

The use of new technologies and AI in legislative drafting: what about the future?

WILL ROBOTS MAKE IT SIMPLER?

*AN OVERVIEW ON INTELLIGENT NUDGING AND MACHINE-READABLE
LEGISLATION*

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New technologies and AI: is this the future for legal drafting activities?

Simplicity



Fewer resources and error

and

standardization



more transparency, accessibility,
accountability

Machine-readable legislation

To which problems does it respond?

- The traditional models of creating legislation were developed to be used in a non-digital environment
- Policy and legislation need to be interpreted and transformed into business and operational rules that support service delivery.
- Often the effort required to understand and follow the rules is disproportionate to the benefit of compliance.

Language gap between production and consumption of legal rules

Proposal: making legal rules machine-consumable so they can be used by service delivery systems

- ‘Machine-consumable’ means having rules available in a code or code-like form that software can understand and interact with, such as a calculation, the eligibility criteria for a benefit or automated financial reporting obligations for compliance.
- Legislation-as-code means taking the “rules” or components of legislation — its logic, requirements and exemptions — and laying them out programmatically so they can be parsed by a machine.
- Rules can be complex but programmable - machines can deal with more complex decision-models than humans, as long as the input data is available.

Potential upsides

- ✓ Faster implementation of policy
- ✓ Testing of policies and modelling before implementation
- ✓ Removing the gap between legal production and the software that supports service delivery
- ✓ Greater innovation and service integration
- ✓ Programmatic subscription to rule changes so software systems can be automatically notified

Intelligent nudging... what is it?

“A nudge, as we will use the term, is any aspect of the choice architecture that alters people’s behavior in a predictable way without forbidding any options or significantly changing their economic incentives. To count as a mere nudge, the intervention must be easy and cheap to avoid. Nudges are not mandates. Putting fruit at eye level counts as a nudge. Banning junk food does not.” (Thaler & Sunstein 2008, p. 6)

It’s a way to make an option *easier* to be adopted than other. Example: default options in difficult decisions (organ donation); logistic changes (healthier food in more accessible locations); using social compensation to increase good behavior (ugly and smiley faces).

Behavioral assumptions:

- People tend to choose the path of least resistance
- Incentives do not always drive desired behavior

How do nudges combine with technology and AI?

Technology is full of nudges as it simplifies behavior (making it *automatic*)

When it comes to designing legislation this means **making it easier for users to make the right choice** instead of forcing them to do so or using punitive actions when they don't: AI can help making it easier

It depends on the policy goal: does it need to mitigate small-time rule breakers, increase program buy-in, or encourage better citizenship? If not, more traditional approaches may be appropriate. If so, carefully designed nudges can help bring about desired behaviors

Potential upsides

- Cost-effectiveness
- Greater degree of autonomy
- Encouraging voluntary compliance (from environmental stewardship (such as water conservation, recycling, or carpooling and other forms of ridesharing), to proactive health measures (such as getting vaccinations), to good neighbor behaviors (such as courteous driving, voting, or organ donation))



Thank you.

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