

Tatiana ČOREJOVÁ¹
Petra Hollá BACHANOVÁ²

REGULATORY IMPACT ANALYSIS – TOOL FOR BETTER REGULATION

Quality of regulatory and legislative environment is essential to the overall competitiveness of the economy and may be an accelerator or holding back the development of business, innovations and economic growth. In the process of regulation is therefore important to implement methods for better regulation, such as RIA.

1. INTRODUCTION

Good regulation will be effective and efficient, effective in terms of achieving its planned goals and objectives and efficient in the sense of achieving these goals at least cost, in terms of government administrative costs and the costs on complying with regulations. One of the most important capacities of regulator is the ability to assess the market impacts of a regulation. Regulatory impact analysis (RIA) provides a methodological framework for undertaking this systematic assessment of cost and benefits of regulation and for informing decision makers of the consequences of a regulatory measure. Regulatory impact analysis (RIA) is a tool now used in most developed countries to improve understanding of the impacts of a law and other forms of regulation on business costs and opportunities.

2. WHAT IS “RIA”

RIA is a fundamental tool to help governments to assess the likely benefits, costs and effects of new or existing regulation and non-regulatory alternatives. By improving the quality of regulatory design, RIA assists governments to make their policies more efficient. RIA provides valuable empirical data and a comprehensive framework to assess options and the possible economic, social and environmental consequences of their decisions. RIA is used to define problems and to ensure that government action is justified and appropriate because a poor understanding of the problems or of the side effects of government action can result in regulatory failures.

¹ prof. Ing. Tatiana Čorejová, PhD., University of Žilina, Žilina; 010 26 Žilina, Univerzitná 1,
Tel: +421-41-513 5101, Fax: +421 41 513 1527, E-mail: tatiana.corejova@uniza.sk

² Ing. Petra Hollá Bachanová, University of Žilina, Žilina; The Faculty of Operation and Economics of Transport and Communications; 010 26 Žilina, Univerzitná 1,
Tel: +421-41-513 3050, Fax: +421 41 513 1527, E-mail: petra.bachanova@fpedas.uniza.sk

2.1 The basic structure of RIA

Differences in applying the methodology RIA in various regulatory systems depends on the political context of the country. However, there are certain basic elements that should be part of the process analysis RIA:

- Definition of the policy context and objectives and identify the problem that provides the basis for action by government.
- Identification and definition all possible regulatory and non-regulatory options that could achieve the policy objective, including doing nothing.
- Identification and quantification of the impact of each option , including costs, benefits and distributional effects.
- Design enforcement and compliance strategies for each option, including an evaluation of their effectiveness and efficiency.
- Public consultation needs to be systematically incorporated to provide the opportunity for all stakeholders to participate in the regulatory process. This provides important information on the costs and benefits of alternatives, including their effectiveness.
- Development of monitoring mechanisms to evaluate the success of the policy proposal in achieving its objectives and feed that information into the development of future regulatory responses. [1]

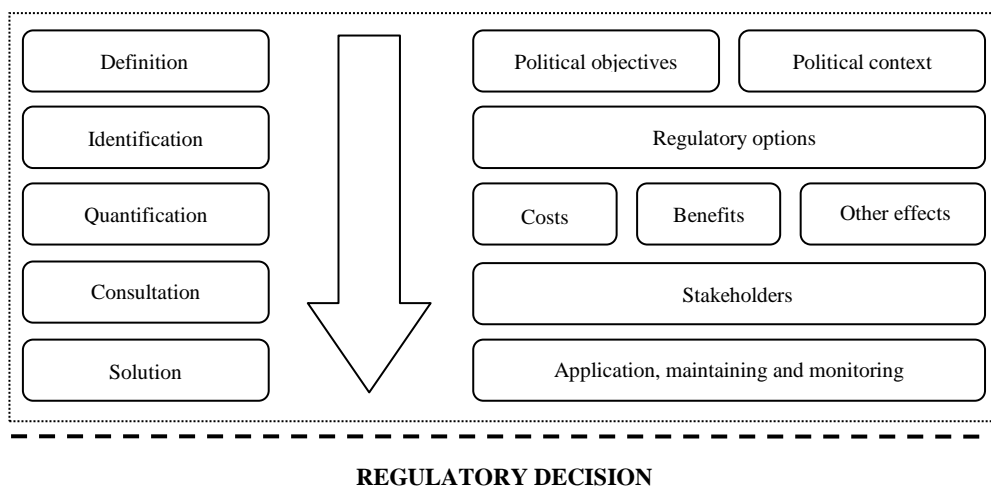


Fig.1. The basic structure of RIA.

2.2 Typology of RIA

The use of RIA has expanded rapidly throughout the OECD countries in the last decade. Its successful implementation in these countries has been done step by step, concentrating on specific pieces of regulation and then expanding to the whole regulatory process.

Continuous changes to RIA are still being developed and the learning process is cumulative. Most experienced countries such as United States, Canada, United Kingdom and Australia are introducing important elaboration of the method and scope of this methodology. More widespread are the inclusion of risk assessments, evaluation of the impacts on competition and improvements to data collection methodologies.

The experience of OECD countries suggests that RIA can place different emphasis on elements of the assessment. Different approaches to regulatory impact assessment depend on the focus or the field of work. Political objectives of countries place in the evaluation of the effects of different priorities such as competition, market openness, investment environment, working conditions and employment, public finance, health, environment and poverty. Here are some examples:

- The **Netherlands** has adopted a Business Effects Analysis (BEA), which is focused on the impacts arising from businesses.
- The **Czech Republic** adopted Analysis of Financial Impacts and Impacts on the Economy, which has expanded to cover other socio-economic impacts. A formalised RIA into the law-making process has been adopted in 2007.
- **France** has developed an ex ante assessment methodology to measure regulatory costs to business and to public administration. General Impact Analysis is methodology with specific addresses of employment and fiscal impacts.
- **Austria** and **Portugal** have Fiscal Analysis, which focus on the direct budget costs for government administration.
- **Finland** has a wide range of partial impact analyses covering budget, economy, organization and manpower, society and health, environment, regional policy and gender equity. These partial analyses are not integrated, and are carried out by various ministries.
- **Belgium** only carries out the risk assessment in case of health, safety and environmental regulations.
- **Greece, Spain, Ireland** and **Sweden** have a checklist on the impacts arising from regulations.
- **Mexico** has three types of assessments: High Impact RIA, Ordinary RIA and periodic RIA. [2]

2.3 Ten good practices for RIA

The OECD has developed ten good practices for RIA that provide the baseline references that should not be interpreted as guidelines for a unique model of RIA but rather as a flexible approach that must be adapted to the specificities and needs of each regulatory system.

1. **Maximize political commitment to RIA.** Reform principles and the use of RIA should be endorsed at the highest levels of government. RIA should be supported by clear ministerial accountability for compliance.
2. **Allocate responsibilities for RIA program elements carefully.** Locating responsibility for RIA with regulators improves “ownership” and integration into

decision-making. A central body is needed to oversee and assess the RIA process and ensure consistency, credibility and quality. It needs adequate authority and skills to perform this function.

3. **Train the regulators.** A regulator is a person or an organization controlling the content of regulation. Formal and properly designed training builds the necessary skills to do high quality RIA.
4. **Use a consistent but flexible analytical method.** Analytical methods can vary as long as RIA identifies and weighs all significant positive and negative effects and integrates qualitative and quantitative analyses. The best analytical methods provide little benefit if the RIA system design is inadequate.
5. **Develop and implement data collection strategies.** Data quality is essential to effective analysis. The policy should clarify quality standards for acceptable data and suggest strategies for collecting high quality data at minimum cost within time constraints. The goal is to maximize objectivity and comparability of data and analysis. But even in cases when information is scarce and data not easily available, RIA might nevertheless be very useful for policy makers.
6. **Target RIA efforts.** Resources should be applied to those regulations where impacts are most significant and where the prospects are best for altering regulatory outcomes. This should be done in a realistic manner, after prior assessment of available resources for RIA and establishing clear priorities in advance.
7. **Integrate RIA with the policy-making process, beginning as early as possible.** Regulators should see RIA insights as integral to policy decisions, rather than as another bureaucratic “add-on” for external consumption.
8. **Communicate the results.** Results of RIA must be communicated clearly with concrete implications and options explicitly identified. The use of a common format aids effective communication.
9. **Involve the public extensively.** Effectively including this tool in the regulatory processes requires general acceptance within the government and from the private sector. Clear incentives for developing RIA should be put in place: rewarding systems, promoting simplification and improvement of the RIA process, training programmes, and support to professional staff development. Inputs from outsiders improve the quality of analysis by clearly manifesting concrete benefits or cost.
10. **Apply RIA to existing, as well as new, regulation.** [1]

2.4 The OECD Reference Checklist for Regulatory Decision-making

In 1995 the Recommendation of the Council of the OECD on Improving the Quality of Government Regulation produced the OECD Reference Checklist for Regulatory Decision-making which covers a number of questions that policy makers should ask themselves when evaluating whether or not to respond to a perceived policy problem with regulation. The questions help policy makers to think through the implications of proposed regulations and to determine that the proposed regulatory response is likely to be efficient and effective.

1. Is the problem correctly defined?

The problem to be solved should be precisely stated, giving evidence of its nature and magnitude, and explaining why it has arisen.

2. Is government action justified?

Government intervention should be based on explicit evidence that government action is justified, given the nature of the problem, the likely cost and benefits of action and alternative mechanisms for addressing the problem.

3. Is regulation the best form of government action?

Regulators should carry out, early in the regulatory process, an informed comparison of a variety of regulatory and non-regulatory policy instruments, considering relevant issues such as costs, benefits, distributional effects and administrative requirements.

4. Is there a legal basis for regulation?

Regulatory processes should be structured so that all regulatory decisions rigorously respect the “rule of law”; that is, responsibility should be explicit for ensuring that all regulations are authorized by higher-level regulations and consistent with treaty obligations, and comply with relevant legal principles such as proportionality, certainty and applicable procedural requirements.

5. What is the appropriate level (or levels) of government for this action?

Regulators should choose the most appropriate level of government to take action, or if multiple levels are involved, should design effective systems of co-ordination between individual levels of government.

6. Do the benefits of regulation justify the costs?

Regulators should estimate the total likely costs and benefits of each regulatory proposal and of feasible alternatives, and should make the estimates available in accessible format to decision-makers. The costs of government action should be justified by its benefits before action is taken.

7. Is the distribution of effects across society transparent?

Regulators should make transparent the distribution of regulatory costs and benefits across social groups.

8. Is the regulation clear, consistent, comprehensible and accessible to users?

Regulators should assess whether rules will be understood by users, and to that end should take steps to ensure that the text and structure of rules are as clear as possible.

9. Have all interested parties had the opportunity to present their views?

Regulations should be developed in an open and transparent fashion, with appropriate procedures for effective and timely input from interested parties (affected businesses and trade unions, other interest groups, or other levels of government).

10. How will compliance be achieved?

Regulators should assess the incentives and institutions through which the regulation will take effect, and should design implementation strategies that make the best use of them.

[2]

3. CONCLUSION

Studies conducted abroad show that the RIA is an excellent tool to ensure cost-effective production of regulatory decisions and reduce the number of poor quality and unnecessary regulations. RIA also creates conditions for a clear and transparent regulatory environment

and restricts red tape. Many countries have already introduced RIA to their regulatory process and improved the quality of their regulatory environment.

4. REFERENCES

- [1] *Regulatory impact analysis (RIA)*: http://www.oecd.org/document/9/0,3746,en_39048427_39049497_43090825_1_1_1_1,00.html /
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