

UK's Regulatory Impact Assessments and Competition Advocacy

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Today's Presentation

- **Key Players**
- **Regulatory Impact Assessments (RIAs)**
- **Good & Bad RIAs**
- **Future – making them better**

Key Players

- **CO's Better Regulation Executive (BRE)**
- **DTI's Small Business Service (SBS)**
- **Other Government Departments**
- **OFT's Competition Advocacy Team**
- **OFT's Regulatory Review Team**

The Advocacy Team

- Creating a pro-competitive culture in the public sector and amongst business and consumers
- Promoting awareness of the benefits of competitive markets
- Encouraging the public sector to take these benefits into account

Achieved through...

- Policy advice on how a particular government activity might affect or fail to make the most of competition
- Improving government thinking
- Complementing enforcement work and tackling broader issues

Role of Regulatory Review Team

- To act as 'gateway' to specialist advice within OFT
- To provide training to departments (policy makers and economists) on identifying competition concerns
- To advise departments on policies/ regulations where requested
- To liaise with Better Regulation Executive

What is an RIA?

- “....a tool which informs policy decisions. It is an assessment of the impact of policy options in terms of the costs, benefits and risks of a proposal.”

Inappropriate or ill-informed regulation can...

- Create unnecessary bureaucracy
- Add to firms' costs (ultimately consumers)
- Damage small businesses
- Inhibit competition
- Create barriers to new firms
- Be unenforceable

Stages of RIA

Policy idea &
development
(Initial)

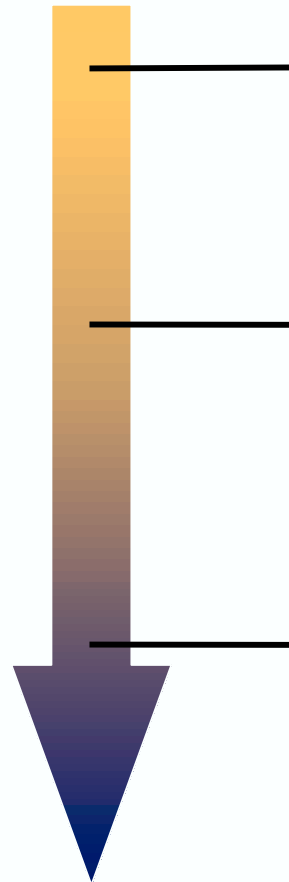
Winners and losers,
risks, broad estimates of
costs and benefits

Consultation *(Partial)*

Ideas fleshed out,
quantitative assessments

Policy agreement
(Final)

Final recommendation,
costs and benefits
confirmed following
consultation



Problem: Tide kills 18 cockle pickers

- Background: people of oriental origin were caught by rising water and killed.
- Issue: illegal Gangmasters in exploiting illegal immigrants
- Solution: The Gangmasters (Licensing) Act 2004
- Subsequently...lots of secondary legislation

OFT's View

- The Gangmasters RIA is an example of a **bad RIA**
 - A knee-jerk reaction
 - Created unnecessary bureaucracy
 - Add to firms' costs
 - Difficult to enforce

An Example of an RIA where OFT have made a difference

- The Olympics Bill
- Background: Legislation is required in order to ensure that commitments made as part of the London bid can be delivered
- Issue: Commercial exploitation of the Games and potential effects on competition

OFT's view

- Olympics RIA is an example of a **good RIA**
- Ambush Marketing – provisions for 6 years
- Effect on competition now in the RIA

The Future - Making RIAs better

- BRE - reorganised
- BRE – redrafting guidance
- New Competition Filter
- NAO Annual Reports
- Panel of Regulatory Accountability

What was the problem with the old Competition Filter?

- Nine questions of equal weight
- \geq Five 'YES' answers means a detailed assessment is required...
- BUT
- First three questions require that (i) the market is properly defined, and (ii) market shares are known

Revised Competition Filter

Intention is to:

- Simplify the filter
- Make it more focused (and user-friendly)
- Reduce the need for market definition except where there is a need for a detailed assessment
- OFT recognises that this work needs to be completed quickly and needs to 'fit' with Cabinet Office guidance

Competition Filter (Work in progress) 1

Will the proposed regulation:

- Limit the freedom of firms active in the markets identified to determine price, product characteristics, advertising, distribution and/or organisational structure?

Competition Filter (Work in progress) 2

- Will the proposed regulation affect active firms already in the market in different ways?
 - Will it change the dynamics of competition between existing firms?
 - Will small firms be adversely affected?

Competition Filter (Work in progress) 3

- Will the proposed regulation prevent or make it more difficult for new firms to enter any of the markets identified?
 - Will it create a licensing regime for market participants?
 - Will it create a new regulator?
 - Does it involve public procurement?

Things to think about...

- Counterfactual – set out in the ‘do nothing’ option
- Consultation process provides an opportunity to gather information and ‘test’ views
- Evidence-based policy making + economic principles
- Competition? Competitiveness?

Further information can be found:

- **OFT website – www.offt.gov.uk**
- **CO website –
<http://www.cabinetoffice.gov.uk/regulation/>**
- **OECD website – www.oecd.org**
- **EC website –
http://europa.eu.int/comm/index_en.htm**

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