

Smarter regulation through experiments

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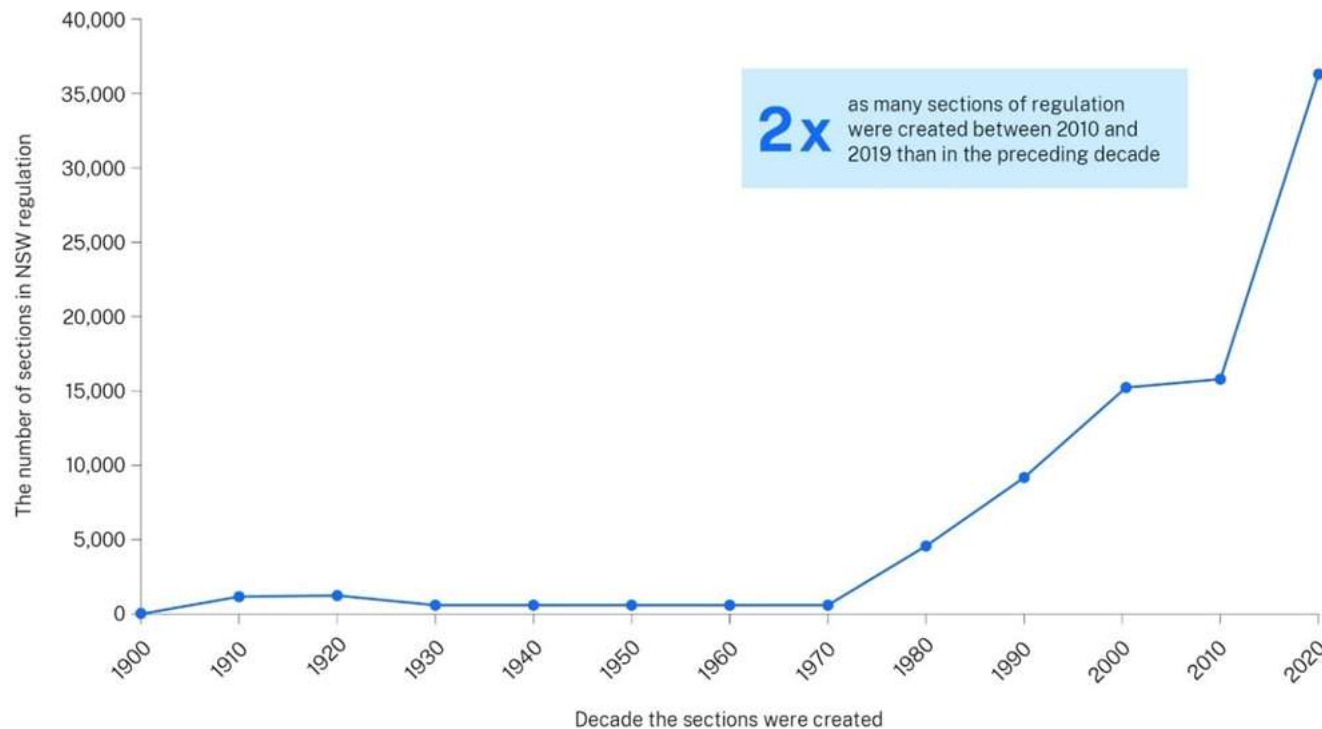
Key takeaways

- Regulation can have economic costs – it is not free
- The pandemic showed experiments can support proactive, evidence-based regulatory policy
 - Achieve objectives (public safety, consumer wellbeing, etc) while imposing fewer costs
- We should experiment to drive smarter regulation

Background

Regulation can have economic costs

Regulations have increased in NSW¹



Good regulation enables the economy, community and environment to flourish.

But it is not without costs:

- **Business** → compliance, reporting
- **Government** → admin, enforcement
- **Economic** → reduced activity, barriers to competition

Regulation is *globally* competitive:

- There are costs to “being overly cautious or abandoning the project of trying to establish a meaningful basis for regulation.”²

¹ NSW Treasury (2020). *Regulating for NSW's Future*

² Fenwick, M., Kaal, W. A. and Vermeulen, E. P. M. (2017). “Regulation Tomorrow: What Happens When Technology is Faster than the Law?”

COVID-19 – the experiment in experimenting



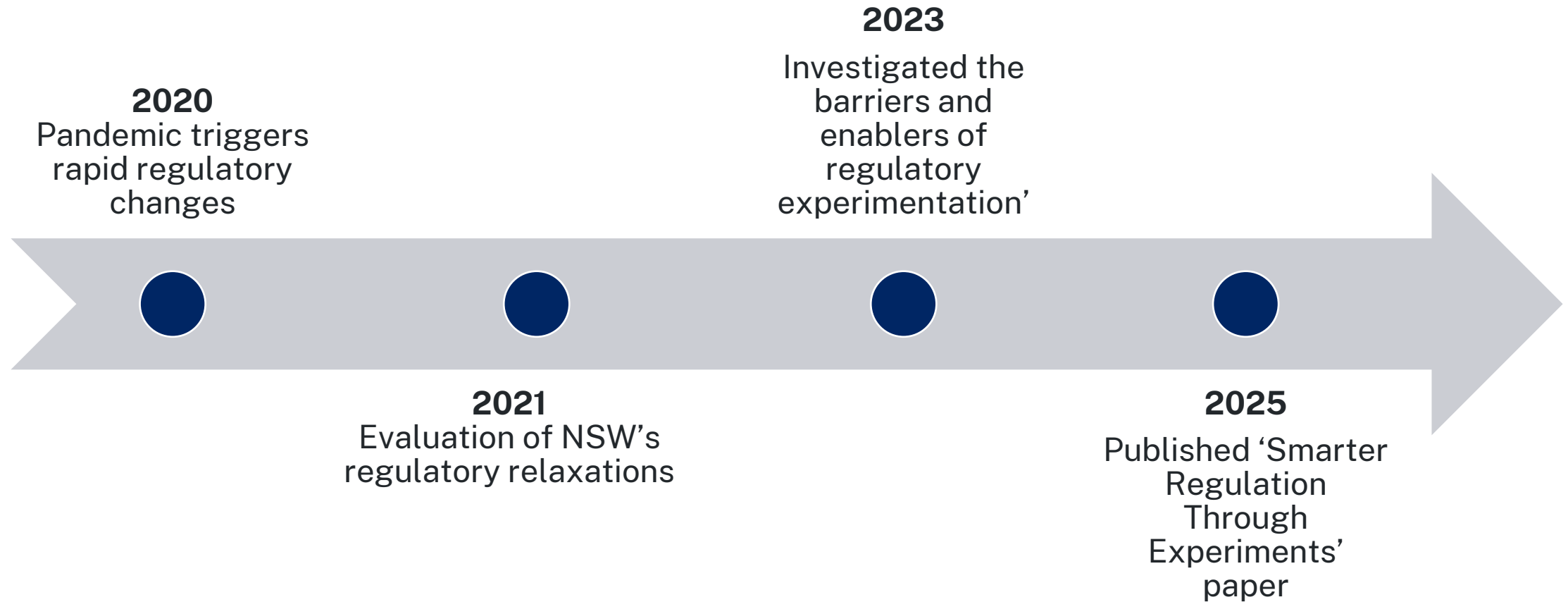
COVID-era rule changes offered natural experiments in relaxing regulations.

‘What will happen if we change this rule?’

Evaluation estimated [\\$3.1 bn](#) net benefits to NSW over 10 years¹.
→ E.g. *24-hr supermarket deliveries*

¹ NSW Productivity Commission (2022). *Lessons from COVID-19 Regulatory Relaxations*

The Commission's work in regulatory experimentation



What is a regulatory experiment?

What is a regulatory experiment?

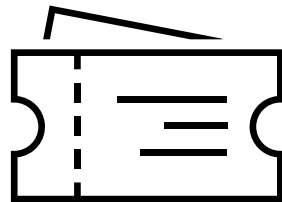
Definition

A regulatory experiment tests the performance of a new regulatory scheme or process against existing or possible alternatives.

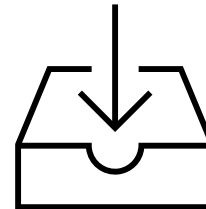
Examples include



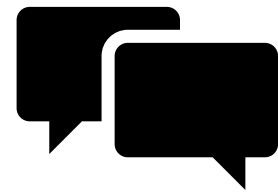
Compliance
requirements



Waivers /
exemptions



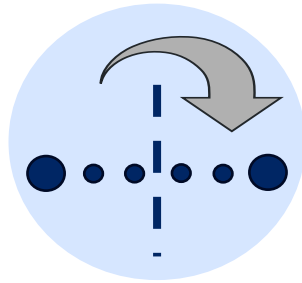
Internal
processes



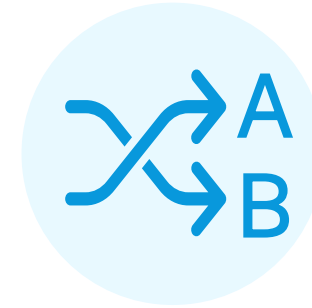
Customer
communications

Regulators use a variety of methods to determine whether a policy change works

Before-and-after studies



Randomised controlled trials



Quasi-experiments

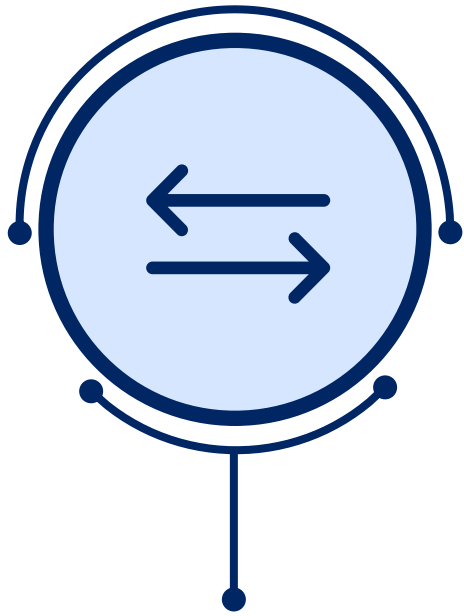


Regulatory sandbox

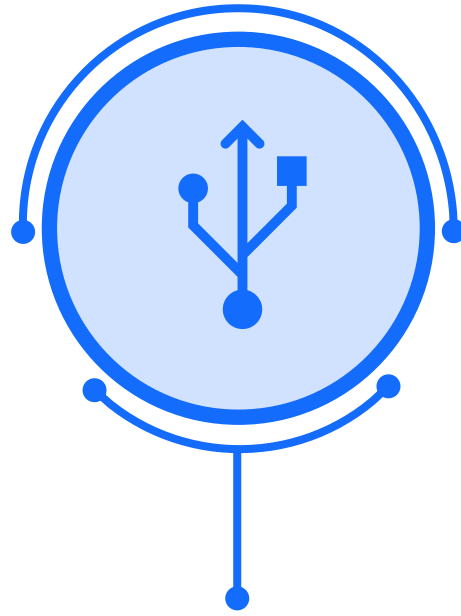


Benefits of experimenting

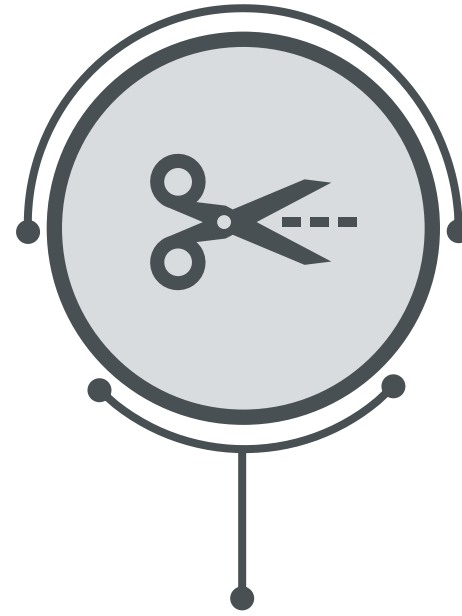
Experimenting can support adaptable and efficient regulation



Respond to
changing risks



Adapt to new
technologies



Identify cost
savings



Overcome policy
resistance

Barriers to experimenting

If it's useful, why are there so few regulatory experiments?

- 25 semi-structured interviews with regulators involved with experimentation¹.

<i>Barriers</i>	Resource constraints	Risk aversion	Negative attitudes
<i>Examples</i>	Lack of time, data and skills	Fear of inconclusive results or catastrophic outcomes	Status quo bias, and active resistance from stakeholders
<i>What regulators told us</i>	<i>“Experiments are generally good, but they can be time consuming and politically difficult (especially if things go wrong)”</i>	<i>“Risk perception - that's the biggest barrier... people see a risk in changing supposedly working systems to something that is unknown.”</i>	<i>“Sometimes the barrier to change is: 'this is the way we do things' ”</i>

¹ BIT (2023). *Barriers and enablers of regulatory experimentation*

Supporting a culture of experimentation

Regulatory experiments: where to begin



1. Foster an experimentation culture

- Start with small wins
- Publicise experiments and celebrate them (regardless of 'success')

2. Develop skills and expertise

- Build internal capacity
- Partner with experts

3. Build institutional support

- Secure the backing of senior leaders who can 'champion' for experimentation
- Have a clear scope and objective

Thanks for your time!

Questions?

Appendix

Growth in the stock of regulation is not just a NSW problem

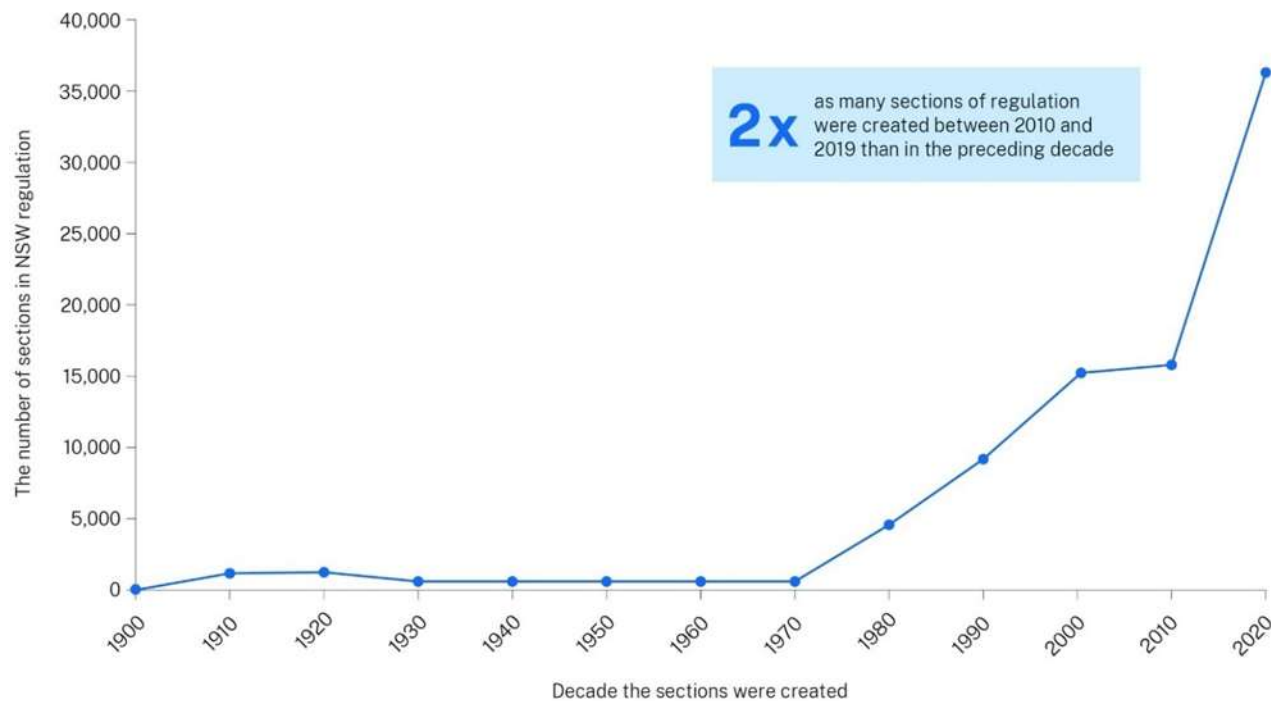
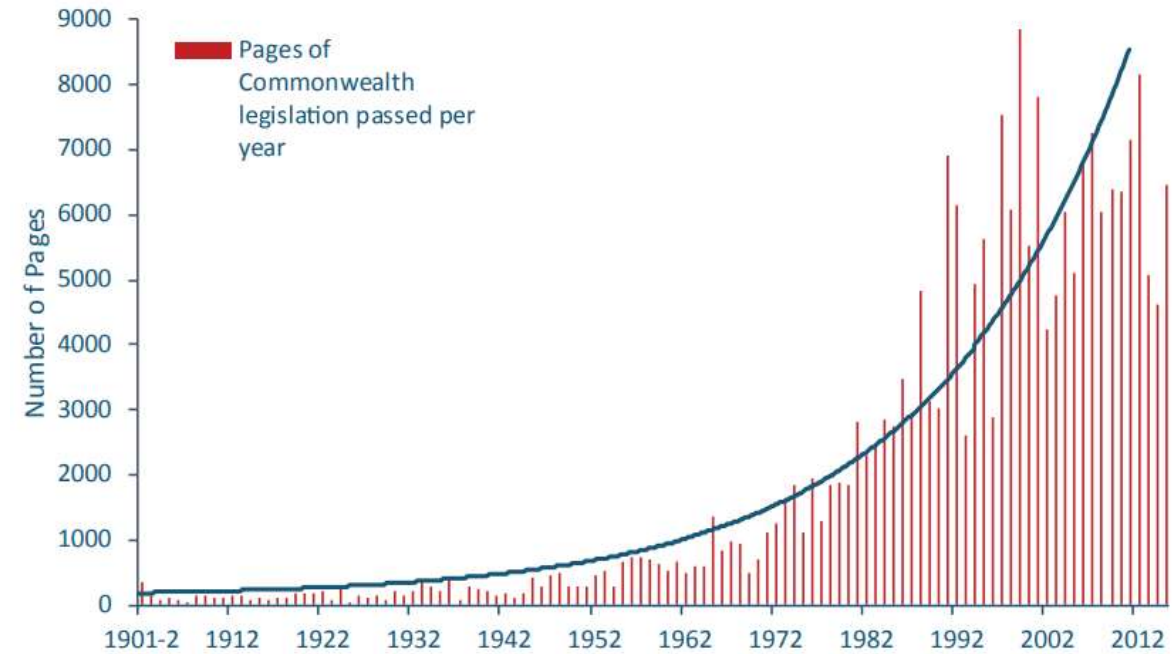


Figure 2 Pages of Commonwealth Legislation Passed



Source: Institute of Public Affairs

Experiments are happening across a range of policy areas

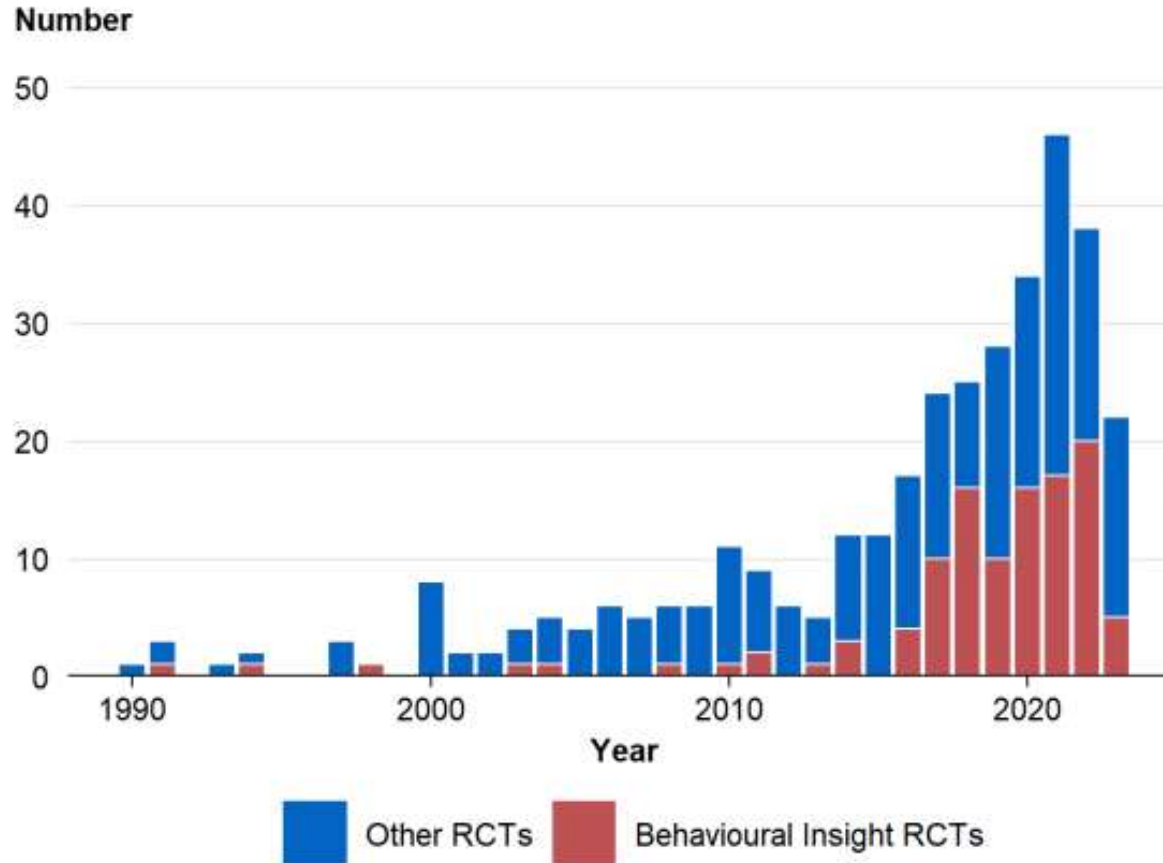
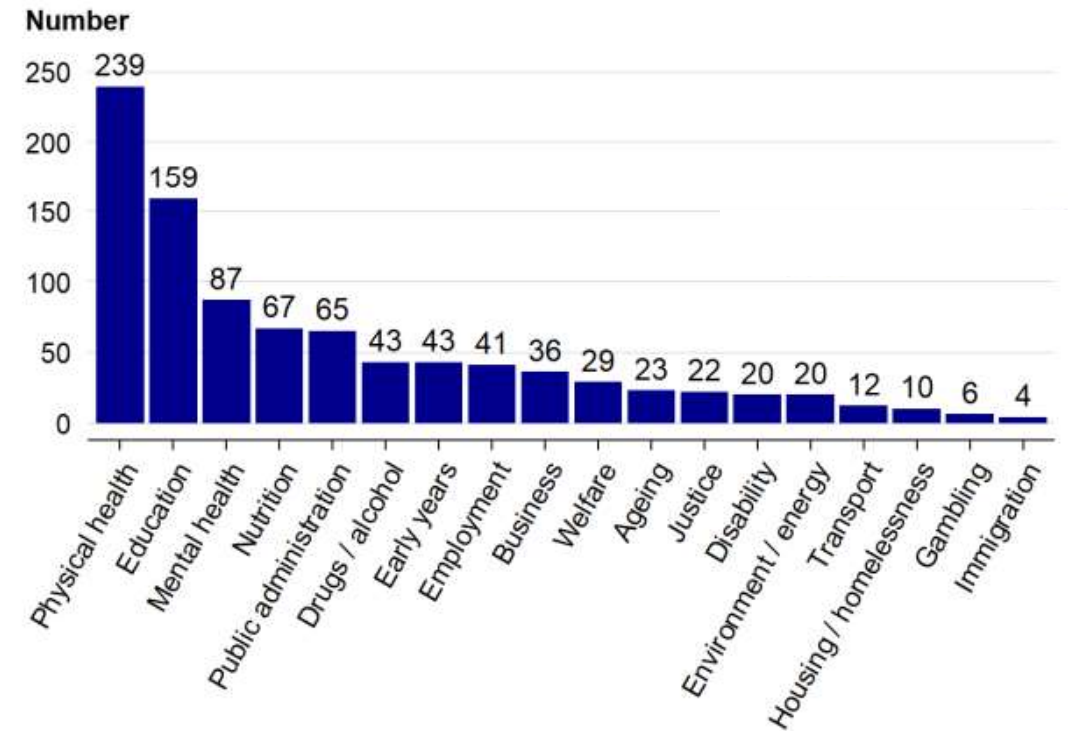


Figure 2: Australian policy randomised trials by policy area



COVID-19 – the experiment in experimenting



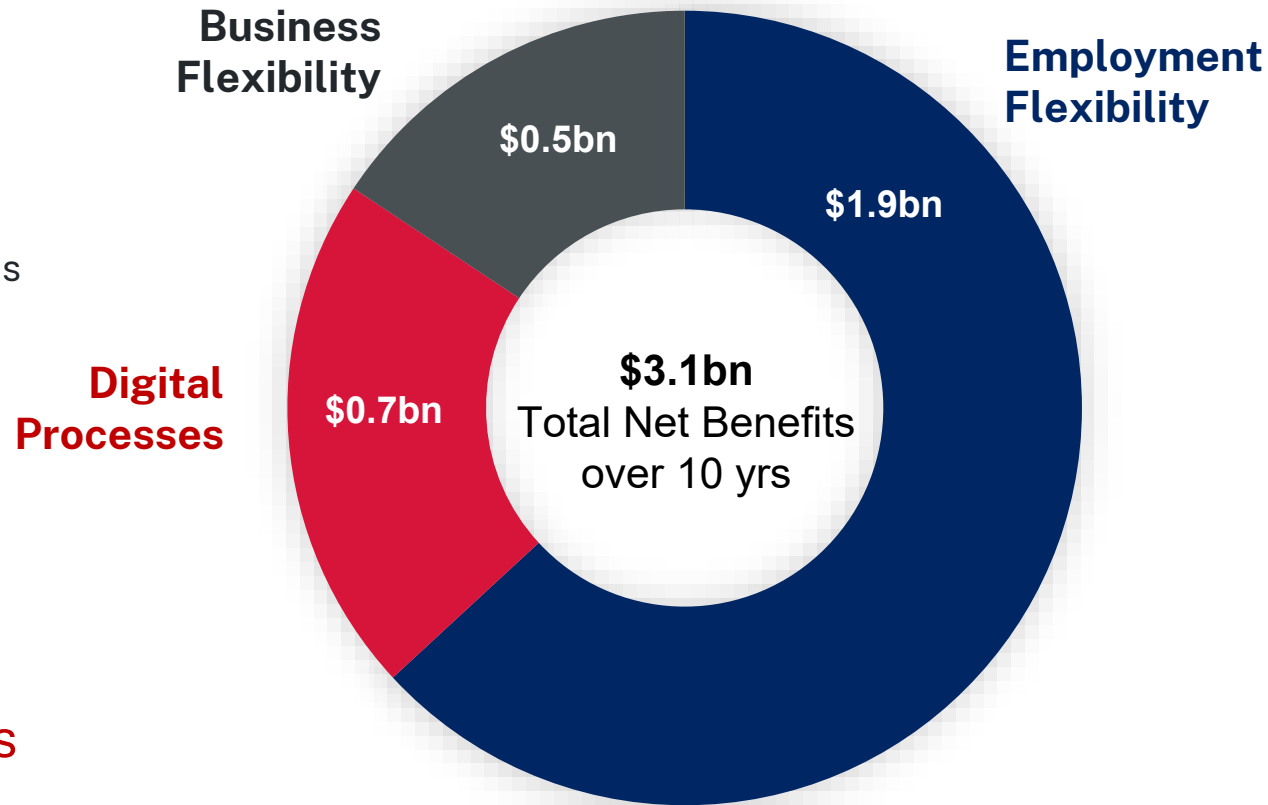
Planning measures

- 24hr deliveries
- 24hr supermarkets & pharmacies
- 'Dark kitchens'



Digitised processes

- Electronic meeting & voting
- Digital execution & certification



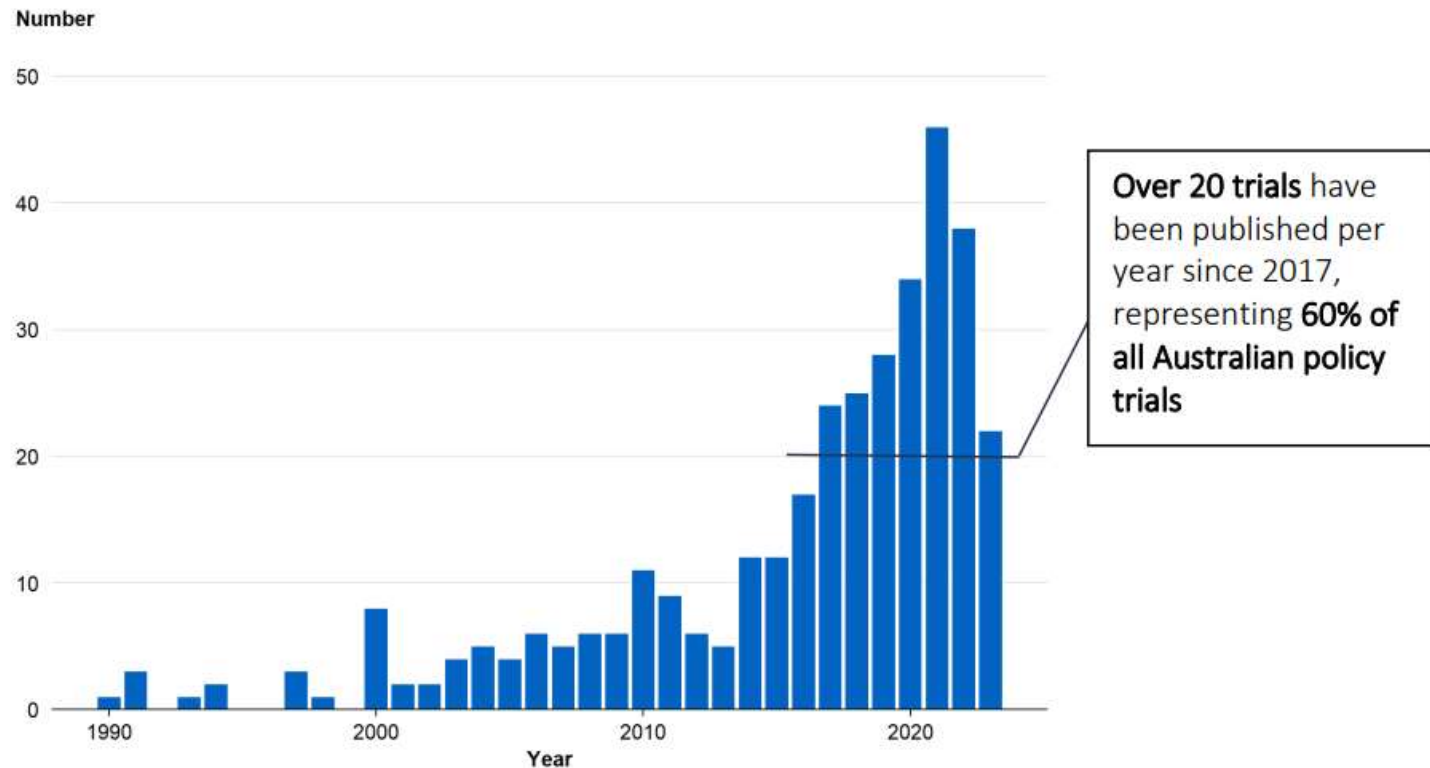
Long service leave flexibility

Scoping suitable candidates for regulatory experiments



Increasing use of randomised trials in Australia

Figure 1: Australian policy randomised trials by year, 1990–2023



- There is growing appetite for experimental evidence to inform policy decisions.
- 83% of Australians support the use of randomised trials¹ – though careful communication is important!

¹ Biddle et al. 2023. *Public support for Randomised Controlled Trials and nudge interventions in Australian Social Policy*, Australian National University.

Regulatory experimentation is on the rise

