Practical Tools for Better Regulation: RIA and Public Consultation Fundamentals

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Regulatory Impact Analysis (RIA)

- A policy tool for decision making:
  - Used to examine and measure the likely benefits, costs and effects of regulation
  - Clear identification of the underlying policy problem and specific option for addressing that problem.
  - Organizes and consolidates a menu of options for decisions at early stages of policy development
  - Helps decision makers understand the tradeoffs of policy choices
  - Provides clear and transparent basis and criteria for decision making
Why does RIA Matter?

- Helps improve the transparency, efficiency and effectiveness of regulatory policies
- Helps provide an objective, reasonable basis for policy decisions.
- Helps policy makers identify the most efficient and effective policy options
- Helps stakeholders understand how decisions are made
- Helps the economy by identifying least costly policy options
- Helps businesses and investors by identifying and eliminating unnecessary administrative burden
Elements of the RIA Process

The process of Regulatory Impact Analysis

- Definition
- Identification
- Assessment
- Consultation
- Design

- Policy objectives
- Policy context
- Regulatory options
- Costs
- Benefit
- Other impacts
- Involving stakeholders
- Enforcement, compliance and monitoring mechanisms

After RIA is prepared: DECISION MAKING

RIA - What does it imply?

Regulatory Impact Assessment

- Knowing the effects of a new regulation **before** it is enacted
- Considering all options, including non-regulatory alternatives
- Should be **transparent** (public consultation)
- Should be supported by **evidence** (qualitative and/or quantitative)
- It should be prepared **early** in the regulatory process
RIA Challenges

- Implementation of RIA can be technically complex and require training and resources
- Evidence of the outcomes of RIA on regulatory policies in developing countries can be limited
- Access to quality data to inform RIAs can be limited
  - Highlights the importance of stakeholder consultation
  - Better information for political decision-makers is desirable regardless of political, legal and institutional contexts
RIA building blocks

1) Political commitment to establish and operate an effective and self sustaining process.

2) A unit or group of regulatory reformers and quality control by an expert supervisory body.

3) Clear criteria: what to subject to RIA and what questions to address

4) Transparency in the process and consultation

5) Building RIA capacities within government

RIA Implementation

- Systematic use of RIA is sustained through legal mandates or policy statements from the Executive

- RIA is a flexible and adaptable tool
  - Its underlying analytical approach should always:
    - Be proportional to the situation
    - Follow consistent guidance

- Practical guidance exists for practitioners that can be applied in many contexts
  - “RIA Light”
  - APEC methodological guide
  - OMB Circular A-4

- Public consultation to inform RIAs is critical
  - Allows best available information to inform policy
  - Enhances transparency of regulatory decisions
Capacity Building Considerations

• Implementation of RIA must take into account specific circumstances of each country
  ✓ Different reform priorities
  ✓ Resource constraints

• Targeting RIA to most impactful policies can help prioritize scarce resources

• Full implementation of RIA best practices may not be realistic in the short term.
  ✓ Need for interim, medium term solutions
“RIA Light”

- **Focus on strengthening institutions**
  - Regulatory reform committees, Business advisory panels
  - “one stop shop”

- **Focus on the flow of new regulation**
  - Forward planning
  - Administrative procedure laws

- **Focus on the stock of existing regulation**
  - Administrative simplification
  - Regulatory performance indicators

- **Focus on reform process as a whole**
  - Transparent decision making
  - Improved data collection strategies
  - Reviews of regulatory system

Recommendations

- Political commitment to RIA is essential
- Centralized oversight of regulatory policy is important to ensure consistent, quality application of RIA
- Regulators need effective guidance for implementation
- RIA should focus on important high-priority regulatory issues and proposals.
- RIA should be prepared early in the policy development process: when regulatory issues are being considered and before a decision is taken to regulate.
- Proportional -- not “one size fits all”
- Use of pilot programs and practical tools such as “RIA light” can be great starting points
Public Consultation Basics

- Regulations are best informed by those they affect most
- All interested parties can provide valuable information
  - Businesses
  - Consumers
  - Trade partners
  - Advocacy groups
  - The citizenry
Benefits to Policy Makers

- Public participation in the regulatory process can help governments:
  - Improve their decision-making with better information
  - Identify unintended effects and practical problems
  - Balance opposing interests
  - Improve the quality of RIA
  - Reduce enforcement costs
  - Ensure that regulation serves the public interest and is informed by the legitimate needs of those interested in and affected by policies.
  - Enhance transparency, legitimacy and accountability of policies and policy makers
  - Understand stakeholders’ needs and ensure their input is taken into account when preparing new regulation.
When and Why Consult?

- Businesses need to fully understand the regulatory environment in which they operate and to have a voice in regulatory decision making.

- Consultation should be done at the earliest stages of the regulatory process and if possible at various stages so that it helps governments collect data and the results can be used effectively in the RIA.

- Early consultation can spot in a timely way mistakes in problem identification and the proposed solutions
Key Steps of the Consultation Process

Policy Options

- **Notification**
  - ✓ Providing for public notice and registration of regulatory policies
  - ✓ For every regulation?

- **Consultation**
  - ✓ Active engagement of stakeholder views
  - ✓ For every regulation? Only some groups?

- **Participation**
  - ✓ Multiple stages of interaction on all relevant documents and analyses
  - ✓ Documentation and responses to input?
Tools of Public Consultation

- Informal consultation
  - Conducted at discretion of regulators (ad-hoc)

- Circulation of regulatory proposals for public comment
  - Presentation of concrete proposals
  - More systematic, inclusive

- Public notice and comment
  - Standardized, formal presentation of draft regulations and supporting documents

- Public Hearings
  - Usually supplements other consultation procedures

- Advisory bodies
  - Technical groups advising on concrete policy issues
Key Considerations

- Is the public consultation mandatory? Are guidelines available on how to conduct public consultation?

- How open is the consultation? Can anyone participate?

- Has the consultation been launched at a stage when there is still scope to influence the policy outcome? Is the consultation conducted at the beginning of the regulatory proposal or at a later stage of the process?

- Is the consultation exercise of sufficient duration for interested parties to submit considered and meaningful responses?

- Will results of the consultation be made public?

- Does a process exist to monitor and oversee the quality of the consultation process?

Recommendations

- Without a legal basis or strong policy commitment, public consultation can be difficult to implement consistently.
- Easy to understand, transparent regulatory processes are more attractive to businesses.
- When all interested parties have the opportunity to inform regulatory policies, they become more efficient and effective.
- Consultation systems should be designed according to each country’s context.
- Involve all interest groups early in the process through transparent consultation procedures.
- Establish public registries of pending and existing regulations.
- Have all interested parties had an opportunity to present their views?
Resources

• Making it work: “RIA Light” for developing countries

• Development and implementation of methodologies to improve the quality of regulations and regulatory impact assessments for enhancing market openness ensure transparency and promote economic growth

• OMB circular A-4
  https://www.whitehouse.gov/omb/circulars_a004_a-4/

• OECD Background Document on Public Consultation

• OECD checklist for regulatory decision making