations have examined the DER system for conflicts of interest, but have overwhelmingly dismissed the concern. The National Academy of Sciences, for example, exemplified the prevailing view when they found that various safeguards mitigated conflicts of interest, foremost of which was the manufacturers' self-interest in designing a safe, reliable aircraft that would not expose them to lost sales or litigation from high profile failures.

The consensus, broadly speaking, is that the industry's interests are aligned with those of the regulator, and that this shapes high-level priorities in such a way that there is little need for an adversarial regulator. A high profile airplane crash can be a disaster for airlines and manufacturers, as well as for passengers and regulators. This mutual self-interest is thought to pervade the culture of the industry at all levels; as a former aviation engineer and DER explains:

'... it's very clear to all involved that we are talking lives here. It's also helpful that these are ubiquitous commercial transports. Everyone knows that not only will they fly on these things themselves, but their wives, mothers, children, girlfriends, you name it, will be flying on them as well. It's a sobering thought, trust me.'

This argument is far from inviolable however. Boeing and their engineers have no interest in producing an unsafe aircraft, and airlines no interest in operating one, but both are also subject to market pressures that we might expect a regulator to keep in check. Moreover, the 'aligned interests' argument also begs the question of why the FAA is required at all, or why the GAO 'regret' the increasing degree of delegation.

In fact, a closer reading of the many reports on the DER system that have been commissioned over the years suggests that, at some level, the conflict-of-interest question is moot. This is because the process of regulating aircraft designs is a matter of expertise as well as of resources, and – as aviation engineers have long understood, and commentators of complex technologies are beginning to realize – expertise is elusive and difficult to buy.

Almost all insiders agree that even with unlimited resources, the FAA would be ill-placed to make good regulatory judgments, because they lack the degree of intimacy, or 'closeness', required to adequately comprehend the complex systems they nominally oversee. Only the engineers who design and build these systems are in a realistic position to do this. The OTA, for instance, reported in 1988 that FAA personnel were unable to make good technological judgments, because they lacked the sufficient expertise. The GAO echoed this in 1993 when they stated that the FAA were '... not sufficiently familiar with [a particular system] to provide meaningful inputs to the testing requirements or to verify compliance with regulatory standards'.

A large body of work on the sociology and epistemology of technological knowledge brings credibility to this view. Writers such as Donald MacKenzie and Harry Collins argue that there are significant barriers to making meaningful assessments of complex systems, if the assessors come from outside what Collins has called the 'core set' of people who are most intimate with those systems.

Explaining the importance of such intimacy means conveying the epistemological intricacy and ambiguity involved in even the most basic aeronautical regulatory questions. Simply measuring an engine blade's resilience to bird impacts, for instance, requires a prodigious spectrum of small judgments: judgments about bird species and their numbers (so as to account for the likelihood of flock encounters and the physical characteristics of the birds); judgments about fan blades and where they are most vulnerable (a parameter dependent on the speed and mass of the bird, as well as on the blade itself); judgments about the equivalence of a lab test (where birds fired from cannons strike pristine new engines) and real bird-strikes (where mature engines strike slow-moving birds); judgements about the equivalence between real birds (with beaks, bones and feathers) and artificial birds (gelatin balls of uniform consistency); and many others.

There are no 'objective' ways to make many of these judgments. Formal guidelines can be useful, but regulation demands more than assiduous 'box tickers', and regulators cannot be mere accountants; they require the intimacy and experience to successfully negotiate the complex indeterminacies of civil aircraft. There is more to understanding technology than can be captured in standardized tests and measurements: something about experts that eludes expert-systems. This is why Brian Wynne speaks of a practical 'craft' tradition in modern engineering, where rules and principles are constantly renegotiated in conditions of irreducible ambiguity, often relying on engineers' hands-on, tacit knowledge.

Perhaps there is a degree, therefore, to which we must resign ourselves the self-regulation of complex systems, whatever the civic shortcomings involved. In lieu of forcing a damaging separation between regulator and regulee in such cases, we might focus instead on better managing their proximity. The issue of regulatory capture in civil aviation, for instance, might be approached by striving to align the interests of manufacturers and operators more closely with those of passengers and regulators: a tack more fitting to the messy realities of technological practice.

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Ignorance and regulation

The strategic avoidance of risky knowledge

Linsey McGoey describes the strategic use, and non-use, of new drug information by regulators faced with accusations of failure.

In recent decades, bestselling drugs such as Prozac and Vioxx have been linked to severe adverse reactions, often many years after their licensing. The emergence of safety issues calls into question decisions to authorize these medicines in the first place. How do regulatory institutions respond to new information, when it can become a signal of earlier regulatory failure?

Below, drawing on the case of antidepressant drugs, I argue that ignoring new information can be a strategic response for a regulatory body faced with contradictory external pressures and reputational risks. I suggest that liminal, factual and defensive ignorance are three possible strategies, which might be not be conscious, but which can arise as an unintended consequence of external pressures that make it strategically useful for a body to avoid processing information damaging to their reputation if acted on.

The organizational theorist Barry Turner once suggested, as Bridget Hutter and Michael Power note in *Organizational Encounters with Risk*, that organizations may be 'defined in terms of what their members choose to ignore.'

This appears the case with the Medicines and Healthcare Products Regulatory Agency's (MHRA) monitoring of selective serotonin re-uptake inhibitors (SSRIs), where, through a strategic use of ignorance – in not acknowledging new information about the efficacy of SSRIs – the MHRA may have deflected attention from the possibility of earlier regulator mistakes.

SSRI antidepressants such as Prozac and Seroxat first appeared on the market in the UK in the late 1980s and early 1990s. Psychiatrists initially thought they had fewer side-effects than earlier classes of antidepressants. Questions soon arose, however, about whether SSRIs might in fact be contributing to suicidal behaviour in some users, calling into question earlier decisions by the UK drug regulator to license these medicines.

Their lack of efficacy in some age groups was suggested by a memo from GlaxoSmithKline (GSK), a SSRI manufacturer, written in 1998. It concerns two clinical trials carried out in the mid-1990s to test the safety and efficacy of Seroxat in adolescents in 11 countries. The memo stated of the trials that 'it would be commercially unacceptable to include a statement that efficacy had not been demonstrated, as this would undermine the profile of paroxetine [Seroxat].' The memo added: 'Data from these two studies are insufficiently robust to support a label change and will therefore not be submitted to the regulatory authorities.'

Under UK law, companies are obliged to submit all clinical trial data that has a bearing on the safety of a licensed drug. The memo above suggests an intentional breach of this duty.

In March 2008, the MHRA, the UK's equivalent to the FDA, announced the end of a four-year investigation into whether GSK, manufacturer of the bestselling drug Seroxrat, broke the law by failing to submit data on the safety and efficacy of Seroxat in adolescents. The agency stated that, even though, in the view of regulator, GSK acted unethically in not submitting data, the regulator did not have the legal ability to prosecute the company.

This is because the UK's Medicines Act (1968) is not as effective in enforcing the disclosure of clinical trial data as regulators had previously assumed. In conducting their inquiry, the MHRA solicited independent legal counsel, who advised the MHRA that the legislation was 'sufficiently unclear as to make a criminal prosecution impossible', as a MHRA press release reveals.

Throughout its history, the MHRA has never prosecuted a company for withholding clinical trial data from regulators. This fact, plus the observation that it took the MHRA nearly five years to determine that the legislation governing drug licensing was ineffective in prosecuting non-compliance, raises the question of why the MHRA regularly chooses such a course of action, where its mission to regulate the industry in the benefit of public health would necessitate it to be tough on non-compliant companies?

I suggest the tendency of the MHRA to avoid penalizing companies such as GSK and other companies for breaches of the 1968 Medicines Act could form part of a strategy of ignorance, where not prosecuting avoids publicizing information that could signal earlier regulatory errors if acknowledged. Bodies such as the MHRA might thrive on the avoidance of the very information they are explicitly mandated to search for, such as evidence of the adverse effects of drugs. A strategy of ignorance might be vital to the agency's institutional survival.

Strategic ignorance takes different forms. One of them is 'liminal ignorance', the public front of ambiguous knowledge that often straddles the boundaries between public and private information. This strategy is exemplified by the reluctance to publicize and act on information considered within confidential expert committees.

Over 2003-04, the MHRA's SSRI expert working group conducted an inquiry to determine the safety of antidepressants. The expert working group discovered that SSRIs at daily dosages above 20 milligrams were no more effective in treating depression, regardless of the severity of the depression, than doses at 20 milligrams. The working group discovered this through a re-analysis of data in its possession for over ten years, raising the question of why earlier investigations of the RCT data had not revealed the lack of efficacy at an earlier time.

According to Richard Brook, former chief executive of Mind, a leading UK mental health charity, and a former member of the MHRA's 2003-04 SSRI working group, when the MHRA first realized that SSRIs at daily dosages above 20 milligrams were not effective, the working group chose not to reveal the information publicly, despite the relevance of the information to the almost 20,000 UK consumers taking higher daily doses, increasing their risk of adverse effects.

When Brook voiced the aim to go public with the information, he received a letter from the MHRA stating that he would be in breach of the UK's Medicines Act if he disclosed the information, and therefore at risk of up to two years' imprisonment for disclosing commercially protected data. Brook resigned from the working group in protest, and the MHRA later circulated a notice to doctors advising of the lack of efficacy above 20 milligrams.

Brook was privy to the same information as the other expert advisors. His mistake appears to have been in seeking to publicize that information. I suggest Brook may have been penalized for threatening the veneer of 'liminal ignorance' which the MHRA was seeking to maintain publicly. Brook was threatened with litigation for attempting to break the rule of ignorance.

Two other forms of strategic ignorance are factual and defensive. Drawing on Niklas Luhmann, the German systems theorist, I argue 'factual ignorance' can be a profitable strategy for organizations confronted with contradictory or competing scientific facts. When faced with an overabundance of information, 'factual ignorance' can be useful in absolving a regulator's decision not to act on new information – for regulators, particularly in the era of the precautionary principle, can plausibly cite the uncertainty of the facts before them as justification for inaction.

'Defensive ignorance' – where the refusal to act on new information can be attributed to difficulties in the interpretation of information, rather than outright secrecy – can be exonerating. 'Defensive ignorance' is a phrase that encapsulates the tendency, at least in the case of SSRIs, for the MHRA to take a passive approach towards the acceptance of new evidence about a drug's risks. If the pursuit of knowledge is generally active, or offensive, 'defensive ignorance' is its opposite: a tacit policy geared around a starting position of knowledge avoidance, versus knowledge adoption.

This range of strategies to manage sensitive regulatory information takes precedence over other forms of action, such as prosecution in the case of non-disclosing of information. This is because, as Emily Jackson and I discuss in forthcoming work, protracted legal suits may pose the danger of calling unwelcome attention to previous regulatory errors. Inconsistent decisions risk turning earlier acts into 'errors' or 'failures' and threaten the reputation of the regulatory agency.

This point resonates with work by Keith Hawkins, who has argued that legal measures are often seen among regulators as a 'last resort,' particularly as 'the use of law seems to be regarded by regulatory officials in Britain as a rather hazardous enterprise, posing risks of failure to both the individual and his or her organization'.

This also relates to work by Michael Power, who has suggested that, in an increasingly litigious culture, an organization's need to address reputational risks is increasingly superseding the need to address the primary risks that an organization is mandated to try and avoid.

In pharmaceutical regulation, licensing a drug which carries severe adverse effects can, firstly, provoke public mistrust over the regulator's competence in approving the drug – particularly when those risks are detectable in pre-licensing clinical trial data.

Secondly, prosecution could be damaging to the regulator's relationship with the pharmaceutical industry, which owns both the data and the funds that are necessary to fulfil its missions. Since 1989, the MHRA has been 100 per cent funded by the pharmaceutical industry for the service of licensing medicines. There is, as Kent Woods the CEO of the MHRA noted to me during an interview, a logical reason for this relationship. Why should the UK taxpayer carry the burden of paying for drug licensing, when private companies profit from drug sales? Despite the fact the MHRA's funding structure is not unusual in comparison to a number of UK regulatory agencies, it appears the reliance of the MHRA on the bodies they are meant to be policing had made it hard for regulators to penalize companies such as GSK.

Given these thoughts, the important question is not whether the MHRA may have failed to detect or to act on industry non-compliance, but in what ways such failure may have stemmed from dual external pressures – to act in favour of the public and maintain a collaborative relationship with the industry – which can become contradictory when companies within the industry obviously act wrongly. Not prosecuting such companies might prove the most useful strategy for minimizing these institutional contradictions, and for seeking to deflect attention from ensuing reputational risks.

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Security and risk management for sporting mega-events

Will Jennings and **Martin Lodge** consider the specific security challenges confronting organizers of large sporting events and the tools to respond to likely surprises.

The major international sporting events of the summer, the Beijing 2008 Olympic Games and the UEFA European Football Championships held in Austria and Switzerland, have passed without serious incident. In the case of the Olympics, this was achieved despite criticism of the Chinese government's suppression of internal dissent and extensive surveillance of its critical infrastructures and facilities. In the case of the European Championships, pre-event anxieties concerning security threats also did not materialize. Now attention inevitably shifts to the next summer Games, the London 2012 Olympics, and (once again) apocalyptic prophecies of doom and disaster, in terms of infrastructure, security arrangements, financial planning and long-term impacts, are filling newspaper columns, television shows, and radio waves.

Sporting mega-events such as the Olympics and football World Cups represent a special venue for the practice of risk management. Their exceptional risk profile – as high visibility events attracting global television audiences, hundreds of thousands of spectators, and wider public and media interest – presents a particular challenge, in terms of managing day-to-day operational risks of ensuring the continuity of power and water supplies and maintenance of transport linkages as well as attempting to avert major security disasters, whether through design/construction faults or intended human action, ie. terrorism.

Mega-events present a special test for systems and technologies of risk management concerning which types of risk are prioritized for attention by policy-makers, which indicators are used to monitor and analyse information about risks, and which sorts of policy or organizational instruments are chosen to modify behaviour (and affect outcomes). Major sports events tend to be staged at specific unmovable locations with a fixed schedule and, therefore, allow little room for things to go wrong. In addition, the politicized and symbolic character of such mega-events imposes a strain upon logics of governing within the 'regulatory state', with its ambitions of technocratic measurement and control, focus upon economic efficiency, and institutional fragmentation coupled with 'hyper-politicization' of policy making in central government. In other words, the risk profile of sporting mega-events appears to conflict with the (supposed) risk averse and blame avoiding tendencies of contemporary policy makers and bureaucrats, who instead pursue 'high risk, high gain' strategies in bidding for and hosting Olympic Games, World Cups, European Championships and the like.

Are such mega-events equivalent in their exposure to security risks or do specific risk profiles exist that make anticipation on the basis of past events or organizational strategies problematic? Which risk management tools are available to organizers of sporting mega-events and to what extent does anticipation matter? And are there side effects of focusing upon particular strategies at the expense of others?

Security risks at sporting mega-events

Turning to the first question, one characteristic that unites sporting mega-events is a sense of heightened public and media attention, mass participation (both in terms of competitors and spectators) as well as the symbolic importance and cultural influence of such events – with the opening and closing ceremonies of the Olympics a good example of this heightened state of attention. They also provide a target for 'common', everyday, forms of crime such as pick pocketing and theft, drug dealing, distribution of fake tickets and the sale of counterfeit merchandise.

Nevertheless, considerable differences exist. For example, international football tournaments tend to be associated with public disorder and organized hooliganism as large crowds of supporters gather for specific matches. The Olympics attracts a large number of spectators, but those tend to comprise diverse audiences that do not divide their support across different teams that symbolize historical lines of national conflict. In terms of location, international football tournaments tend to be less problematic as activities are decentralized to multiple towns and sporting venues. In contrast, a significant proportion of events at the Olympic are held on or near the main site. As a result, a one-off disturbance of security – for technological, natural, or man-made reasons – has the capacity to disturb the staging of an Olympics more extensively than a similar breach at a football tournament.

For international football tournaments, however, the relative decentralization of individual games means that spectators descend upon locations for a concentrated period of time, and means that large number of people need to be transported between locations. There are therefore important differences in the security uncertainties and threats that confront the organizers of sporting mega-events.

The tools of security risk management

Strategies for the management of security risks at sporting mega-events can be grouped into different categories, a selection of which are now discussed in brief: intelligence, presence, transport and layout. These approaches often involve 'trade-offs' between particular logics of organization and the type of threat that is managed. Thus, as one security risk is mitigated, another blind spot or vulnerability is created, accentuated or overlooked. So, for example, the concern of organizers of sporting mega-events with reputational and catastrophic disruptions might understate the importance of routine, operational risks on the ground, such as continuity of its broadcast link (eg. the temporary television blackout during one Euro '08 semi-final) or power supply (eg. the threat of power outages has prompted concerns over preparations for the World Cup in South Africa in 2010) and provisions for transporting competitors to venues (eg. problems with the official buses for competitors at Atlanta 1996).

Intelligence refers to the collection of information and its processing in the counteraction of security risks. There is a convention of information exchange and monitoring in the run-up to and during international football tournaments, in particular concerning the threat of hooliganism and organized violence (a problem which has tended to be imported from national league competitions). As a consequence, some national police forces follow their supporters abroad (or at least provide expert intelligence and support, such as fan 'spotters', to the tournament hosts).

In the case of the Olympics, high-level security arrangements tend to be superimposed over the existing national and international infrastructure of intelligence exchange and defence capacities, albeit dependent upon the geopolitical context (ie. Beijing 2008 involves less formal/direct international cooperation on intelligence matters than Athens 2004). For each Olympics since Atlanta 1996, organizers have created an Olympic Intelligence Centre to assimilate information and risk assessments for intelligence of 'Olympic

interest' through cooperation and information-sharing arrangements involving over a hundred countries and international organizations.

Presence is characterized by both visible and invisible technological and human forms of active monitoring devices. One example of an 'invisible technological' form of presence is dependence on communications networks and information databases linked to more visible forms, such as CCTV cameras and other forms of 'movement control'. Presence is more typically observed in the use of extensive visibility, if not symbolic 'brute strength', of policing. In fact, the nature of such a visible presence is critical in determining the climate of relationships between police and football supporters. As a result, the German World Cup's theme 'die Welt zu Gast bei Freunden' ('the world visiting friends') was utilized to inform police tactics. The requirements of a considerable security presence can strain the resources of organizers. At Athens 2004, heightened security concerns after the events of September 11 meant that the number of police on patrol in Athens and at the Olympic venues numbered around 70,000, necessitating external support in terms of presence from NATO as well as the European Union. The planned number of police for London 2012 is much lower, reflecting a reliance upon intelligence instead of policing for the Olympics compared with international football tournaments.

As a mode of risk management, 'transport' concerns more than the provision of a comfortable journey to and from the competition venue for spectators. It also represents a crucial aspect of management of security threats. For one, the transport infrastructure – across all modes – represents the entrance point for visitors and sports people alike and therefore risk management requires an integration of transport with the tools of intelligence and presence, especially in the area of immigration controls (eg. airports, ports). Since 2000, the UK government has used banning orders to prevent suspected troublemakers from travelling abroad during World Cups and European Championships. However, because security threats for football tournaments tend to emanate from groups, the expulsion of a sufficient proportion of prospective offenders is sufficient for ensuring the integrity of the event. For the Olympics, the security context is quite different, since it is vulnerable both to pre-event installation of terror cells to circumvent immigration controls or to actions of a solitary agent. As such, the potential consequences of isolated breaches of security are far greater in the Olympic context.

Layout refers to the set of event features that, like transport, determines the physical spacing, timing and structure of crowd flows and security provisions, as well as facilitating control and responsiveness in the case of incidents. For example, there is an increasing standardization in stadium designs and emphasis upon the importance of creating similar response environments so that first responders in emergency situations do not require extensive familiarization with peculiarities of each location, such as in relation to exit routes, evacuation plans and so forth.

For international football tournaments, the architectural design of stadia and urban areas tends to function as a mode of security in itself, providing the physical context in which crowds behave and are managed (ie. presence). Along with the use of intelligent filters, such as controlled ticketing, and the nature of the main security threat (ie. public disorder), the layout of most football stadia in a single enclosed space gives rise to concentration upon policing of boundaries and perimeters; with fencing and 'cages' sometimes used in stadia in South America and continental Europe. In contrast, the main Olympic site tends to be more open and less structured in design (consisting of multiple venues, open spaces and interchanges). Whilst it still requires policing of its perimeter there is a greater emphasis upon randomized and 'intelligent' surveillance inside the site. This means the security presence tends to be less concentrated and, therefore, less visible. So whilst breaches of the secure perimeter in football stadia are more transparent to onlookers, the multi-centred layout of the Olympic site presents a more complex challenge for mobilizing intelligence and presence for the purposes of security.

Implications

The management of security risks in such a political-organizational context therefore involves multiple and intersecting logics of surveillance and control. At the same time, the availability of a range of organizing strategies, technical solutions and logistical protocols does not mean event organizers are ever prepared for all threats and eventualities. Indeed the size, scale and complexity inherent to the organization and staging of sporting mega-events ensures there is invariably scope for 'rude surprises' that either were unanticipated during the planning phase or were otherwise discounted by strategic models and scenario-testing.

Are the implications of this discussion that the management of risks for sporting mega-events represents a 'heroic but impossible job' and that the successful (ie. incident-free) nature of most events is attributable to good luck? Such a view is understandable given the immense organizational challenges of staging mega-events. However, it is arguable that most incidents at the heart of this discussion are low probability. Different approaches to risk management involve trade-offs between particular logics of organization, leading to over-attention to some risks and an under-attention to others. For example, the so-called C4I central surveillance integration security system that was supposed to have been operational for Athens but was not fully operational in time for the Games, served as an organizational distraction and displaced resources from other, less high tech, surveillance technologies. And when technologies fail 'on the night', the reputational damage of such an incident may be defining for the event.

In contrast, a hybrid of tools that combines redundancy (ie. the provision of extra capacity) with resilience (ie. the scope for organizations and/or individuals to respond to unexpected events) is crucial for effective risk management of sporting mega-events. Such strategies depend upon strong local resources as much as strategic coordination of organizational units. And yet, such a hybridization of security risk management contradicts one of the dominant trends in contemporary politics and administration: trust in centralized systems of information gathering and control along with technologies of surveillance.

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Close Calls.

Organizations, near misses, alarms, and early warnings

This conference, held by CARR at the London School of Economics on 26-27 March 2009, is intended as a platform to explore the way organizations of all kinds, including regulatory bodies, define and deal with risk events such as errors, near misses and close calls as part of their risk management practices.

Near miss analysis is normally associated with high reliability organizations, and specifically safety management in the nuclear, chemical and airline industries. In theory, tolerances are specified and built into technological infrastructures, and investigations are required when these tolerances are breached. Yet what is the potential reach and applicability of this kind of analysis beyond these specific contexts? For example: how might financial institutions develop early warning capacities as part of their specification of risk appetite? What kind of event would constitute a 'near miss' for a food retailer? Do management information systems trigger remedial action at the right time?

These questions are of fundamental importance to an expanding risk management agenda in both public and private organizations – and is especially salient for regulatory bodies seeking to develop 'early warning' intelligence and foresight capacity at the inter-organizational and systemic level. From 'signals passed at speed' in the case of railways, to 'clinical error' in medicine, to 'internal control weaknesses' in financial institutions, we hope that this conference will address a wide range of 'near miss type' practices and issues in different fields.

Contributions will explore how organizations and organizational fields process risk events in their broadest sense. Empirical and theoretical papers from scholars of accounting, crisis and contingency management, information systems, political science, psychology, organization studies, sociology, and regulation are expected.

For more details on participating, visit the CARR website: www.lse.ac.uk/collections/CARR/

'Figuring out organisations'.

A presentation by Peter Miller at the Nobel Foundation's symposium

Peter Miller delivered a presentation at the prestigious Nobel Symposium on Foundations of Organisation in Sweden on 28-30 August. The symposium brought together leading anthropologists, economists, organisation theorists, political scientists, and sociologists to look at such diverse issues as incentives and rewards, power and organizations, institutional emergence, community formation and social hierarchy.

The other invited speakers were: Robert Gibbons, MIT; Walter Powell, Stanford University; Susan Athey, Harvard; Barbara Czarniawska, University of Gothenburg; Stewart Clegg, University of Technology, Sydney; Jean Tirole, IDEI Toulouse; Ronald Burt, University of Chicago; Oliver Hart, Harvard; and Michael Hannan, Stanford University.

Peter said he was honoured to be invited to participate in and present at this event. 'I am particularly pleased to see the broad range of social sciences represented. There is much talk these days of interdisciplinary research, but it is not often that one has an opportunity such as this to participate in dialogue across the social sciences.'

Peter's talk, entitled 'figuring out organisations', argued for the need to pay special attention to the informational and calculative infrastructures that underpin much of the economy. For instance, the power of computer chips doubles approximately every two years, with no increase in cost. This phenomenon, known as Moore's Law after its founder Gordon Moore of Intel, drives the economy, setting the pace of change in the computer industry as companies both cooperate and compete to produce newer technologies, with related industries caught in the same cycle. According to Peter, researching phenomena such as Moore's Law, and the associated information exchanges among firms and industries that go with it, can add significantly to our understanding of the conditions that allow contemporary economic action and markets to operate.

FORTHCOMING SEMINARS

Problems of Governance of a Globalized Industry: the case of the enforcement of international regulations on seafarers' health and safety, welfare and training

Mick Bloor

Centre for Drug Misuse Research at the University of Glasgow and the Seafarers International Research Centre at Cardiff University, Universities of Glasgow and Cardiff

Tuesday 25 November 2008, 1-2.30pm

The shipping industry has been transformed more than any other traditional industry by globalizing economic processes and there is now effectively a single global labour market for the world's one million seafarers. It might be thought a 'critical case' for the effective governance of other emerging globalized industries. The paper will draw on an ESRC-funded cross-national (UK-India-Russia) study of port-State inspections and a current study of seafarer training to list some of the main difficulties in effective global governance of international labour standards.

'Risk Assessment Policy': a critical innovation for both scientific and democratic legitimacy

Erik Millstone

Professor in Science and Technology Policy, University of Sussex

Tuesday 3 February 2009, 1-2.30pm

For several decades, policy analysts and sociologists of science have been arguing that, in policy contexts, scientific representations of risks (and benefits) are invariably framed by prior assumptions about what counts as a risk, what should count as relevant evidence, and about how evidence and uncertainties should be interpreted. In the early years of this decade the Codex Alimentarius Commission that, under the auspices of the World Trade Organization, sets base-line standards for internationally traded food and agricultural commodities, introduced a key innovation – the concept of 'risk assessment policy', which constitutes the first official acknowledgement of the fact that scientific risk assessments are framed by such prior policy considerations. The implications of that innovation, and progress towards the implementation of those provisions, will be outlined and critically assessed.

RECENT SEMINARS

Human Rights as Risk: examining the risk-rights relationship in a new way

Noel Whitty

Professor of Human Rights Law
University of Nottingham

Tuesday 7 October 2008, 1-2.30pm

Risk Taking and Action in Online Anonymous Markets

Alex Preda

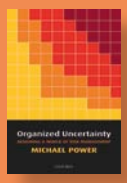
Sociology, School of Social and Political Studies, University of Edinburgh

Tuesday 11 November 2008, 1-2.30pm

CARRBOOKS

Internationalisation and Economic Institutions

Mark Thatcher
Oxford University Press 2007



Organized Uncertainty: designing a world of risk management

Michael Power
Oxford University Press 2007

The Politics of Public Service Bargains

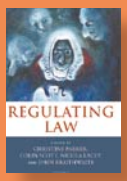
Christopher Hood and Martin Lodge
Oxford University Press 2006

Regulatory Innovation: a comparative analysis

Julia Black, Martin Lodge and Mark Thatcher (eds)
Edward Elgar 2005

Organizational Encounters with Risk

Bridget Hutter and Michael Power (eds)
Cambridge University Press 2005



Regulating Law

Christine Parker, John Braithwaite, Nicola Lacey and Colin Scott
Oxford University Press 2004

On Different Tracks: designing railway regulation in Britain and Germany

Martin Lodge
Greenwood Press 2002

The Government of Risk: understanding risk regulation regimes

Christopher Hood, Henry Rothstein and Robert Baldwin
Oxford University Press 2001

Regulation and Risk: occupational health and safety on the railways

Bridget Hutter
Oxford University Press 2001

CARRINPRINT

PUBLICATIONS

Tracking the numbers: across accounting and finance, organizations and markets

Hendrik Vollmer, Andrea Mennicken and Alex Preda. 2008. *Accounting, Organizations and Society*, forthcoming.

Standardising through concepts. The power of scientific experts in international standard-setting

David Demortain. 2008. *Science and Public Policy*, 35(6), p.391-402.

RECENT CARR DISCUSSION PAPERS

www.lse.ac.uk/collections/CARR/documents/discussionPapers.htm

DP50 Institutional Polymorphism: the designing of the European Food Safety Authority with regard to the European Medicines Agency

David Demortain, April 2008

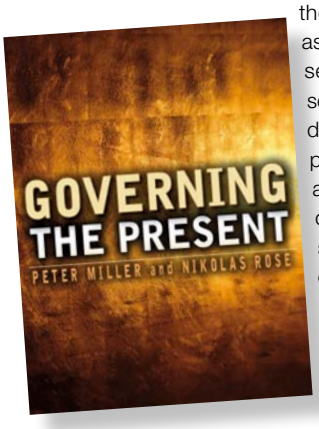
DP49 Gammelfleisch Everywhere? Public Debate, Variety of Worldviews and Regulatory Change

Martin Lodge, Kai Wegrich and Gail McElroy, January 2008

Governing the Present

Peter Miller and Nikolas Rose

The literature on governmentality has had a major impact across the social sciences over the past decade, and much of this has drawn upon the pioneering work by Peter Miller and Nikolas Rose. This volume brings together key papers from their work for the first time, including those that set out the basic frameworks, concepts and ethos of this approach to the analysis of political power and the state, and others that analyse specific domains of the conduct of conduct, from marketing to accountancy, and from the psychological management of organizations to the government of economic life. Bringing together empirical papers on the government of economic, social and personal life, the volume demonstrates clearly the importance of analysing these as conjoint phenomena rather than separate domains, and questions some cherished boundaries between disciplines and topic areas. Linking programmes and strategies for the administration of these different domains with the formation of subjectivities and the transformation of ethics, the papers cast a new light on some of the leading issues in contemporary social science: modernity, democracy, reflexivity and individualization.



Peter Miller is CARR Deputy Director and Research Theme Director and Professor of Management Accounting,
Nikolas Rose is the James Martin White Professor of Sociology at The London School of Economics and Political Science.

Risk Regulation, Markets and Democracy in the 21st Century: CARR-SCORE Co-operation

Linda Soneryd (pictured below left – SCORE, Stockholm Centre for Organizational Research) and **Andrea Mennicken** (pictured below right – CARR) have been successful in attracting a grant of £88,000 (1,050,000 SEK) from STINT (Swedish Foundation for International Cooperation in Research and Higher Education) to build and strengthen linkages between the two research centres.

Problems with traditional command and control regulation and the rise and spread of New Public Management reform agendas have brought new forms of public administration, with an increased participation of economic and scientific expertise. Both SCORE and CARR seek to unpack the various linkages that have become forged between managerial practices, techniques of risk and performance assessment and regulation in their respective research agendas. The cooperation grant will be used for the intensification of cross-national collaboration between the two centres with the aim of advancing our understanding of how public and corporate governance activities are organized and transformed cross-nationally through categories of risk, risk management and new forms of public-private organization.

CARR and SCORE researchers work in similar empirical research fields (such as the pharmaceutical industry, food regulation, the healthcare sector, environmental regulation, and international financial standard setting). The grant will be used for the conduct of cross-national comparisons of different national (eg. Swedish and British) risk regulation regimes and practices of rule setting and rule following in different sectors of economic and public life. The research collaborations will be organized around two themes: 'Risk Regulation and Markets: How do Risk Management and Market Technologies Reshape Governance?' and 'Reorganizing Democracy: Risk Regulation, Democratic Responsiveness and New Forms of Accountability'.

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David Demortain
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Sociology of regulation and risk management; sociology of expertise and scientific advice.

John Downer
ESRC Research Officer
Sociology of knowledge; epistemology of technological risk assessment; regulation of complex and dangerous technologies.

Sharon Gilad
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Corporate responses to regulation; citizen-consumer complaints and complaint handling; retail financial services regulation.

Jeanette Hofmann
ESRC Research Officer
Internet regulation and the development of intellectual property rights.

Martin Lodge
CARR Research Theme Director: Reputation, Security and Trust. Reader in Political Science and Public Policy
Comparative regulation and public administration; government and politics of the EU and of Germany; railway regulation in Britain and Germany; regulatory reform in the Caribbean.

Sally Lloyd-Bostock
Professorial Research Fellow
Medical regulation by the GMC. The psychology of routine decision making, blaming and accountability and the construction and use of information about risk. Regulation and compensation culture.

Peter Miller
Deputy Director and CARR Research Theme Director: Performance, Accountability and Information; Professor of Management Accounting
Accounting and advanced manufacturing systems; investment appraisal and capital budgeting; accounting and the public sector; social and institutional aspects of accounting.

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Internal and external auditing; risk management and corporate governance; financial accounting and auditing regulation.

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