CONDUCTING REGULATORY IMPACT ANALYSIS: INTERNATIONAL EVIDENCE

David Parker
Cranfield School of Management and University of Manchester

Workshop on Competition Assessments and Regulatory impact Analysis: 17-18 March 2006, Imperial Hotel, Delhi

- '*Better regulation does not always mean less regulation*' (World Bank, 2001)
- '*Investment climate improvements are, at their heart, about improving the quality of governance and policymaking*'

  World Bank, <u>World Development Report,</u> 2005

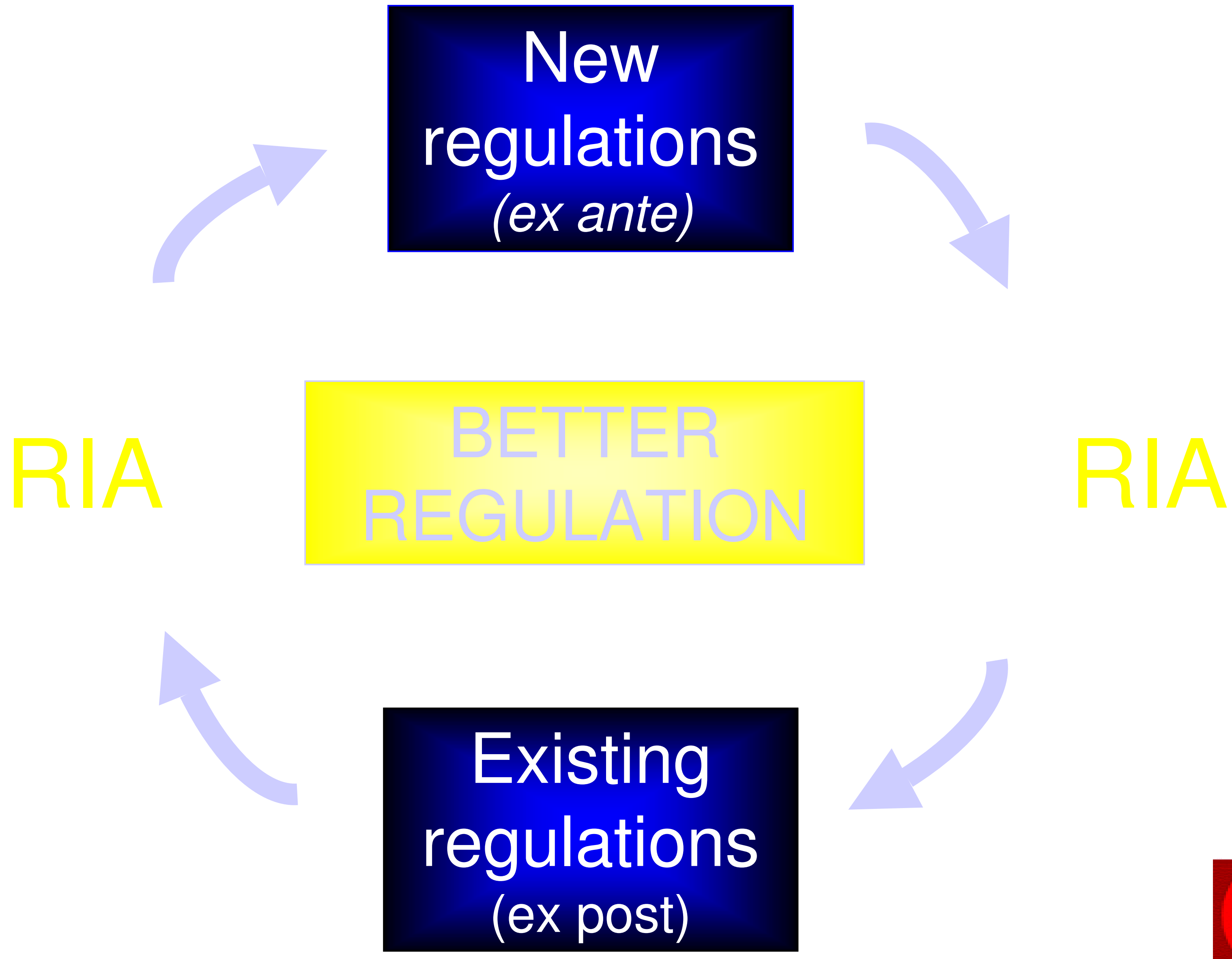
1.The Principles of RIA

- RIA “is a key tool in delivering better regulation. The RIA process will help departments deliver successful policy”
  (UK’s Beter Regulation Executive)

- RIA is a tool for improving the quality of regulatory decision-making, by providing a framework for the systematic assessment of potential or actual impacts of regulation measures

- And thereby improve the quality of regulatory policy (regulatory governance)

Most countries using RIA rely on ex ante assessments. Ex post assessments are rarer



The RIA Process

Stage 1: Identify the problem

Is regulation the appropriate response?

YES ↓ **NO** → Regulation avoided

Stage 2: Consultation

Are all those likely to be affected included in the consultation?

YES ↓ **NO** → Regulation abandoned or consultation exercise repeated

Stage 3: Preparation of the legislation

Does the legislation reflect the evaluation undertaken and does it adequately address the problem?

YES ↓ **NO** → Regulation abandoned or legislation redrafted

Stage 4: Re-evaluation of the regulation legislation during Parliamentary passage

Does the legislation still meet the objectives as originally intended?

YES ↓ **NO** → Regulation abandoned or legislation redrafted

Stage 5: Monitoring existing regulation

Is the regulation still achieving its intended benefits and without unanticipated costs?

Regulation remains appropriate – but still re-assess periodically ← **YES**

NO → Abolish the regulation or amend it

What is in a “good” RIA

- A clear definition of the problem
- A discussion of the RIA process (including the consultation process)
- Qualitative analysis (benefits and costs)
- Quantitative analysis (wherever possible)
- A clear explanation of the decision taken
- Publication of the RIA document

OECD RIA CHECKLIST

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- Is the problem correctly defined?
- Is government action justified?
- Is regulation the best form of government action?
- Is there a legal basis for regulation?
- What is the appropriate level (or levels) of government for this action?
- Do the benefits of regulation justify the costs?
- Is the distribution of effects across society transparent?
- Is the regulation clear, consistent, comprehensible, and accessible to users?
- Have all interested parties had the opportunity to present their views?
- How will compliance be achieved?

Source: OECD (1995)

- RIA is a tool for decision-making, not a decision-making tool
- RIA can contribute to:

    1. Better *outcomes* for the regulatory intervention, by assessing impacts in terms of goals and objectives
    2. Better *processes* for decision-making, consistent with the principles of "good regulation"

2. The Use of RIA internationally

- Widespread adoption of RIA in OECD countries; 100% adoption in UK central government
- Growing experimentation with RIA in other economies e.g. transition economies of Central and Eastern Europe.
- Arguably, however, there is still a need for a framework for applying RIA in a development context

The use of RIA in developed economies

- Origins in the USA.
- Recommended for use in the OECD.
- A well developed policy in the UK (although still with some need for further development) – see criticisms of the National Audit Office (e.g. rarely are benefits quantified, description of monitoring and evaluation procedures in-complete:NAO, 2004, 2005).
- Similar weaknesses found in studies of the use of RIA in the USA and the European Commission.

OECD reports use in Mexico and South Korea: with mixed results:

- eg.in Mexico – “The biggest problem for the Costs and Benefits Section of the RIA is that the quality of data is generally poor and this quantitative analysis of proposals is virtually impossible. Regulatory authorities are not asked to produce net benefit estimates for fear of creating additional incentives to distort already inadequate data” (OECD, 1999, p.159).

- In Korea: “the bulk of the RIA is still being conducted at quite a low level of sophistication” (OECD, 2000, p.29)

- The CRC at the Universities of Manchester and Cranfield sent a Questionnaire to a range of regulators in 99 countries and replies were received from 40 countries
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- The majority of responses were from regulators of utilities (energy -25; telecoms – 23).

- All respondents were in senior positions (e.g. 23 held the post of director-general or equivalent).

Questions asked related to:

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- existing familiarity with RIA as a concept and the OECD guidelines;
- the existing use of RIA within the country;
- legal requirements to adopt RIAs and the existence of published RIA guidance within government;
- the form RIAs take when used;
- the processes used within government when undertaking RIAs;
- RIA transparency, in terms of published documentation;
- public consultation and participation in RIA exercises;
- RIA and wider regulatory reforms.

Countries from which completed Questionnaires were returned

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Asia (9 countries)

India, Jordan, Korea, Malaysia, Oman, Pakistan, the Phillipines, Sri Llanka, Thailand

Africa (16 countries)

Algeria, Botswana, Cameroon, Gabon, Ghana, Guinea Bissau, Kenya, Malawi, Mauritius, Morocco, Nigeria, South Africa, Tanzania, Uganda, Zambia, Zimbabwe

Latin America & Caribbean (9 countries)

Barbados, Brazil, Colombia, Jamaica, Mexico, Nicaragua, Peru, Uruguay, Venezuela

Transition Economies (6 countries)

Albania, Estonia, Georgia, Lithuania, Moldova, Romania

When are RIAs used?

Region	RIA Applied to All or Most New Regulations	RIA Never Applied	Do not Know
Asia (no. of countries)	8	0	1
Africa (no. of countries)	11	3	2
Latin America (no.of countries)	6	3	0
Transition Economies (no. of countries)	5	1	0

Only 6 respondents, however, were familiar with the OECD guidelines.

Mainly used for ex ante assessment only. Few reported existence of guidelines.