

**PROCEEDINGS FROM THE OECD EXPERT MEETING ON**

**REGULATORY PERFORMANCE:**

**EX POST EVALUATION OF REGULATORY  
POLICIES**



Paris, 22 September 2003



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## 1. INTRODUCTION AND SUMMARY

1. These proceedings present papers and presentations prepared for the OECD Expert Meeting on *Regulatory Performance: Ex post Evaluation of Regulatory Policies* held in OECD Headquarters in Paris on 22 September 2003.

2. The Expert Meeting – together with a mapping of OECD Country practices in this area – was a first step in a project launched in 2003 by OECD's PUMA Committee and its Working Party on Regulatory Management and Reform. The general motivation behind the project is the observation that there is little tradition and experience with ex post policy evaluation. This observation is particularly pertinent in the area of regulatory policies. Regulatory policies integrate many elements from other policy areas and have undergone significant developments in terms of scope and objectives over the last decades. As governments progress in the development of these policies, growing attention is being paid to their evaluation: Do regulatory policies deliver high quality regulation and better regulatory results?

3. The growing interest in answers to these questions reflects three inter-related developments emerging over the past few years: First, policy-makers involved in regulatory policies are being held *accountable* for the significant economic resources as well as the political capital invested in regulatory management systems now established in most OECD countries. Second, there is a growing interest in exploring how regulatory policies can be more *evidence-based* and supported by empirical findings. More evidence-based approaches to the assessment of regulatory quality allows for a review of the effectiveness of policy tools used in practice, for a review of their performance and for improving the design and implementation of the policy. Third, the move toward ex post evaluation is part of the *progressive development* of regulatory policies, complementing the current dominant focus on ex-ante evaluation.

4. Recognising the complexity of these issues, the project takes a pragmatic and gradual approach. As a first step, the project focuses on the evaluation of regulatory tools and institutions. That is, it focuses on the practices and policies applied by governments to *assess regulatory tools and institutions*. (Alas, although there may be overlaps, the focus is *not* on assessing regulations themselves, nor on how particular regulatory tools and institutions are used or designed).

5. The Expert Meeting had four main objectives:

- To present an overview of OECD Member Countries' practices with the evaluation of regulatory tools and institutions;
- To present and discuss in some detail a number of selected country practices;
- To present and discuss theoretical work done by academic and independent research institutes on possible approaches to the evaluating regulatory tools and institutions; and
- To identify and prioritise focus-points for future work

6. The Expert Meeting was attended by a total of 72 delegates representing 32 delegations. Participants included government experts from OECD Member Countries, academics and independent experts as well as representatives from the Business and Industry Advisory Committee to the OECD (BIAC) and the Trade Unions Advisory Committee to the OECD (TUAC).

7. The Meeting coupled country-specific presentations with conceptual/theoretical presentations by academics or experts. Discussions were supported by papers commissioned by the Secretariat on assessment of RIAs, and the evaluation of regulatory oversight units, consultation mechanisms and independent regulators.

8. Discussions at the Expert Meeting showed strong interest and appreciation amongst delegates in the relatively “technical” and focused objective of this part of the project. However discussions also showed preferences to go beyond the evaluation of regulatory tools and institutions into broader and related issues on the “ex post agenda”, such as measuring and monitoring regulatory performance (*i.e.* data gathering and reporting strategies) and practices to review existing regulations.

9. In discussion about identifying preferences for future work, delegates focused particularly on three issues:

- Finalising an inventory of practices and strategies to evaluate regulatory tools and institutions
- Creating a taxonomy or classification of practices, which could indicate circumstances under which particular types of evaluation approaches would be appropriate
- Developing and exploring selected methodologies in further details, *i.e.* the evaluation of Regulatory Impact Assessments (RIA) and the use of regulatory quality indicators.

10. In follow-up to the Expert Meeting, the Secretariat has launched additional work on the evaluation of a number of selected regulatory tools. It is expected that a final report to be published in late 2004 will include a consolidated inventory of Member Country practices to evaluate regulatory tools and institutions; a classification of different approaches to evaluate regulatory tools; and, based on this, a toolbox approach with operational guidance and methodologies on the evaluation of regulatory tools and institutions.

December, 2003

Peter Ladegaard  
Project Manager

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Head of Division

## 2. NOTE AND AGENDA

### NOTE

#### **REGULATORY PERFORMANCE: EX POST EVALUATION OF REGULATORY POLICIES**

##### ***Background***

11. As governments progress in the development of regulatory policies, growing attention is being paid to the evaluation of regulatory tools, institutions and practices<sup>1</sup>. Do regulatory policies deliver high quality regulation and better regulatory results? The growing interest in answers to this question reflects three inter-related developments emerging over the past few years: First, policy-makers involved in regulatory policies are being held *accountable* for the significant economic resources as well as the political capital invested in regulatory management systems now established in most OECD countries. Second, there is a growing interest in exploring how regulatory policies can be more *evidence-based* and supported by empirical findings. More evidence-based approaches to the assessment of regulatory quality allows for a review of the effectiveness of policy tools used in practice, for a review of their performance and for improving the design and implementation of the policy. Third, the move toward ex post evaluation is part of the *progressive development* of regulatory policies, complementing the current dominant focus on ex-ante evaluation.

##### ***Project objectives and outcomes***

12. Recognising the importance of these developments, delegates to the Working Party on Regulatory Management and Reform have decided to prioritise and accelerate work on ex post evaluation of regulatory policies in its 2003-2004 Work Programme. The expected outcome of the project is to improve governments' strategies to evaluate and monitor the performance of regulatory policies. In a step-by-step process, depending on priorities and resource availability, the project will:

- Establish an overview of member countries' practices and experience with ex post evaluation of regulatory policies;
- Identify and assess notable practices and methodologies for the assessment and monitoring of regulatory policies; and
- Develop and propose specific guidelines for government strategies to evaluate regulatory policies.

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<sup>1</sup> Regulatory policy can be defined as an explicit policy that aims to continuously improve the quality of the regulatory environment by maximising the efficiency, transparency and accountability of regulation. Regulatory policy is an integrated approach to the governance and implementation of regulatory tools, institutions and practices.

13. As a first step, the Secretariat has prepared and circulated a questionnaire to OECD Member countries' about their practices and strategies to evaluate regulatory tools and institutions. Results of the questionnaire will be presented at the expert meeting.

### ***Objectives of the meeting***

14. The expert meeting has four main objectives:

- To present an overview of the practices and policies of OECD Member countries to evaluate regulatory tools and institutions;
- To present and discuss in some detail several advanced country practices;
- To present and discuss theoretical work done by academic and independent research institutes on possible approaches to the evaluating regulatory tools and institutions; and
- To identify and prioritise focus-points for future work

15. Results of the meeting will be reported to the Working Party on Regulatory Management and Reform at its meeting on 23-24 September 2003. Findings of the meeting will also be incorporated into a report, presenting the conclusions of the project, to be published in late 2004.

### ***Format of discussions***

16. Each session will begin with two short introductory presentations (15 minutes). In most sessions, the first presentation will provide an overall conceptual framework and identify possible approaches to the evaluation of the particular tool or institution. The second presentation will present a member country's concrete experiences with the evaluation of this tool or institution. The presentations will be followed by an open discussion among participants.

### ***Participants***

17. The participants of the meeting will be government experts from OECD Member Countries, academics, independent experts, representatives from the Business and Industry Advisory Committee to the OECD (BIAC) and the Trade Unions Advisory Committee to the OECD (TUAC).

### ***Organisation***

18. The meeting will take place on 22 September 2003 in OECD Headquarters in Paris (2, rue André Pascal, 16<sup>th</sup> arrondissement. Metro: La Muette; RER: Henri Martin). Please note that security formalities at the entrance to the OECD may take 10-15 minutes.

### ***Contact***

For further information or questions about the meeting please contact Peter Ladegaard at email [peter.ladegaard@oecd.org](mailto:peter.ladegaard@oecd.org) or telephone + 33(0)145241906.

# FINAL AGENDA

22. September 2003

9:30 – 13:00:

**1. Welcome and opening remarks**

**2. Overview of Member Country practices and experiences**

*The Secretariat will present results of Member Countries' answers to the questionnaire on ex post evaluation of regulatory tools and institutions.*

Supporting documents:

- Preliminary results of OECD's Questionnaire on the Evaluation of Regulatory Tools and Institutions (will be made available as a Room Document)

**3. Policies and strategies to evaluate regulatory policies**

*This session will focus on overall government policies and strategies used to evaluate regulatory tools and institutions. Although most countries are still evaluating regulatory tools and institutions on an ad hoc basis, practices are now emerging whereby commitments and guidelines to assess regulatory tools and policies become an integrated part of government policies. Presentations and the discussion will focus, among other things, on the challenges and drivers of establishing a policy, responsibilities and implementation, the objectives and targets of evaluation policies, and the integration of evaluations in regulatory policies or other broader government policies.*

Introductory presentations:

- "Regulating for Results - a Canadian perspective", by Hélène Quesnel, Senior Privy Council Officer, Regulatory Affairs Division, Regulatory Affairs and Orders in Council, Privy Council Office, Canada.
- "Audit of the Legislative Function in Dutch Ministries", by Jan Tom Bos, Head of Department for Legislative Quality, Ministry of Justice, Netherlands.

Supporting documents:

- Presentations will be made available as Room Documents.

**4. Ex post evaluation of regulatory tools: Regulatory Impact Analysis and Consultations**

*This session will focus on practices and approaches to evaluate the quality of regulatory impact analysis (RIAs). An introductory presentation will provide an overview of different approaches, forms and methods to evaluate RIAs. To follow, a presentation will give a summary of the practical experiences of an ongoing project to evaluate RIAs in the UK. The discussion could, among others, concentrate on the advantages and difficulties of different approaches taken; how to establish criteria for the evaluations; and how results of the evaluations have affected regulatory policies and practices.*

Presentations:

- "Evaluating Regulatory Impact Analyses", by Winston Harrington, Senior Fellow, Resources for the Future, United States.

- “UK Evaluation of the Quality and Effectiveness of RIAs”, by Ed Humpherson, Director, National Audit Office (NAO), and Mark Courtney, Deputy Director, Regulatory Impact Unit, Cabinet Office, United Kingdom.

Supporting documents:

- Paper prepared by Winston Harrington, Senior Fellow, and Richard D. Morgenstern, Senior Fellow, Resources for the Future: *Evaluating Regulatory Impact Analyses*.
- Presentations will be made available as Room Documents.

13:00 – 14:30: Lunch break

14:30 – 18:00:

**4. Ex post evaluation of regulatory tools: Regulatory Impact Analysis and Consultations (cont.)**

*This second part of section 4 will focus on the results and procedures of evaluations involving businesses and business organisations. Discussions will focus on the role non-governmental organisations, and in particular the business community, can play in evaluations of regulatory policies.*

Presentations

- “The NNR Regulation Indicator- an assessment by the Swedish Board of Industry and Commerce for Better Regulation of the Swedish Government’s RIA practices”, by Lennart Palm, President, Board of Industry and Commerce for Better Regulation, Sweden.
- “An ex post evaluation of a regulatory impact assessment tool - the case of the Danish Business Test Panels”, by Katrine Andreassen, Head of Division, Division for Better Regulation of Business, Danish Commerce and Companies Agency, Ministry of Economic and Business Affairs, Denmark.

Supporting documents:

- Presentations will be made available as Room Documents.

**5. Ex post evaluation of regulatory institutions: Central regulatory quality units and one-stop shops**

*This session will concentrate on approaches and experiences with evaluating two key institutions established to improve regulatory quality: centre-of-government units responsible for promoting regulatory quality (through advice, advocacy and/or gate-keeper control functions) and one-stop shops. Academics and independent experts will present conceptual frameworks and key dimensions of such evaluation, and specific experiences with evaluations of central units and one-stop shops. Discussions will concentrate on questions such as the choice of methodologies, dimensions and criteria suggested for assessment, and the ways the results of evaluations can be used in reforming these institutions, etc.*



Presentations:

- “Evaluating Central Regulatory Institutions”, by Scott Farrow, Chief Economist, U.S. General Accounting Office.
- “Evaluating One-stop Shops; Lessons from the Dutch case”, by Dr. André Nijsen, Director, EIM Consultants Ltd, Netherlands.

Supporting documents:

- Paper prepared by Scott Farrow, Chief Economist, and Curtis Copeland, Assistant Director, Strategic Issues Team, U.S. General Accounting Office: *Evaluating Central Regulatory Institutions*.
- Presentations will be made available as Room Documents.

**6. Using indicators for regulatory quality**

*This session will focus on the construction and use of indicators on regulatory quality. Brief introductory presentations will summarize the OECD Secretariat and the European Commission’s past and on-going work with regulatory quality indicators. Discussions may focus on possible dimensions of performance and how these can be operationalised into measurable and comparative results. What is the scope for developing indicators for regulatory quality? What is needed – methodologically and in terms of data collection strategies – to construct valid and comparable indicators?*

Presentations:

- “OECD’s work on regulatory quality indicators”, by Peter Ladegaard, Administrator, Regulatory Management and Reform Division, Public Governance Directorate (GOV).
- “The European Commission’s Work on Indicators on Regulatory Quality”, by Mona Björklund, Administrator, DG Enterprise, European Commission.

Supporting documents:

- Presentations will be made available as Room Documents.

**7. Next steps**

*In this session, participants will draw conclusions on the presentations and discussions of the meeting. Delegates and presenters are invited to express ideas and recommendations on the scope and focus of future work. The main results of this expert meeting – including views expressed in this section – will be reported to Working Party for Regulatory Management and Reform, meeting on September 23-24 2003.<sup>2</sup>*

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<sup>2</sup> See also [GOV/PUMA/REG(2003)1] for the Secretariat’s progress report on this activity, and the request to delegates to the Working Party to express their wishes in terms of participation in the project, in particular in terms of potential contributions and case studies.

### 3. PRELIMINARY RESULTS AND OBSERVATIONS FROM OECD'S QUESTIONNAIRE

#### *I. Introduction*

19. As a first step of the work on *ex post* evaluation of regulatory tools and institutions, the OECD Secretariat was requested to launch a questionnaire in order to map existing work and practices in member countries. The questionnaire was prepared in Spring 2003, piloted with three member countries, and sent to all member countries for response in late June, 2003, requesting answers by 25 August 2003.<sup>3</sup> Following the initial receipt and analyses of answers, in some cases, the Secretariat requested further details and clarification on certain information in follow up mails.

20. Altogether, 22 member countries (including the European Commission) had answered and returned the questionnaires to the Secretariat.<sup>4</sup> The following paper provides summary of the information gathered through the questionnaire on the existing and planned country strategies and practices. Section II summarises member countries' answers to questions about overall strategies/policies to evaluate regulatory tools and institutions, and it presents some examples of specific projects carried out to evaluate various regulatory tools and institutions. Section III provides some observations on the results of the survey.

#### *II. Results*

##### *Strategies/policies to evaluate regulatory tools and institutions*

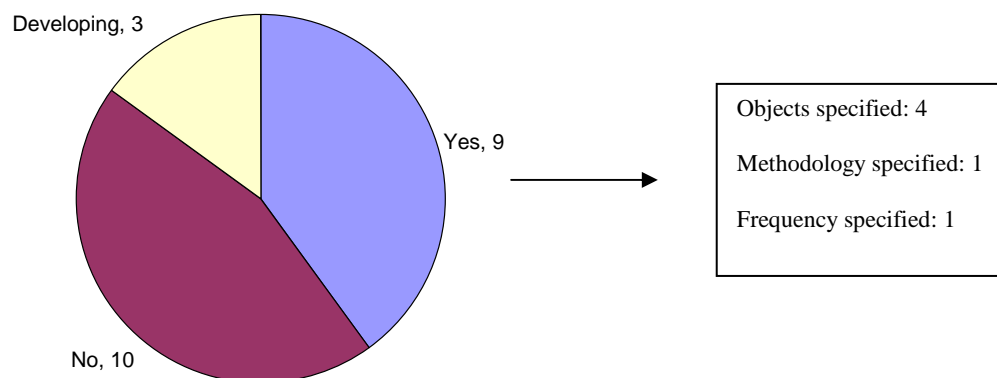
21. *Explicit strategy/policy to evaluate regulatory tools and institutions.* 9 out of 22 surveyed member countries say they have an explicit strategy/policy on *ex post* evaluation of regulatory tools and institutions. Four strategies specify which tools and institutions should be evaluated; one specifies the frequency of the evaluations, and one specifies or provides guidance on the methodology of evaluations.

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<sup>3</sup> A sample of the questionnaire that was sent to the Member Countries can be found in Annex 1.

<sup>4</sup> Australia, Belgium, Canada, the Czech Republic, Denmark, Finland, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Norway, Spain, Sweden, United Kingdom, United States.

Figure 1: **Does an explicit and current policy/strategy on ex post evaluation of regulatory tools and institutions exist in your country?**

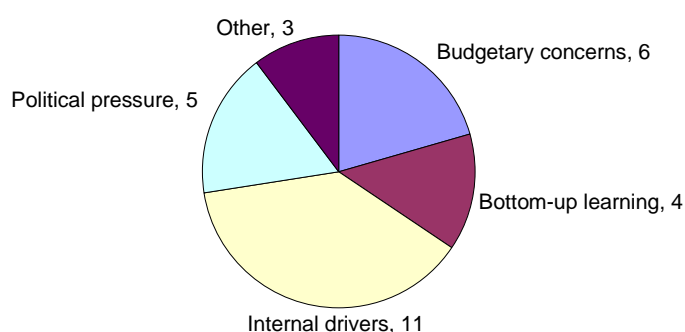


*Preliminary data, not to use for quotation*

22. The tools and institutions most frequently specified as objects of evaluations are: simplification measures, consultation mechanisms, RIAs, independent regulators and enforcement agencies. On methodologies, surveyed countries favour a non-prescriptive approach given the potentially wide ranging differences between different regulations, regulatory tools and institutions in terms of their objectives and design. The use of methods are often described as “*ad hoc*” or applied on an “individual” basis.

23. *Drivers of ex post evaluation of strategies/policies.* The majority of countries indicated that their evaluation policy was primarily internally driven, namely by the ongoing pragmatic development and improvement of regulatory policy. At the same time, budgetary concerns, positive experiences from evaluations from individual agencies and institutions (bottom-up learning), as well as political pressure also play an important role in facilitating regulatory evaluations in several countries.

Figure 2. **Which are the most significant drivers in the process of evaluating regulatory tools and institutions?** (multiple answers possible)



*Preliminary data, not to use for quotation*

24. *Responsibility.* There is no uniformity in terms of the agencies and units that are responsible for the policy: different countries use different solutions. In most surveyed countries, specific units or agencies are responsible for monitoring and implementing evaluations of regulatory tools and institutions. In several

cases, the responsibility lies within the individual ministries. In other cases the evaluations are implemented and monitored by dedicated central institutions. In some countries, the Ministry of Finance and/or national auditor institutions have the primary responsibility for evaluations. There are also examples, like Korea, where the evaluation policy is being co-ordinated from the central regulatory oversight unit located in the prime minister's office. Japan has a central bureau responsible for all administrative evaluations, located in the Ministry of Public Management, Home Affairs, Post and Telecommunications.

Figure 3. Is there a dedicated agency or unit responsible for the policy?

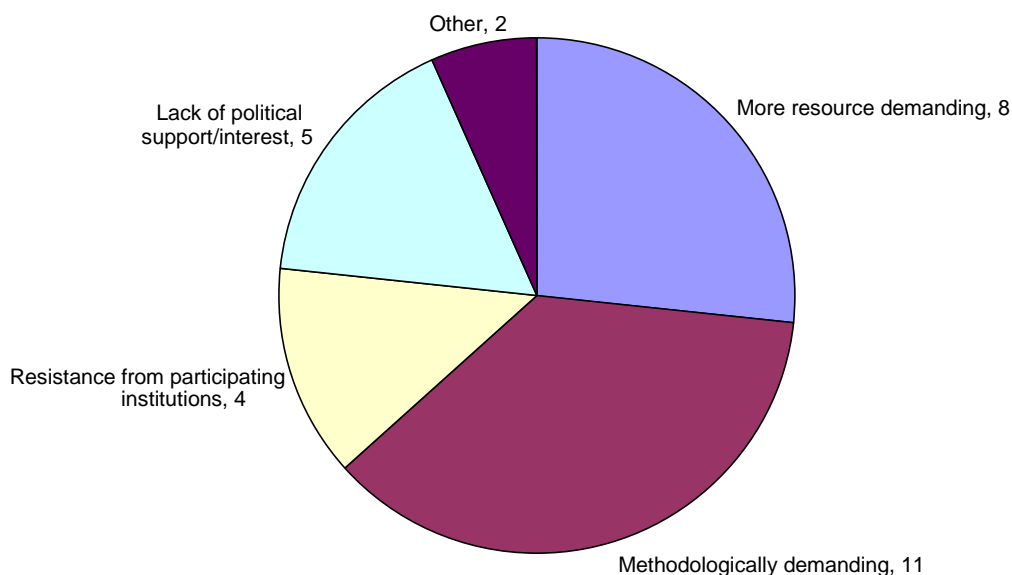


*Preliminary data, not to use for quotation*

25. *Results.* Surveyed countries reported a series of specific examples for reforms and improvements introduced as a result of evaluations in different regulatory tools and institutions. In the UK for example, evaluations are reported to have led to improvements in the RIA process, methodology and compliance; reconfiguration of sector regulations in the financial and communication sectors, and improvements in consultation in regulatory proposals. As importantly, many countries reported further benefits of evaluations in terms of increased awareness and interest in regulatory management and reform from parties involved in the reviews. Evaluations are not always followed by dramatic reform actions. Often the results confirm the success of programmes or the proper functioning and set up of tools and institutions. In this sense, the lack of change should not always be interpreted as failure, on the contrary. In Norway for example, positive reviews of Business Test Panels and The Simplify Norway Action plan has lead to the continuation of these activities.

26. *Lessons and challenges.* Countries consistently report resource requirements and methodological difficulties as the most significant challenge encountered in the process of evaluating regulatory tools and institutions. Resistance from participating institutions and the lack of political support also cause difficulties in some countries. Countries also noted that evaluations can face problems and resistance from target institutions who believe they are subject to “yet another reporting requirement” from the lack of information sharing between different units and agencies.

Figure 4. **What have been the most significant challenges encountered in the process of assessing regulatory tools and institutions?**  
(multiple answers possible)



*Preliminary data, not to use for quotation*

*Some examples on policies/strategies to evaluate regulatory tools and institutions*

27. In **New Zealand**, evaluation and review are an integral part of the overall regulatory policy framework. Policy principles and guidance documents stress the importance, and encourage an ethos, of evaluating and reviewing the effectiveness of regulation, including regulatory tools and institutions. For instance, New Zealand’s Code of Good Regulatory Practice (CGRP) includes the two following guidelines: “Review regulations systematically to ensure they continue to meet their intended objectives efficiently and effectively.” “Flexibility of regulation and standards: regulatory measures should be capable of revision to enable them to be adjusted and updated as circumstance change.” In addition, New Zealand’s Generic Policy Development Process (GPDP) “emphasises the need for a review strategy that considers the types of information needed to assess the impact of the policy and whether the strategy needs to be in place at the time of implementation.” The GPDP’s checklist for the implementation and review stage of the policy process also prescribes that: “Monitoring and evaluation procedures are in place that consider whether i) the regulation is effective in achieving the policy objective; ii) the regulation is efficient; and iii) there are any unintended effects.”

28. In the mid 90s, **Canada** introduced quality assurance to its regulatory process to enhance compliance with the Regulatory Policy, through a standards-based approach for assuring that sound systems were in place for the regulation-making process. Canada introduced the Regulatory Process Management Standards (RPMS) but also took on providing guidance for implementation and assessing government-wide capacity. Standards were a way to increase accountability for compliance in departments and to do so earlier in the process (not rely solely on an end-of-the-pipeline check). In 2001, departments and agencies undertook an initiative to develop a common understanding of performance measurement in

the context of the Regulatory Policy, to take stock of current "regulatory performance measurement" practices in the management of regulatory programmes and to identify potential indicators. While there is no explicit, government-wide strategy in place which focuses on regulatory programmes (to the exclusion of other programmes), early work is under way to provide institutions with guidance for the application of performance measurement strategies. Ultimately, it is expected that this guidance will provide the basis for a more systematic basis of evaluation data. With this data, government could, over time, expect to have the information needed for future evaluation of the effectiveness of regulatory tools and institutions. In particular, the Canadian government has initiated a project to provide a framework for assessing the contribution of departments and an External Advisory Committee on Smart Regulations in terms of delivering on the Canadian government's smart regulation agenda and, ideally, of building on the strong regulatory foundation. The proposed evaluation approach to track and assess departmental performance will contribute empirical evidence to the Government's overall assessment of the success of the smart regulation agenda, and could guide follow-up approaches for regulatory performance measurement.

29. Italy is an example of a country that recently introduced a central policy for the evaluation of regulatory tools and institutions. The Italian strategy is based on primary legislation introduced in July 2003 that provides for the Government to submit to parliament, together with the bill for the annual simplification law, a report on the state of the simplification and regulatory reorganisation implementation process. By the means of this report, the prime Minister outlines the overall results of the simplification and regulatory reorganisation activities.

30. A number of countries are currently planning or considering establishing explicit strategies/policies to evaluate regulatory tools and institutions. In **Finland**, a Government Steering Group on the Preparation and Management of Law Drafting (Permanent Secretaries' Group on Law Drafting) was appointed in June 2003. The tasks include, among others, reviewing regulatory tools and institutions.

31. In **Ireland**, the Government is currently preparing a White Paper on Better Regulation which will address the issue of ex post facto evaluation of regulatory tools and institutions.

32. The **European Commission** produces annually a Better Lawmaking report, which includes a description of the development and practical use of regulatory tools. However, it has not provided any thorough evaluation in the past. Among various programmes, the DG Enterprise, in cooperation with other Commission services, has commissioned two studies that will both start in January 2004 within the framework of the Multi-annual Programme for Enterprise and Entrepreneurship. The first project aims at developing an effective set of indicators of regulatory quality. The main part consists of a study that will cover the identification and analysis of available material on quantitative and qualitative regulatory quality indicators, including information sources from the Commission, Member States, relevant organisations and the academic community. The indicators can then be used to monitor the progress in simplifying and improving the regulatory environment. First results are expected by mid-2004, with a final report being presented at a conference in autumn 2004.

33. The second study will be conducted to analyse (ex post) a selected number of EC laws with the purpose to identify to what extent Community legislation has added burdens on businesses, and SMEs in particular. The main part of the project will consist of an analysis of a selected number of EC laws that have already been transposed by Member States as regards their burdens on businesses. Besides examining the burden (compliance costs, administrative burden, additional requirements beyond basic EU law obligations, and others), the rate of compliance with these laws will be estimated and existing methodologies to tackle regulatory burdens in the Member States will be reviewed. The study is expected to be concluded at the beginning of 2005.

### *Samples of country practices to evaluate regulatory tools and institutions*

34. Based on reports from the surveyed countries, the following section provides a set of samples of country practises to evaluate regulatory tools and institutions.

#### ***Regulatory impact analysis (RIA)***

35. RIA evaluation projects are generally broad based. They are in most cases inquires into the benefits and effectiveness and the cost efficiency of the RIAs. In countries with established RIA systems, the evaluations also asked questions on the continued appropriateness and the need for existence of the system. The correctness of *ex ante* appraisals was investigated only in a minority of cases. RIA evaluations employ a great diversity of methodological tools. Indicators, case studies and surveys are the most commonly used approaches. Evaluation often looked at processes, outputs and inputs at the same time. In terms of lessons and challenges, countries most frequently mention problems to obtain data, difficulties with developing and applying methodologies, time and resource demands and lack of political support.

36. Countries evaluate RIAs at different stages of their operation and development. One category of assessments focuses on existing practices, with a view to *establishing* more systematic, feasible and coherent RIA requirements. The **Czech Republic** has launched an evaluation of its current methods and processes to ensure assessment of possible impact of regulations. The aim of the project is to implement a systematic impact analyses into the Czech legislation-making process.

37. Another category of assessments focuses on *compliance with existing RIA guidelines* and procedures. In **Mexico**, Cofemer, the central body in charge of promoting regulatory quality, is currently carrying out a review of the quality of RIAs that are submitted for proposed regulation. The purpose is to assess the degree to which ministries and regulatory authorities are complying with the guidelines for carrying out RIA. This is intended to assist Cofemer in training regulators by identifying areas where quality is inadequate and allowing for discussion regarding the corresponding reasons.

38. A third and very diverse category or review seeks to improve RIAs by carrying out detailed analysis of a number of selected RIAs. In 2000-2001, **New Zealand** did an evaluation of its Regulatory Impact Statement (RIS) system following 2-3 years of its introduction to review and make necessary changes in the newly developed system. The objectives of the review were to assess the effectiveness of the current RIS regime, particularly the extent of technical compliance with the RIS regime, the quality of regulatory impact statements, the design of the RIS regime, and to recommend improvements in the regime. A consultancy:

- Assessed a sample of 75 regulatory impact statements against each of the key RIS requirements set out in a Cabinet Office Circular on Regulatory Impact Statements and the Recommended Guidelines for Preparing Regulatory Impact Statements;
- Compared the design of the current RIS regime with ‘best practice’ examples of the RIS regimes operating in other jurisdictions, including the United Kingdom, Canada and Australia, as well as the OECD’s ‘best practice’ guidelines;
- Interviewed a representative sample of individuals involved in the preparation and use of regulatory impact statements to obtain their views on the objectives of the regime, its effectiveness, and options for reform; and
- Examined the results of previous RIS reviews to determine the extent to which they are consistent with the results of our review.



39. The final report recommended a range of measures to improve the design of and compliance with the RIS regime. The most important changes resulting from the review were the establishment of a dedicated unit (the Regulatory Impact Analysis Unit) to review RISs; and the inclusion of a Business Compliance Cost Statement (BCCS) in RISs for regulatory proposals that have compliance cost implications for business, along with the requirement for the Unit to provide an adequacy statement in relation to BCCSs. The RIA Unit is part of the Regulatory Policy Team within the Ministry of Economic Development's Regulatory and Competition Policy Branch. It is resourced through the MED budget arrangements with the government. It does not itself produce annual reports, as this falls on MED as a whole. It is comprised of 5 policy analysts and a pool of other MED analysts; in the year 2002/2003, the RIA unit provided advice on and assessed approximately 130 RISs, most of which included BCCSs.

40. **New Zealand** has noted that these changes are beginning to alter the structures and practices of those involved in the development of regulatory proposals, for instance, by encouraging departments to include the RIS/BCCS framework as a policy development tool rather than seeing it as a retrospective transparency tool.

41. In the **United Kingdom**, work carried out by the National Audit Office (NAO) and supported by the Cabinet Office's Regulatory Impact Unit, has prompted a series of projects aiming at improving the quality of RIAs. In 2000-2002, the NAO examined a sample of 23 RIAs across 13 departments and agencies to study the way in which RIAs were prepared and to identify the scope for learning lessons. The NAO reported examples of good practice by government departments in preparing RIAs. It set out why RIAs are important, the key features of RIAs which add value to policy making and the further steps that departments and the Cabinet Office could take to improve the RIA process. The Public Account Committee (PAC) of Parliament took oral evidence from the Cabinet Office Permanent Secretary about the findings of the report.

42. As a follow-up to the National Audit Office (NAO) and Public Accounts Committee (PAC) reports, the Cabinet Office reviewed the RIA guidance for policy makers. The review was based, among others, on the results of a survey covering the views of all stakeholders – external and internal, *cf.* Box 1.

**Box 1. Reviewing RIA guidelines in the United Kingdom: Survey questions.**

1. Are there any specific areas of the RIA where, in your experience, analysis has sometimes or often been insufficient to inform policy makers or consultees?
2. Will the revised guidance direct those writing RIAs to provide a fuller analysis in those areas?
3. If you represent a charity or voluntary organisation, are there any specific areas or issues which should be brought to the attention of policy makers? How can this be best achieved in the guidance?
4. Is the guidance easy to follow?
5. Do you have any suggestions on how to best present/set out guidance?
6. Do the examples of good practice improve guidance?
7. Is the guidance clear as to where policy makers should go for additional help and advice?
8. Is the Small Firms' Impact test process simple to follow?
9. Do you think the Small Firms' Impact test will lead policy makers to take better account of small business issues when giving policy advice to ministers?

10. If you represent a small business, would you be prepared to take part in a focus group as part of the Small Firms' Impact test?
11. Is guidance on the Competition Test clear?
12. Is sufficient information and help provided given to estimate costs and benefits to enable policy makers to undertake a sound assessment of the likely impacts?
13. Is it helpful to combine guidance on domestic and European regulatory proposals into one document?
14. Are there other alternatives to regulation which you think should be included in the guidance?
15. Is guidance on when to carry out or not a RIA sufficiently detailed?

43. A revised guideline, subject to full public consultation, was issued in January 2003. It included:

- Strengthened guidance on alternatives to regulation;
- Examples of good practice;
- Increased emphasis on wider economic, social and environmental impacts;
- Strengthened guidance on small firms impact test;
- Guidance on the new competition test;
- Incorporates the European guidance;
- Takes account of the National Audit Office and Public Accounts Committee recommendations;
- The RIA guidance was restructured to follow the timeline of the RIA process

44. Currently, The National Audit Office (NAO) is evaluating RIA as a tool for delivering better regulation, building on earlier work to review the RIA process. The objective is to look at how the policy making process contributes to developing better regulation. The focus is on the RIA process rather than on the document itself. The NAO will examine 10 RIAs from a range of sources, including some identified as being of poor quality by the Better Regulation Task Force (BRTF) in their annual report 2001/02. NAO intends to publish a report summarising strengths and key learning points late Autumn 2003.

### ***Consultation mechanisms***

45. Three countries submitted project data on evaluating consultation mechanisms. In addition, some countries also evaluated consultation mechanisms that are operated as part of their regulatory impact analysis (RIA) systems. An example is provided below by Denmark.

46. A **Canadian** project evaluated the consultation mechanisms of Transport Canada's Safety and Security Group. The study was conducted by Transport Canada's own evaluation branch as well as by outside consultants. The purpose of the study was to assess the efficiency, effectiveness, and inclusiveness of external consultation mechanisms. Piloted in advance, the evaluation was based on surveys, test panels and interviews with stakeholders. The evaluation found, among others, that consultation mechanisms were highly supported by stakeholders. However due to the technical nature of the Group's regulatory activity,

the interests of the general public were often not directly represented. Furthermore, stakeholders complained of insufficient feedback and rationale for decisions made, and about the lengthiness of the decision-making process. As a follow-up to the report's recommendations, a number of changes were made to the consultation mechanisms. Those include: improved availability and timeliness on the Web about decisions on regulatory proposals; orientation documents provided to new members; assessment criteria used by consultation practitioners as a "checklist" for successful consultations; annual assessments of consultation mechanisms with the industry (CARAC). Canada points out one of the most important lessons learned: the labour intensive work to handle qualitative data, and time required to conduct and analyse survey data.

47. The **UK** is currently reviewing the Code of Practice on Written Consultations. The current examined version was published in November 2000, and a commitment was made to review the code starting two years after it was launched. The policy on consultation is owned by the Regulatory Impact Unit, within the Cabinet Office and they are carrying out the review. However, each department has consultation co-ordinators who has been involved in the process and external stakeholder will also be consulted. The evaluation reaches out to a wide range of actors. First, formal and informal written public consultations are organised where external stakeholders are asked questions about consultation practices and a proposed revised code of practice. Second, each department's consultation co-ordinators have been consulted through meetings and telephone conversations.

48. **Denmark** conducted an evaluation of its business test panels (BTP's). The use of BTPs is compulsory for all new business regulation which has been judged *a priori* to have a certain impact on business. The evaluation had a threefold purpose: to evaluate and if necessary give proposals towards improving: i) the method employed; ii) the results achieved from individual assessments and, iii) the impact of assessments among politicians, civil servants and business organisations.

49. The evaluation was initiated by the Commerce and Companies Agency (Ministry of Economic and Business Affairs), also responsible for the panels. The evaluation, which took almost one year, was carried out by a consultancy company. The evaluation was structured into three main parts:

- First, the employed method was evaluated from a theoretical point of view, in order to draw conclusions on whether the methodological design was optimal for the purpose of making *ex ante* impact assessments among businesses.
- Second, data collected over the three year survey underwent a quantitative statistical analysis in order to see whether the results from assessments were valid indications of the level of administrative burdens to be expected from new regulation.
- Third, BTPs based their results on quantitative and qualitative data emanating from interviewed businesses, data processed and communicated to law makers in ministries using impact analysis as part of the decision-making process in law making. A qualitative approach was therefore also employed. Participating businesses were interviewed to better understand how they estimate the impact of new regulation. Lawmakers and business organisations (who constitute an important stakeholder) were interviewed in order to infer their views on BTPs in general and how they use results from specific surveys.

50. The evaluation will be finalised in September 2003, but preliminary results show, that the Danish BTPs give a true and fair assessment of the impact of new regulation upon businesses. Levels of uncertainty in surveys results range from 40 to 60% on average over the years. This is viewed as acceptable for something as complex as an ex-ante evaluation, where the main purpose is to give an

indication of the level of impact of new regulation and generate operational advice from businesses on how to improve the administrative features of new regulation.

51. The findings also showed that law makers attached little significance to specific estimates of regulatory impact. Rather, they seek recommendations, which they can use to make their regulation more attuned to the administrative business set-ups. Business organisations, on the other hand, are more interested in the impact of regulation. They want to know how big an impact specific regulation has upon their members.

52. The results are expected to lead to marginal changes in the employed method (for instance pilot tests of survey material); in the way data is treated (for instance it is proposed to test alternative methods of extrapolation of data in order to see if they give better results) and in the way in which findings are presented to law makers and business organisations (for instance a proposal on generating a collective figure for regulatory impact, which incorporates all the different data results which are generated from surveys).

### *Simplification measures*

53. The **Netherlands** has evaluated a complex and multi-faceted programme that had administrative and non-administrative simplification measures as a key element. The programme in question is the Operation MDW: Marktwerking, dereguleren en wetgevingskwaliteit (Functioning of Markets, Deregulation and legislative quality) aimed to improve the functioning of markets by strengthening competition through regulatory reform; by abolishing or streamlining regulations and by better *ex ante* analysis of likely effects to improve the quality of new regulations. As a part of this operation, *ad hoc* working groups were formed to prepare specific policy and legislative proposals on special topics (projects). The evaluation has been going on parallel with the implementation of the reform: twice a year a progress report was sent to parliament, which also included a review of the concrete results that were achieved so far by the implementation of those proposals. Because of the 'mixed bag'- character of the MDW-projects, evaluations of the projects were inevitably diverse in quality and depth. The organisers reported that one of the most important lessons learned was that it often takes years before the effects of liberalisation of a market can be measured. Short term evaluations can show disappointing results in the first years and can give rise to discussions about further changes in policy or legislation before the first chance has had a change to kick in.

54. The **UK** had an ongoing evaluation of its Regulatory Reform Action Plan (RRAP), which contained a snapshot of the Government's proposals for deregulatory measures. The Plan was published in February 2002 and there was a commitment to review/update. The Cabinet Office RIU is currently reviewing progress on the measures in the RRAP, and the Government plans to issue details of the updated RRAP in Autumn 2003.

55. **Canada** conducted an evaluation of its national enforcement database: NEMISIS Project (National Enforcement Management Information System and Intelligence System). The database is aimed at simplifying and facilitating the work of enforcement managers and officers. The evaluation looked at processes, outputs, inputs and outcome of the project. The evaluation primarily focused on getting as much information as possible from users on their experience with the database.

56. **Norway** has a system of continuous monitoring of the administrative burdens on enterprises that enables the government to evaluate the success of administrative simplification measures. The monitoring is done by the Register of Reporting Obligations on Enterprises (Oppgaverregisteret). By knowing the results achieved regarding the reductions of administrative burdens on enterprises, the cost and efficiency,

the benefits and the effectiveness of the administrative simplification measures are assessed. The Register has reported a reduction of administrative reporting obligations on a year-to-year basis.

### ***Compliance mechanisms***

57. A **Canadian** experience illustrates that through monitoring compliance, regulators can assess their compliance policies and measures and can decide where to focus their efforts. Environment Canada is developing a data warehouse that will be used as a tool to better monitor compliance and to evaluate measures taken to increase compliance. The Compliance Analyses and Planning (CAP) data warehouse by providing data on compliance rate will help to determine where EC should place its priorities in employing different measures and policies to increase compliance.

58. **Norway** has conducted a project that evaluated the use of penalties as a means of ensuring compliance with public law regulations. The committee that carried out the evaluation was also instructed to look at alternative measures that might be more effective to ensure compliance. The committee collected information through meetings and correspondence with the prosecuting authority, various ministries and administrative agencies. It has also carried out studies of legislation and the administrative sanction system in other countries.

59. The **Netherlands** has reported that an evaluation of “Table of Eleven”, an instrument for *ex ante* analyses of the compliance of the regulation, has been scheduled for 2004.

### ***Alternatives to command-and-control regulation***

60. In the **UK**, the BRTF is producing a report on alternatives to command and control regulation called “Imaginative Thinking for Better Regulation”. The objectives of the report are to inspire policy makers to use more alternatives to command and control regulation. It uses a lot of real life examples to show what is already being done and to give policy makers all the options they need. The methodology used was mostly unstructured interviews with stakeholders and focus groups. It turned out that many departments are already using alternatives, but a lot more needs to be done. It was felt that a culture change is necessary to improve the use of alternatives.

### ***Independent regulators***

61. In the **UK**, the 2001 Better Regulation Task Force report on Economic Regulators opened up an important debate on regulatory governance and best practice. The report looked at whether the economic regulators are as effective as they might seem; whether the level of regulation could be reduced; and whether the structures and processes in place make for good regulatory practice. Based on desk research and discussion with all economic regulators a final report issued a number of recommendation on how to improve the governance of independent regulators, and it also opened up an important discussion on regulatory governance and best practice. The UK reports that the main challenge was dealing with the independence of regulators. Building on the results of this work the Task Force decided to look at a wider group of regulatory bodies, which exist at arms length from Government. The project, which will report in October 2003, will identify best practice in areas including enforcement, appeals mechanisms, corporate governance and the use of better regulation tools. Given the large number of independent regulators which exist in the UK, the Task Force identified all the independent regulators who operated in four policy areas: sports; the building environment; transport (non rail); and health. All have been sent a questionnaire, which focussed on five main issues: independence; governance; enforcement; appeals; and better regulation. The final report - due for publication in October 2003 – will be based on desk research, face to face discussions with academics interested in independent regulation; regulators themselves; and groups regulated by the regulators covered by the study.

62. The **Czech Republic** has initiated a project of evaluating independent regulators on the base of one of the OECD recommendations included in the Report on *Regulatory Reform in the Czech Republic*. The review's objective was to unify and improve the statute and functioning of sectoral regulators. Starting in November 2002, the review is conducted by a working group under the chairmanship of the Unit for Co-ordination of Regulatory Reform and Reform of Central State Administration, with other participants from regulatory bodies and effected ministries. Based on discussions in this forum, the final report's main finding was that the Czech regulators have many problems in common, which could be resolved by one general solution. To this effect, a *General Model of Sectoral Regulatory Authorities* was prepared and submitted to the Government.

63. **Canada** is currently conducting a review of the Canadian Food inspection Agency (CFIA). The review is conducted by the CFIA's Corporate Audit and Review Directorate with the objective to ensure that legislation is enforced constantly and consistently through inspection programmes across Canada. Review techniques applied are interviews (internal and external), questionnaires, surveys and documentation review and analyses.

### ***One-stop shops***

64. **The Netherlands** reports about the evaluation of three one-stop shops established as a pilot project in a joint venture between the Chambers of Commerce, the central government tax department and local governments, subsidised by the Ministry of Economic Affairs. The evaluation was carried out as a planned step in the one-stop shop's development process. The objectives were to assess the value by one-stop shops; consequences for organisations involved; and consequences of national implementation of the concept. The evaluation was carried out by a consultancy firm. The report was based on quantitative data, surveys of stakeholders' perception of process, data and national implementation, and an analysis of the differences between "data" and perceptions. Two partial studies were carried out in advance by other consultancies. These focussed on cost-benefit analysis and client satisfaction. The main conclusions of the report was that

- Implementation of virtual one-stop shop should be handled at the national level;
- The one-stop shops provided "sufficient added value" for businesses and the organisations involved;
- Virtual and physical one-stop shops are always complementary

65. The Netherlands reports that the main lessons learned from the project was that the planned time schedule for evaluation is usually too short; that management of expectations is important; and that awareness of and attention to commitment of all involved parties is important.

### **III. Observations**

66. The surveys point to an increasing interest in the evaluation of regulatory tools and institutions. The majority of countries indicated that they have guidance and practices in place for evaluating different regulatory tools and institutions.

67. Nine of the 22 surveyed countries have an explicit strategy or policy to this effect in place, with additional three of the surveyed countries considering or planning to establish one. In many other countries, rather than being stand-alone policy documents, Governments' strategies/policies to the evaluation of regulatory tools and institutions are part of broader regulatory or evaluation policies. The

evaluation of regulatory tools and institutions is generated by and imbedded in a broader and increasing concern with regulatory performance.

68. The various strategies and approaches to the evaluation of regulatory tools and institutions seem to mirror countries' overall approach to regulatory management. This applies for Member countries with strong traditions for elaborate, centrally-defined guidance and requirements, as well as for countries where the regulatory framework is developed *ad hoc* and pragmatically, and with an emphasis on decentralised responsibilities and self-assessment. However, answers also indicate that successful and advanced practices need not be supported by strongly institutionalised procedures and institutions. Successful and advanced practices seem to be contingent on and underpinned by a strong culture/ethos of regulatory improvement and review.

69. Evaluations of regulatory tools and institutions are carried out in countries with elaborate and well established regulatory management and reform systems, as well as in countries where regulatory quality tools have just recently been introduced and developed. The specific design and purpose of the evaluations vary accordingly.

70. The most commonly evaluated tools are RIA, consultations procedures and simplification mechanisms. The most frequently evaluated institutions are independent regulators and enforcement agencies. Some evaluations are broad based, embracing different sectors and regulatory areas, while other evaluations are focussing on the application of regulatory tools or institution in one specific area. This variety also indicates there is scope for learning between countries as well as between sectors within countries.

71. The normative standards for regulatory quality as developed by OECD's Working Party for Regulatory Management and Reform, most notably the 1995 recommendations on regulatory quality and the 20 country reviews of government capacities to assure high quality regulation, are often used as benchmarks or standards for evaluation strategies as well as individual projects. However the approaches selected in the individual evaluation projects are mostly developed *ad hoc*, with no or little inspiration from similar practices in other countries.

72. Countries seem to face similar challenges in their pursuit of evaluating regulatory tools and institutions. Most notably, countries point to methodological difficulties as some of the most significant and unforeseen problems they have encountered. At the same time, the approaches taken in many evaluation projects are developed *ad hoc* with the generation of no or very little quantitative or comparable data. Thus, there seems to be significant scope for the dissemination and further development of evaluation methodologies. With easy access to an inventory of existing tools and practices, countries would save time by not having to develop new methodologies themselves, while at the same time benefiting from the lessons learned in the application of these methodologies. Further development of methodologies would also facilitate more quantitative assessments, which could be subject to comparisons over time and between different sectors, types of regulations and countries.

73. Countries also consistently report that evaluations were more cost and resource intensive than expected. The questionnaire did not specifically address whether the benefits of the evaluation justified the total costs and resources invested. However many answers point to the positive long-term effects of the evaluations. In addition to the specific findings and corrective measures, the participative approaches of many of the reported evaluation projects also had important learning effects on regulators and other stakeholders. Such effects include a stronger appreciation and use of RIA as a policy development tool, as well as the benefits of having quantitative data available as the basis monitoring regulatory performance.

## ANNEX 1

### **Background**

Governments are progressing in the development of regulatory policies, investing significant resources in their regulatory management systems and applying a wide spectrum of regulatory tools and institutions. To further develop and improve regulatory policies, more evidence about their effects and results in terms of improved efficiency, transparency and accountability of their impact is needed. In recognition of this, OECD's PUMA Committee and its Working Party on Regulatory Management and Reform have decided to launch the project *Regulatory Performance – Ex post evaluation of Regulatory Policies*. This questionnaire on what regulatory tools and institutions are evaluated by governments is the first operational step of the project. The next stage will concern how evaluations can be improved and the results used.

### **Objectives of the questionnaire**

The questionnaire is an initial stock-taking exercise, intended to establish a first overview of OECD Member Countries' experiences in assessing regulatory tools and institutions. The results will be analysed to provide a picture of what tools and institutions are evaluated, and what policies or strategies guide these evaluations in Member countries.

To get the best results it is important to emphasise what is and what is not the focus of the questionnaire. The focus is *not* on assessing regulations themselves, nor on how particular regulatory tools and institutions are used or designed. The focus is solely on the policies, strategies and concrete experiences pertaining to the *assessment of regulatory tools and institutions*. However there can be overlaps. Sometimes evaluating regulations themselves can provide important insights into the efficiency of regulatory tools and instruments. Such evaluations should therefore also be considered as part of the focus of this questionnaire. Finally, the questionnaire focuses on experiences with ex-post evaluation as opposed to ex-ante evaluation.

As an example, the questionnaire is not about how RIAs are applied. Rather, the focus is on the concrete efforts to evaluate whether and how RIAs "performed" according their objectives as set out by OECD member countries (i.e. assessments of whether RIAs provided early, accurate and comprehensive information about regulatory impacts).

### **Target respondents**

The questionnaire is addressed to members of OECD's Working Party for Regulatory Management and Reform. To facilitate the process of answering the questionnaire, and to get as broad and detailed picture as possible, we encourage you to co-ordinate responses from different sections within your government. You may also want to involve previous colleagues, NGOs, academics, business organisations or trade unions who have been working specifically in this area. The questionnaire is intended to cover the central (federal) level of government only. However to illustrate interesting practices and experiences, respondents are welcome to include findings from the sub-national level as well.

### **Format and guidance**

The questionnaire offers a "tick-the-box" format as well as a set of open questions and possibilities for comments. While the tick-the-box format is intended to speed completion and help international comparison, the open questions and possibilities for comments reflect the novelty of the subject area. There is no strong conceptual framework for understanding and comparing methodologies



and experiences with assessing regulatory tools and institutions. Countries' comments and answers to the open questions will hopefully facilitate this. Respondents are therefore encouraged to supplement their responses with additional comments when appropriate. The instructions indicate in *ITALICS* when you can tick several answers for a question (*CHECK ALL THAT APPLY*).

The questionnaire is divided into two parts. The first part addresses countries' overall policies and strategies to evaluate regulatory tools and institutions. The second part of the questionnaire addresses the individual projects and assessments countries have undertaken to evaluate regulatory tools and institutions. In this section, respondents are asked to provide information about the specific objectives, methodologies, results, etc. of past or on-going assessments of regulatory tools and institutions. At the beginning of each section or sub-section a brief text will specify further the particular focus of the section.

A glossary of terms, including examples of approaches to evaluate regulatory tools and institutions is attached as Annex 1.

### **Publicity of information**

Please note that all or selected elements of the answers to the questionnaire may be made publicly available, unless specifically requested by the respondent.

### **Outcome of the project**

The findings of the questionnaire will be presented and discussed at an expert meeting in OECD Headquarters on 22 September 2003. A final report on ex-post evaluation of regulatory tools and institutions is scheduled to be published in late 2004. It will be based on the questionnaire, the expert meeting plus additional work by the Secretariat. The report will introduce a toolbox for regulators and policy-makers, which should provide guidance, methodologies and examples on how to evaluate regulatory tools and institutions, and how to use the results of such evaluations. Subject to available resources, a draft version of the report will be presented and discussed at an expert meeting in 2004. Member countries will in any case receive a draft report for written comments prior to finalisation.

### **Deadline**

**To enable a presentation and discussion of answers to the questionnaire at the 22 September expert meeting**, respondents are kindly requested to complete the questionnaire by **25 August 2003**. Please send the filled-in questionnaire to:

**Mr. Peter Ladegaard**

Administrator

Regulatory Management and Reform Division

Directorate for Public Governance and Territorial Development (GOV)

OECD

2, rue André-Pascal,

75775 Paris Cedex 16

France

The Secretariat realises that the time provided for answers collides with holidays in many OECD countries, and that involvement of stakeholders – particularly in countries with multi-level jurisdictions – may be difficult within the given time constraint. If you foresee problems in returning full answers to the questionnaire by the given deadline, kindly contact the Secretariat at your earliest convenience to discuss what elements can be provided as input for the September expert meeting, and what elements you will provide at a later stage.

## **Contacts**

Should you meet any difficulty in filling out the questionnaire, please do not hesitate to contact us. You may contact Peter Ladegaard at email: [Peter.ladegaard@oecd.org](mailto:Peter.ladegaard@oecd.org), telephone: +33145241906, or Peter Czaga at email: [Peter.czaga@oecd.org](mailto:Peter.czaga@oecd.org), telephone +33145149220.

## Part I. Overall policies/strategies to ex-post evaluation of regulatory tools and institutions

This section focuses on overall policies or strategies to evaluate regulatory tools and institutions. Defining characteristics of such a policy or strategy is that it is explicit, comprehensive and horizontal (i.e. going across ministries and involving a wide range of regulatory fields and regulatory tools and institutions). The policy/strategy may be independent or part of other policies (i.e. integrated in governments' regulatory reform policy). The questions below intend to grasp the specific form and scope of such a policy/strategy in your country. In case your government has no such overall policy or strategy, Part II provides opportunity to present specific and occasional experiences with evaluations of regulatory tools and institutions.

	Yes	No
<p><b>1. <u>Policy</u>: Does an explicit and current policy/strategy on ex-post evaluation of regulatory tools and institutions exist in your country?</b></p> <p>1. (please attach policy/strategy) <span style="float: right;"><input type="checkbox"/></span> <span style="float: right;"><input type="checkbox"/></span></p> <p>2. <i>If No, please answer question 2 below and then go to Part II</i></p> <p>3. <i>If Yes, please continue the questionnaire from question 3 below</i></p>		
<p><b>2. <u>Development</u>: Is a policy/strategy to evaluate regulatory tools and institutions currently under preparation or consideration?</b></p> <p style="text-align: right;"><input type="checkbox"/></p> <p style="text-align: right;"><input type="checkbox"/></p> <p><i>Comments on Question 2 (if necessary):</i></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>		
<p><b>3. <u>Status and mandate</u>: What is the status and mandate of your policy/strategy to evaluate regulatory tools and institutions?</b></p> <p><i>CHECK ALL THAT APPLY</i></p> <ul style="list-style-type: none"> <li>• Part of a broader regulatory quality and reform policy <span style="float: right;"><input type="checkbox"/></span></li> <li>• Part of a broader evaluation policy <span style="float: right;"><input type="checkbox"/></span></li> <li>• Based on primary or subordinate legislation <span style="float: right;"><input type="checkbox"/></span></li> <li>• Based on a government policy statement <span style="float: right;"><input type="checkbox"/></span></li> <li>• Other, please specify <span style="float: right;"><input type="checkbox"/></span></li> </ul> <p>_____</p> <p>_____</p> <p><i>Comments on Question 3 (if necessary):</i></p> <p>_____</p> <p>_____</p> <p>_____</p>		

		Yes	No
<b>4. <u>Objects of evaluations:</u> Does the policy/strategy specify which tools and institutions are to be evaluated?</b>			
If yes, which tools and institutions?		<input type="checkbox"/>	<input type="checkbox"/>
<i>CHECK ALL THAT APPLY</i>			
Tools	Institutions		
<ul style="list-style-type: none"> <li>• Regulatory Impact Assessments <input type="checkbox"/></li> <li>• Consultation mechanisms <input type="checkbox"/></li> <li>• Simplification measures – administrative and non-administrative <input type="checkbox"/></li> <li>• Tools to ensure high compliance <input type="checkbox"/></li> <li>• Alternatives to command-and-control regulation <input type="checkbox"/></li> <li>• Special support to SMEs in understanding and complying with regulations <input type="checkbox"/></li> <li>• Legislative oversight <input type="checkbox"/></li> <li>• Others, please specify <input type="checkbox"/> _____</li> </ul>	<ul style="list-style-type: none"> <li>• Independent regulators <input type="checkbox"/></li> <li>• Central government units responsible for promoting regulatory quality <input type="checkbox"/></li> <li>• Independent advisory committees <input type="checkbox"/></li> <li>• One-stop shops <input type="checkbox"/></li> <li>• Enforcement agencies <input type="checkbox"/></li> <li>• Others, please specify <input type="checkbox"/> _____</li> </ul>		
Comments on Question 4 (if necessary):			
_____			
_____			
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_____			
<b>5. <u>Drivers:</u> What have been the most significant drivers in the process of evaluating regulatory tools and institutions?</b>			
<i>CHECK ALL THAT APPLY</i>			
<ul style="list-style-type: none"> <li>• Budgetary concerns – need to prioritise the allocation of funds to the most efficient regulatory tools and institutions <input type="checkbox"/></li> <li>• Bottom-up learning – Positive experience with ex-post evaluation of regulatory tools and institutions at individual agencies or lower levels of government <input type="checkbox"/></li> <li>• Internal drivers – part of the ongoing pragmatic development and improvement of regulatory policy <input type="checkbox"/></li> <li>• Political pressure – a need to justify the costs of the regulatory management system <input type="checkbox"/></li> </ul>			

- Others, please specify \_\_\_\_\_

	Yes	No
6. <b>Frequency of evaluations:</b> Does the policy/strategy specify the frequency of such evaluations?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, please specify _____		

7. <b>Methodological requirements:</b> Does the policy specify or provide guidance on the methodology of evaluations?	<input type="checkbox"/>	<input type="checkbox"/>
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*If yes, please summarise methodological requirements (i.e. do they address data and data collection strategies, criteria for assessments, the use of benchmarks or indicators, analytical approaches, etc.)*

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	Yes	No
8. <b>Responsibility:</b>		
a. <b>Is there a dedicated unit or agency responsible for monitoring and implementing the policy/strategy to evaluate regulatory tools and institutions?</b>	<input type="checkbox"/>	<input type="checkbox"/>

*If yes, please inform of name and ministerial attachment of this unit or agency*

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b. **Who is held accountable for delivering against commitments on ex post evaluation policies and strategies?**

- Head of central government
- Heads of agencies
- Officials at other levels , please specify \_\_\_\_\_
- No specific accountability mechanisms apply

**9. Results:** Please describe some of the most important changes that took place or are expected to take place as a result of the evaluations. (Please, see examples for possible impacts of evaluations in Annex.)

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**10. Lessons and challenges:** What have been the most significant challenges encountered in the process of assessing regulatory tools and institutions?

*CHECK ALL THAT APPLY*

- More resource-demanding than expected
- Methodologically demanding
- Resistance from participating ministries/institutions
- Lack of political support/interest
- Other factors, please specify

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Comments on Question 9 (if necessary):

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**11. Other comments: Please provide any other relevant comments or information on your policy/strategy to evaluate regulatory tools and institutions.**

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## Part II: Past and ongoing projects for the evaluation of regulatory tools and institutions

In this section we would like you to provide information on past or ongoing projects that aim at evaluating regulatory tools and institutions. For each project you are kindly requested to answer a set of specific questions. (If several evaluations have been carried out of the *same* type of regulatory tool or institution, you may choose to provide information only on a number of these projects, selected on the basis of relevance and representativeness.)

We encourage you to co-ordinate answers to this section with colleagues and experts that conducted the evaluation and/or have detailed knowledge of the specific projects.

*PLEASE REFER TO ANNEX 1 FOR A GLOSSARY OF TERMS, INCLUDING EXAMPLES OF APPROACHES TO EVALUATE REGULATORY TOOLS AND INSTITUTIONS.*

### 1. Has your government carried out or is your government currently carrying out evaluations of the following regulatory tools and institutions?<sup>5</sup>

CHECK ALL THAT APPLY

#### Tools

- Regulatory Impact Assessments
- Consultation mechanisms
- Simplification measures – administrative and non-administrative
- Tools to ensure high compliance
- Alternatives to command-and-control regulation
- Special support to SMEs in understanding and complying with regulations
- Legislative oversight
- Others, please specify

#### Institutions

- Independent regulators
- Central government units responsible for promoting regulatory quality
- Independent advisory committees
- One-stop shops
- Enforcement agencies
- Others, please specify
- \_\_\_\_\_

\_\_\_\_\_

WHERE THE ANSWER IS YES, PLEASE FILL OUT A FORM FOR EACH PROJECT/EVALUATION

<sup>1</sup> Please note that although the options to fill out here are identical to those for question four on page five, this question addresses *specific past or on-going* evaluations, whereas question four on page five addresses the *objectives* on the ex-post evaluation policy, in case such policy exist.



**PROJECT DATA**

**Evaluation of regulatory tools and institutions**

PLEASE FILL OUT A COPY OF THIS FORM FOR EACH PAST OR ON-GOING PROJECT EVALUATING A REGULATORY TOOL OR INSTITUTION.

**2. Object of evaluation. Which tool or institution was evaluated?**

Tools

- Regulatory Impact Assessments
  - Consultation mechanisms
  - Simplification measures – administrative and non-administrative
  - Tools to ensure high compliance
  - Alternatives to command-and-control regulation
  - Special support to SMEs in understanding and complying with regulations
  - Legislative oversight
  - Others, please specify
- 

Institutions

- Independent regulators
- Central government units responsible for promoting regulatory quality
- Independent advisory committees
- One-stop shops
- Enforcement agencies
- Others, please specify
- \_\_\_\_\_

**3. Project description.**

- a. **Please summarize the background, motivation and objectives of the evaluation.** Was the project initiated as a follow-up to observed performance problems or as part of a regular or broader evaluation exercise? What were the specific objectives of the evaluation? Who was responsible for initiating and carrying out the evaluation? Duration of project. Etc.

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b. Did the evaluation ask questions on one or more of the following aspects of the regulatory tool and institution:

CHECK ALL THAT APPLY

- the cost and the efficiency
- the benefits
- the effectiveness
- continued appropriateness/ need for existence
- continued proportionality
- whether the ex ante appraisal was correct
- others, please specify \_\_\_\_\_

4. **Methodology:** Please give details of the methodological approaches that were used, and tick out the below categories for the specific technique and design.

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CHECK ALL THAT APPLY

**Techniques:**

- Econometric modeling
- Surveys
- Benchmarking
- Cost Benefit Analysis
- Indicators
- Case study
- Focus Group
- Discussion group
- Observational approach
- Test panel
- Other, please specify \_\_\_\_\_

**Design:**

- Focus on process
- Focus on outputs
- Focus on inputs
- Focus on outcome/impact
- Literature review
- Was the evaluation piloted in advance?
- Interview methodology (if applicable) 
  - Postal
  - Telephone
  - Face to face
  - Structured/semi-structured
  - Open questioning
- Other, please specify \_\_\_\_\_

5. **Results:** Please describe the main findings, results and recommendations of the evaluation. Please describe any concrete changes made to the regulatory tool or institution as a result of the evaluation.

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6. **Lessons and challenges:** What were the most important lessons learned and challenges faced by this project? How could such challenges be overcome in future projects? (Was it more or less resource-demanding than expected, methodologically demanding, resistance from other stakeholders, lack of support/interest from the political level, etc.)

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**Contact.** Please provide name and e-mail address for person to contact for any supplementary information.

Name \_\_\_\_\_ E-Mail \_\_\_\_\_

Please enclose any other relevant material on the project.

## **Annex 1. Glossary of terms, including examples of approaches to evaluate regulatory tools and institutions**

### **Administrative simplification measures**

#### **Alternatives to command and control regulations**

Alternative policy instruments other than command and control regulations used with the purpose to obtain policy goals. Alternative policy instruments include instruments such as performance based regulation, process regulation, waiver or variance provisions, co-regulation, self-regulation, contractual arrangements, voluntary commitments, tradable permits, taxes and subsidies, insurance schemes, information campaigns.

*Examples of ex-post evaluation:* examining the process of assessing alternative policy instruments while reviewing old or producing new regulations, and, alternatively, evaluating the impact and the performance of regulatory alternatives on an ex post basis.

#### **Central government units responsible for promoting regulatory quality**

Agencies that are located in the centre of the government to monitor, oversee, and promote progress on regulatory reform and management issues across the whole of the public administration.

*Examples of ex-post evaluation:* examining the activities of these bodies in terms of providing advice and support throughout the administration in regulatory issues, reviewing regulatory proposals during the policy development process, and advocacy of regulatory reform, performing a cost-benefit analyses of the operations of the agency, and measuring the result of the activities by examining changes in the quality of regulations and regulatory reform measures taken.

#### **Evaluation**

A systematic, analytical assessment addressing important aspects of an object (be it regulations, organisations, functions, programmes, laws, projects, etc.) and its value, with the purpose of seeking reliability and usability of its findings. Ex-ante evaluations are performed before the implementation of the object of evaluation, whereas ex-post evaluations take place after completion.

#### **Enforcement agencies**

Agencies in charge of enforcing regulations by monitoring the compliance of the target population with the regulations, detecting non-compliance and initiating legal procedures against those not complying with regulations.

*Examples of ex-post evaluation:* activity report on the number of inspections conducted, number and types of enforcement actions taken, number of non-compliant activities detected; performing a cost benefit analyses of the agency's operations, and examining developments in the regulated area by analysing compliance rate and trends that indicate whether the enforcement agency managed to achieve its primary objective of increasing compliance.

### **Impact of evaluations**

Reforms and improvements implemented in the design and functioning of the regulatory tools and institutions. Some examples: changes in the methodologies applied or in the focus of RIAs; widening or narrowing the scope of consultations, changes in its timing or in the feedback mechanisms in place; redesign of one-stop shops by incorporating new or dropping some existing functions; changes in the institutional setup, management, regulatory functions or accountability arrangements of independent regulators.

### **Independent advisory committees**

Selected experts and/or interested parties (*e.g.* social partners, environmental groups) are brought together to form a consultative body, either on an *ad hoc* or a standing basis.

*Examples of ex-post evaluation:* examining the activities of the committee based on the number and type of meetings held, decisions taken, recommendations formulated; assessing the influence of the committee by examining how many and which of its recommendations were implemented, and measuring the material cost and time invested into the committee work by those who set up and manage the committee and those who participate in it.

### **Independent regulators**

Administrative agencies with regulatory power that possess a degree of independence from the ministries or even from the executive power.

*Examples of ex-post evaluation:* measuring economic developments on the regulated market; reviewing how the regulator performs on its non-economic (environmental, social, security of supply, etc.) objectives; examining the independence and the accountability of the regulator; measuring the cost efficiency of the functioning of the organisation, and reviewing the corporate management practices of the organisation.

### **Legislative oversight**

Legislative oversight refers to the legislature's review and evaluation of selected activities of the executive branch of government. The legislative branch conducts oversight activities because in addition to producing legislation for the state, it also has a duty to ensure that existing programs are implemented and administered efficiently, effectively, and in a manner consistent with legislative intent.

*Examples of ex-post evaluation:* examining the monitoring activities performed by the body (committee, unit, or department) in charge of legislative oversight functions; examining the procedures of the legislative oversight activities; measuring the impact of legislative oversight by looking at the changes implemented in the executive branch.

### **One-stop shops**

Offices where applicants and others interested in government services can obtain all the information necessary to their query or can process different applications at one location. They are also often referred to as a "service counter", "single window" or "information kiosk".

*Examples of ex-post evaluation:* measuring of the costs (time and material) saved for clients and for the providers of services; measuring of the reduction achieved in the number and the complexity of administrative requirements placed on enterprises and citizens; surveying the satisfaction of clients with administrative services, and measuring and analysing changes in the behaviour the target population, such as higher compliance rate, regulations better meeting their objectives, etc.

### **Public consultation mechanisms**

Mechanisms include three related forms of interaction with interested members of the public: 1) notification, that is the communication of information on regulatory decisions to the public; 2) consultation, that involves actively seeking the opinions of interested and affected groups; and 3) participation, that is the active involvement of interest groups in the formulation of regulatory objectives, policies and approaches, or in the drafting of regulatory texts.

*Examples of ex-post evaluation:* checking compliance with ex ante defined standards of a good consultation; examining the level of openness and transparency; checking the effectiveness of the consultation by examining how many and what type of recommendations were incorporated, and, alternatively, measuring the burden (cost and time) placed on those who organised the consultation and those who were consulted.

### **Regulatory Impact Analysis**

Systematic process of identification and quantification of important benefits and costs likely to flow from adoption of a proposed regulation or a non-regulatory policy option under consideration. May be based on benefit/cost analysis, cost effectiveness analysis, business impact analysis etc.

*Examples of ex-post evaluation:* “checklist-approach” - examines whether the design and the implementation of the RIA is in compliance with ex-ante defined standards; “technical approach” - assesses the methodologies used in the RIAs, and “performance approach” - compares the actual effects of the regulations with those effects anticipated by the RIA.

### **Regulatory Policy**

An explicit policy that aims to continuously improve the quality of the regulatory environment by maximising the efficiency, transparency and accountability of regulation. Regulatory policy is an integrated approach to the application and governance of regulatory tools and institutions. Regulatory policies do not focus on the “substance” of regulations per se (*i.e.* regulations about environmental protection or food safety), but about creating tools and the optimal framework for producing and reviewing regulations. Key purposes of regulatory policies are 1) to improve the quality of regulatory decisions by generating relevant information to stakeholders and decision-makers about the expected consequences of the policy decision, and 2) to ensure that regulatory decisions are implemented and complied with.

### **Simplification measures - administrative**

Measures that aim to reduce administrative burdens (paperwork and informational requirements) imposed by governments on enterprises, citizens and the public sector. They include diverse instruments such as plain language drafting, physical one-stop shops, simplification of licensing procedures, time limits established for decision making, and IT driven mechanisms to simplify dealings with administrations, such as e-government initiatives, web portals, etc.

*Examples of ex-post evaluation:* sporadically collected evidence from OECD countries shows that the evaluation of administrative simplification measures usually take the following ways and approaches, however, other options are also likely to exist: measuring the costs (time and material) saved for clients and for the providers of services; measuring the reduction achieved in the number and the complexity of administrative requirements placed on enterprises and citizens; surveying the satisfaction of clients with services provided by administrations, and measuring and analysing changes in the regulated area, such as higher compliance rate, regulations better meeting their objectives, etc.

### **Simplification measures – non-administrative**

Simplifying existing regulations by reviewing their substance and/or changing the legislative approach taken. The aim is to reduce not only administrative but any regulatory burdens imposed by governments on enterprises, citizens and the public sector. The reviews can be generalised, covering the entire body of the regulation, or more specific concentrating on a type of regulation or sector.

*Examples of ex-post evaluation:* assessing the scope of regulations affected and the type of changes introduced by the simplification measures; looking at the effects by measuring the reduction achieved in regulatory burdens; evaluating the activities and the procedures of the body in charge of the review.

### **Special support to SMEs in understanding and complying with regulations**

Measures that aim at 1) providing active assistance to help meet compliance requirements of regulations. 2) exempting or modifying regulations themselves, to make them less onerous for SMEs, and 3) putting in place specific mechanisms to ensure that regulatory design takes better account of SMEs' needs and concerns. Examples for tools and practices include small business impact statements, compliance assistance, waivers of penalties, regulatory fairness hotlines, expert advisors, "tiering" of regulations, sunset clauses, and targeted compliance cost surveys.

*Examples of ex-post evaluation:* measuring activities taken by regulators in providing assistance to SMEs or creating regulatory design that takes better account of small businesses needs and concerns; examining new regulations created or old ones amended in terms of their specific features for SMEs, and reviewing outcomes, such as costs involved for SMEs to comply with regulation, or more generally, the number of new SMEs created, their competitiveness, etc.

### **Tools to ensure high compliance**

Measures and tools used either in the design or implementation stage that aim at increasing or maximizing the compliance of the target population with regulations. Some examples are:

- Compliance assistance for business: providing technical advice and information to help enterprises to comply with regulation;
- Providing rewards and incentives for high/voluntary compliance;
- Developing and incorporating alternative options for compliance with the regulation;
- Monitoring compliance: collecting information on the compliance of the target population and producing indicators on compliance rates and trends, and
- Enforcement mechanisms that vary from dialogue and restorative justice (building up the possibility for compliance for the future through persuasion and technical advice), to responsive enforcement, such as penalties.

*Examples of ex-post evaluation:* measuring and analysing activity outputs like processes of compliance friendly regulatory design, compliance assistance provided for the target population, compliance monitoring and enforcement activities, and, alternatively, monitoring and analysing compliance rates and trends that provide information on whether regulatory design and implementation managed to achieve the desired results or not.

#### 4. PAPERS AND PRESENTATIONS

*Evaluating Central Regulatory Institutions,*

**Scott Farrow and Curtis Copeland**, U.S. General Accounting Office, USA.

*Evaluating Regulatory Impact Analyses,*

**Winston Harrington and Richard D. Morgenstern**, Resources for the Future, Washington, USA.

*Evaluating Independent Regulators,*

**Fabrizio Gilardi**, Institut d'Etudes Politiques et Internationales, Université de Lausanne, Switzerland.

##### Other papers and presentations

*Regulating for Results - a Canadian perspective,*

**Hélène Quesnel**, Senior Privy Council Officer, Regulatory Affairs Division, Regulatory Affairs and Orders in Council, Privy Council Office, Canada.

*Audit of the Legislative Function in Dutch Ministries,*

**Jan Tom Bos**, Head of Department for Legislative Quality, Ministry of Justice, Netherlands.

*Evaluating Regulatory Impact Analyses,*

**Winston Harrington**, Senior Fellow, Resources for the Future, United States.

*UK Evaluation of the Quality and Effectiveness of RIAs,*

**Ed Humpherson**, Director, National Audit Office (NAO), and **Mark Courtney**, Deputy Director, Regulatory Impact Unit, Cabinet Office, United Kingdom.

*The NNR Regulation Indicator- an assessment by the Swedish Board of Industry and Commerce for Better Regulation of the Swedish Government's RIA practices,*

**Lennart Palm**, President, Board of Industry and Commerce for Better Regulation, Sweden.

*An ex post evaluation of a regulatory impact assessment tool - the case of the Danish Business Test Panels,*

**Katrine Andreassen**, Head of Division, Division for Better Regulation of Business, Danish Commerce and Companies Agency, Ministry of Economic and Business Affairs, Denmark.

*Evaluating Central Regulatory Institutions,*

**Scott Farrow**, Chief Economist, U.S. General Accounting Office.

*Evaluating One-stop Shops; Lessons from the Dutch case,*

**Dr. André Nijssen**, Director, EIM Consultants Ltd, Netherlands.

*OECD's work on regulatory quality indicators,*

**Peter Ladegaard**, Administrator, Regulatory Management and Reform Division, Public Governance Directorate (GOV).

*The European Commission's Work on Indicators on Regulatory Quality,*

**Mona Björklund**, Administrator, DG Enterprise, European Commission.



## EVALUATING CENTRAL REGULATORY INSTITUTIONS

Scott Farrow and Curtis Copeland,<sup>6</sup> U.S. General Accounting Office, United States

Alternative conceptual and empirical frameworks are discussed for the evaluation of central regulatory institutions. Three conceptual frameworks are presented: the rational actor, bureaucratic process, and governmental politics. Several empirical designs for evaluation are also discussed along with data concerns. Although purposes and institutional details will vary by national setting, several specific types of analysis are identified in the conclusion.

Central regulatory oversight organizations, whether part of the executive or legislative bodies or independent, are an institutional response to the complexity and multiple interests involved in modern regulations. While some analytical effort has been focused on analyzing the outcome of regulations from a Government, relatively little attention has been paid to evaluating the bureaucratic “treatment” represented by a regulatory institution such as the central government unit responsible for promoting regulatory quality or other forms of advisory committee or central groups. This paper is a small expansion on material to be presented verbally at an experts meeting of the Organization of Economic Cooperation and Development on the subject of Regulatory Performance: Ex post Evaluation of Regulatory Policies. The paper will proceed by discussing the importance of institutional purposes of the central regulatory institutions and three different frameworks for evaluation, analysis comparisons and data challenges, a more extended discussion of the United States example of a central regulatory oversight body with multiple objectives, and a short list of approaches that are likely to be implementable in international settings.

### *Institutional Purposes and Frameworks for Organizational Evaluation*

Regulatory institutions may have one or more clearly stated purposes, and may also respond to a variety of less clear or unstated purposes. Synonymous with “purpose” in this context are words like “institutional drivers,” or “objectives.” Among purposes can be: a) achieving the agenda of the Government in power and b) improving the “quality” of regulation which in turn can have many dimensions such as direct effectiveness, cost-effectiveness, distributional impact, transparency, timeliness, ease of administration, participation, scientifically sound, and so on. Each country and each oversight institution will likely involve a special combination of purposes, powers and impacts on regulation. This paper attempts to provide relatively general approaches to evaluating central regulatory institutions. Specific examples of evaluation then follow, although quantitative results are not provided (some results are available in the references provided).

Numerous dimensions to evaluate regulatory institutions exist or could be conceived (see Appendix I for the list provided with the OECD questionnaire.) Do common conceptual and empirical approaches for evaluation exist? Consider three views of the determinants of organizational outcomes popularized in the United States by a study called “Essence of Decision<sup>7</sup>.” The author identified three frameworks for decision-making (slightly modified here) of a: 1) rational economic actor, 2) bureaucratic process, and 3) political economy (or governmental politics). Each of the three frameworks considers the outcome of a governmental organization to be the product of different activity, and in many instances, there is validity in each of the approaches, they are not mutually exclusive. Evaluation of a regulatory authority can use the

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<sup>6</sup> This paper reflects the views of the authors and not of the U.S. General Accounting Office or other parts of the U.S. Government. We appreciate discussions with Bob Hahn and Lisa Heinzerling although the views presented are those of the authors.

<sup>7</sup> Allison, Graham T., *Essence of Decision*, Little Brown and Company, Boston, 1971.

frameworks to identify characteristics associated with each type of decision-making. Nationally defined purposes and values may place more or less emphasis on different characteristics.

Rational economic actor: This framework views the output of a governmental organization as the result of explicit decisions to identify and select actions that maximize economic values. The organization may seek to analyze, advise, modify, or support regulatory choices consistent with economic criteria such as cost-effectiveness or net benefits. The organization would make both intermediate decisions, such as identifying and producing information, and final decisions, such as choosing types of regulation, that are consistent with characteristics of economic performance measures.

Bureaucratic processes: This framework views the output of a governmental organization as the result of standard bureaucratic processes based on statute or internal procedures. The organization may seek to meet goals related to transparency, record keeping, guidance provided, and so on. To the extent that the procedures are created by a legitimate process, the organization would make both intermediate decisions, such as the timeliness of replies, and final decisions, such as the transparency of proposed regulatory changes, that are consistent with the characteristics of legitimately defined bureaucratic processes.

Political economy/governmental politics: This framework views the output of a governmental organization as the push and pull of conflicting internal and external political forces based on the actions, information, and power of political actors. Most obviously, regulatory institutions would be seen as responding to the political agenda of officials in an internal hierarchy, but also to the agenda of various sources of external political power, such as financial supporters or voters with voting power. The organization would make both intermediate decisions, such as sources of information, and final decisions, such as the distribution of costs and benefits, that are consistent with characteristics of the political interests of the Government.

### ***Analytical Comparisons and Data Challenges***

Whether the rational actor, bureaucratic process, or political framework is used, there are some common issues regarding the basis of comparison. Each of these frameworks suggests different variables for evaluation but the qualitative and quantitative data and data analysis techniques do not depend on the framework. For instance, multivariate regressions could be used to evaluate an organization from the perspective of any of the three frameworks. Other, less quantitative approaches could also be used in any of these frameworks, and may be particularly applicable in assessing the oversight body's performance in the political economy/governmental politics arena.

Defining Y as the outcome dimension of interest (ignoring signs) and X as a set of explanatory variables, some common bases for comparison are:

1. Comparisons of outcomes before and after creation of the regulatory institution whether conditional on other factors or not. This analysis looks for a break point due to the intervention such as:  $\Delta Y \neq 0$ ; or  $\Delta Y | X \neq 0$  (noting that  $|$  means "conditional on"). Examples include examining the cost-effectiveness of regulations before and after the creation of a central review group, or a change in policy such as targeting timeliness to provide a service. Note that multiple regression approaches have the potential to control or test for aspects of several of the models, such as the rational actor and the political economy model.
2. Meeting exogenous criteria:  $Y < Y^*$  where  $Y^*$  is exogenously set by statute, bureaucratic procedure, or a professional standard. Examples include whether specific activities are carried out, such as recording meetings with interested parties, developing a strategic plan, or whether a

value, such as a discount rate, is used correctly in an analysis. Individual criteria can be combined into scorecards that may represent formal multi-attribute utility measurements or a more informal weight of outcomes.

3. Accurate predictions: ex-ante (prospective) estimates are consistent with ex post (retrospective): A typical test is whether Expected Value ( $Y_{\text{forecast}} = Y_{\text{actual}}$ ). This is a sub-set of the first item where the treatment over time is the actual behaviour of, for instance, the economy or the implementing agency.
4. Consistency of treatment or outcome across groups, A or B, perhaps including conditioning factors:  $Y_A | X = Y_B | X$ . Examples include similar treatment for different agencies, business groups, or other parts of the public. The converse test is to find inconsistency across two groups that are not expected to be treated equally; perhaps such as between categories defined as major or minor regulations.

These types of comparisons can often be made using descriptive statistics, regression analysis, or other statistical approaches. Qualitative data can sometimes be quantified in the form of binary outcomes, ordered outcomes, or discrete outcomes. While the data could potentially be created through a randomization process, much of the data of which we are familiar for regulatory institutions are created as a result of the non-random actions of the agency. Consequently so called “quasi-experimental” approaches are more likely to be used. However, in the evaluation of compliance or specific programs, there may be opportunities for a randomized experimental approach.

### ***Data and Identification***

Regulatory decisions involve bureaucratic budgets, private incomes, and political power. Reliable data, or even the availability of data, are not guaranteed in such situations. Incentives to avoid recording data involve the interests of governments to “speak with one voice,” objectives may be conflicting, there can be interests in obscuring the political trade-offs that occur, and some data can be relatively non-standard such as tracking text changes in documents or the nature of meetings that occur.

Importantly, regulatory processes have multiple players such that the simultaneous activity of the parties may make identification of individual impacts difficult. For instance, an agency may interact with the central regulatory authority in many ways so that it can be difficult to separate the product of the originating agency and the review agency. In such circumstances, only the combined final product may be observable.

### ***Illustration from the United States: Central Regulatory Review***

In the United States, the primary central regulatory review office is the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget. Institutionally, this places the organization in within the Executive Office of the President but with a continuity of operation through a core of professional staff in the Office of Management and Budget. There is some indirect Legislative and Judicial branch oversight either in an ultimate stage of review or after final publication. The latter reviews are a part of the checks and balances of the system. To the extent they are exercised they can represent either political competition or a weakness in OIRA review. The focus to follow will be on OIRA.

While some details are omitted in the following discussion, the official institutional objectives of OIRA review of regulations is set out by an Executive Order<sup>8</sup> (sometimes modified in different

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<sup>8</sup> Currently Executive Order 12866.

administrations) which states that oversight is necessary to ensure that rules, the actionable item, are consistent with: 1) the President's priorities, 2) applicable law, and 3) principles laid out in the Executive Order that involve the presentation of economic and distributional information. The applicable laws are typically of two types: 1) authorizing statutes that provide the authority to agencies to regulate (such as the Clean Air Act or the Occupational Safety and Health Act), and 2) Procedural rulemaking statutes or guidance such as the Administrative Procedures Act and the Regulatory Flexibility Act and Executive Orders). The principles identified in the Executive Order involve a more complex set of directions for a written report including:

- General procedures and objectives: for example, clearly identify a problem, identify alternatives, and design regulations to be cost-effective.
- Assessment criteria if a regulatory approach is chosen: for example, assess both the costs and benefits and propose or adopt a regulation only if the benefits justify the costs; or to assess the effects on State, local and tribal governments.
- Procedural criteria: for example, provide meaningful guidance to agencies, complete reviews in a specified time, and disclose contacts with outside parties. Although not explicitly stated, there is an implicit presumption that OIRA will review rules in a consistent fashion.

Other principles and details of coordination between the OIRA (the central review agency) and the proposing agencies exist.

### *Using the three frameworks*

**Rational economic actor:** Several of the principles of the Executive Order are consistent with a rational actor model that identifies a problem and alternatives, evaluates alternatives on key measures such as net benefits, cost-effectiveness, or distributional impacts; and makes a decision. If data are available on elements of regulation, various statistical tests can be carried out with some of the general analysis design considered in the previous section<sup>9</sup>.

Define  $Y_{i1}$  as the cost-effectiveness of regulation  $i$  and  $X$  as possible explanatory variables for differences in cost-effectiveness including an indicator variable (taking the value 0 or 1) for the start of central regulatory review. This sets up a before and after comparison allowing for some conditioning factors in a multiple regression framework. In some situations an analyst can test for the significance of the introduction of the review process or other significant policy changes.

Alternatively, consider an outcome whether the review agency action resulted in a discrete outcome, such as a rejection or a prompt (request) letter. In that case the same framework applies but analyses involve a binary (discrete) variable as the  $Y$  measure.

The Rational Economic Actor framework can be applied in both an ex-ante and an ex post framework. In particular, a determination may be made ex-ante that the benefits justify the costs on the basis of information about quantitative and qualitative impacts and monetized benefits and costs. Whether the determination is correct can be determined, at least in part, by assessing ex post whether the anticipated benefits or costs occurred. This type of evaluation has two potential evaluation aspects. The results can inform estimates of future ex-ante benefits if understandable differences are found between the two

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<sup>9</sup> Some of these tests are carried out on historical data for OIRA in Farrow, S., "Improving Regulatory Performance: Does Executive Oversight Matter?" Carnegie Mellon University, Pittsburgh, USA and available at <http://www.aei.brookings.org/publications/index.php?tab=topics&topicid=29> in year 2001.

estimates. The results can also inform ongoing regulatory implementation. The ex post evaluation may identify ways to improve implementation given what actually occurs, or it may call into question the original determination whether the benefits justified the costs.

The Rational Economic Actor framework can be applied in both an ex-ante and an ex post framework. In particular, a determination may be made ex-ante that the benefits justify the costs on the basis of information about quantitative and qualitative impacts and monetized benefits and costs. Whether the determination is correct can be determined, at least in part, by assessing ex post whether the anticipated benefits or costs occurred. This type of evaluation has two potential evaluation aspects. The results can inform estimates of future ex-ante benefits if understandable differences are found between the two estimates. The results can also inform ongoing regulatory implementation. The ex post evaluation may identify ways to improve implementation given what actually occurs, or it may call into question the original determination whether the benefits justified the costs.

**Bureaucratic process framework:** Numerous aspects of procedure and observable milestones are identifiable in the United States<sup>10</sup>. Some of these are potentially observable, such as meeting timeliness milestones, providing guidance, and recording contacts with the public. Other measures are less easily observable unless explicit statements are made such as consistency with various legal provisions, although if there is any confusion about this, it is likely to appear in the form of a lawsuit as many rules are litigated in the courts. In general, the observable measures can also be evaluated using several of the evaluation designs such as before and after analysis, or by tracking a time trend of outcomes for meeting some criteria.

While OIRA does not appear to have adopted a checklist approach to the linkage between guidance it provides to the agencies and its final review, proposals exist to extend the bureaucratic process to the professional evaluation of regulatory impact reporting. As with other bureaucratic processes, evaluation review can then be carried by assessing the checklist<sup>11</sup>. Alternatively, OIRA's performance could be assessed by examining its adherence to self-imposed bureaucratic performance standards (*e.g.*, timeliness, transparency, or equivalency across issues/agencies).

**Political Economy/Governmental Politics:** This framework for decision-making is also one of the most controversial. It is understandable that a central regulatory agency has the task of encouraging agency consistency with the agenda of the Government. How to measure whether consistency exists and whether political power is exercised is more difficult. A statistically oriented evaluation of the political determinants of decisions is sometimes possible<sup>12</sup> although this does not provide direct evidence of consistency with the Government's agenda. Various count measures of consistency between a planned agenda and a realized agenda may be possible or of contacts or advice from different parties. Alternatively, there may be qualitative observations based on interviews or other sources of data although data may be difficult to obtain. In the United States, a regulatory agenda is published and many agencies have strategic plans. How or whether there is consistency between the central regulatory agency and these plans has not been explored to our knowledge. The views of other actors (*e.g.*, regulatory agencies,

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<sup>10</sup> The U.S. General Accounting Office is carrying out a review of recent activities of OIRA that on completion will be available to the public at [www.gao.gov](http://www.gao.gov).

<sup>11</sup> Hahn, R. Costs, Benefits, and Lives Saved, Cambridge University Press, and Hahn, R., Jason K. Burnett, Yee-Ho I. Chan, Elizabeth A. Mader, Petrea R. Moyle, "Assessing the Quality of Regulatory Impact Analyses." AEI-Brookings Working Paper 00-01. Jan 2000.

<sup>12</sup> See for example, Congleton, R., ed The Political Economy of Environmental Regulation, University of Michigan Press, 1995; or Magat, W., A Krupnick, and W. Harrington, Rules in the Making: A Statistical Analysis of Regulatory Agency Behaviour, Resources for the Future Press, Washington, D.C. 1986.

interest groups, or even members of the political leadership) may prove to be extremely valuable in assessing the oversight body's performance in this area.

**Integrated perspectives:** some analyses allow simultaneous consideration of aspects of all three frameworks. Multivariate regressions can consider several types of data simultaneously from the three frameworks. Scorecards that consider multiple aspects can be developed, and even extended into multi-attribute utility measures. A recent effort by the U.S. Office of Management and Budget, the PART (Performance and Accountability Reporting Tool) form, was applied to regulatory and other aspects of Government management. The structured questions demonstrate one method to create an evaluation of a central regulatory institution although it has not been used to date for that purpose.<sup>13</sup>

An important difficulty exists, no matter the framework, when the reviewing agency interacts repeatedly with the agency in the process as occurs with OIRA and the subject matter agencies. There is an aspect of a repeated game to regulatory review in which the outcomes at various stages is the outcome of simultaneous strategies and responses by each party (this is similar to a governmental politics approach.) Observed data may not cleanly identify the impact of the central regulatory body separate from that of the proposing agency. Does it matter? If one purpose of the central review group is to change the nature of the process and outcome, what matters is the final regulatory outcome even if it is not uniquely attributable to one organizational source or another. In that case the observed characteristics of the final regulation, whether outcome or process characteristic, may be taken to reflect the combined efforts of the agency and the review body and the evaluation can focus on changes over time or meeting pre-determined criteria.

***Eight practical ways to evaluate a central regulatory review group***<sup>14</sup>

1. Gather quantitative data on the predicted economic performance (net benefits or cost-effectiveness) of regulation over time. Test for the statistical presence of the central regulatory group or for a trend.
2. Gather data on the characteristics of regulatory impact or other such assessments, such as whether they quantify impacts, monetize benefits or costs, or develop a present value net benefit measure in a way consistent with central office guidance. Determine if there are differences across agencies or over time.
3. Evaluate or carry out evaluations that compare ex-ante with ex post outcome assessments.
4. Gather data on the number of times the regulations are changed by steps outside of the process such as legislative or judicial review.
5. Gather data on the oversight agency's adherence to procedural/bureaucratic process requirements (e.g., the number/percent of reviews completed within established time frames, or the extent to which the oversight body or regulatory agencies it oversees complies with transparency requirements).

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<sup>13</sup> The PART questions for a regulatory agency are reprinted in Appendix 2, noting that the original form at <http://www.whitehouse.gov/omb/budget/fy2004/pma.html> contains further information in the comments of an Excel spreadsheet, and in supporting documentation.

<sup>14</sup> Reminder: these reflect only the views of the authors and not of the U.S. Government or the U.S. General Accounting Office.

6. Determine the extent to which the oversight body's review results in changes to agencies' rules, and determine whether there are statistically significant differences in the extent of the changes across agencies or issues (*e.g.*, agricultural versus environmental).
7. Create or modify a scorecard such as that used by the U.S. OMB for regulatory agencies to reflect the country specific circumstances and repeat over time.
8. Interview agency officials and interest group representatives, focusing on such issues as the extent to which the oversight body's review is driven by political considerations versus more objective/rational factors (*e.g.*, maximization of economic values).

## **Appendix I**

### ***Examples of ex post evaluation from the OECD questionnaire on Regulatory Policies***

For central government units responsible for promoting regulatory quality: examining the activities of the bodies in terms of:

- Providing advice and support throughout the administration in regulatory issues
- Reviewing agency proposals during the policy development process
- Advocacy of regulatory reform
- Performing a cost-benefit analyses of the operations of the agency
- Measuring the result of activities by examining changes in the quality of regulations and regulatory reform measures taken



## Appendix II

Example of PART tool available at: <http://www.whitehouse.gov/omb/budget/fy2004/pma.html>

### OMB Program Assessment Rating Tool (PART) Regulatory Based Programs

Name of Program:

#### Section I: Program Purpose & Design (Yes, No, N/A)

	Questions	Ans.	Explanation	Evidence/Data	Weighting	Weight Score
1	<i>Is the program purpose clear?</i>				20%	
2	<i>Does the program address a specific interest, problem or need?</i>				20%	
3	<i>Is the program designed to have a significant impact in addressing the interest, problem or need?</i>				20%	
4	<i>Is the program designed to make a unique contribution in addressing the interest, problem or need (i.e., not needlessly redundant of any other Federal, state, local or private efforts)?</i>				20%	
5	<i>Is the program optimally designed to address the interest, problem</i>				20%	
<b>Total Section Score</b>					<b>100%</b>	<b>0%</b>

#### Section II: Strategic Planning (Yes, No, N/A)

	Questions	Ans.	Explanation	Evidence/Data	Weighting	Weight Score
1	<i>Does the program have a limited number of specific, ambitious long-term performance goals that focus on outcomes and</i>				26%	
2	<i>Does the program have a limited number of annual performance goals that demonstrate progress toward achieving the long-term</i>				26%	
3	<i>Do all partners (grantees, sub-grantees, contractors, etc.) support program planning efforts by committing to the annual and/or long-</i>				0%	0.0
4	<i>Does the program collaborate and coordinate effectively with related programs that share similar goals and objectives?</i>				4%	
5	<i>Are independent and quality evaluations of sufficient scope conducted on a regular basis or as needed to fill gaps in performance information to support program improvements and evaluate effectiveness?</i>				10%	
6	<i>Is the program budget aligned with the program goals in such a way that the impact of funding, policy, and legislative changes on</i>				10%	
7	<i>Has the program taken meaningful steps to address its strategic</i>				12%	
(Reg 1.)	<i>Are all regulations issued by the program/agency necessary to meet the stated goals of the program, and do all regulations clearly indicate how the rules contribute to achievement of the goals?</i>				12%	
<b>Total Section Score</b>					<b>100%</b>	<b>0%</b>

**Action III: Program Management (Yes, No, N/A)**

	Questions	Ans.	Explanation	Evidence/Data	Weighting	Weight Score
1	Does the agency regularly collect timely and credible performance information, including information from key program partners, and use it to manage the program and improve performance?				10%	
2	Are Federal managers and program partners (grantees, subgrantees, contractors, etc.) held accountable for cost, schedule				5%	
3	Are all funds (Federal and partners') obligated in a timely manner and spent for the intended purpose?				5%	
4	Does the program have incentives and procedures (e.g., competitive sourcing/cost comparisons, IT improvements) to measure and achieve efficiencies and cost effectiveness in				5%	
5	Does the agency estimate and budget for the full annual costs of operating the program (including all administrative costs and allocated overhead) so that program performance changes are				5%	
6	Does the program use strong financial management practices?				5%	
7	Has the program taken meaningful steps to address its				5%	
(Reg 1.)	Did the program seek and take into account the views of affected parties including state, local and tribal governments and small				10%	
(Reg 2.)	Did the program prepare, where appropriate, a Regulatory Impact Analysis that comports with OMB's economic analysis guidelines and have these RIA analyses and supporting science and economic data been subjected to external peer review by qualified				10%	
(Reg 3.)	Does the program systematically review its current regulations to ensure consistency among all regulations in accomplishing				10%	
(Reg 4.)	In developing new regulations, are incremental societal costs and				10%	
(Reg 5.)	Did the regulatory changes to the program maximize net benefits?				10%	
(Reg 6.)	Does the program impose the least burden, to the extent practicable, on regulated entities, taking into account the costs of				10%	
<b>Total Section Score</b>					<b>100%</b>	<b>0%</b>

**Action IV: Program Results (Yes, Large Extent, Small Extent, No)**

	Questions	Ans.	Explanation	Evidence/Data	Weighting	Weight Score
1	Has the program demonstrated adequate progress in achieving its long-				30%	
	Long-Term Goal I: Target: Actual Progress achieved toward goal:					
	Long-Term Goal II: Target: Actual Progress achieved toward goal:					
	Long-Term Goal III: Target: Actual Progress achieved toward goal:					
2	Does the program (including program partners) achieve its annual				30%	
	Key Goal I: Performance Target: Actual Performance:					
	Key Goal II: Performance Target: Actual Performance:					
	Key Goal III: Performance Target: Actual Performance:					
Footnote: Performance targets should reference the performance bas						
3	Does the program demonstrate improved efficiencies and cost effectiveness in achieving program goals each year?				10%	
4	Does the performance of this program compare favorably to other programs with similar purpose and goals?				0%	
5	Do independent and quality evaluations of this program indicate that the program is effective and achieving results?				15%	
(Reg 1.)	Were programmatic goals (and benefits) achieved at the least incremental societal cost and did the program maximize net				15%	

## EVALUATING REGULATORY IMPACT ANALYSES

**Winston Harrington and Richard D. Morgenstern, Resources for the Future, United States**

This paper considers various perspectives on the evaluation of regulatory impact analyses (RIAs) of government decisions. We take the position that RIAs should not be evaluated simply on the basis of their quality as stand-alone documents, although that is an important consideration. Nor should they be evaluated based only on the implicit predictions they make about regulatory outcomes, although that is important as well. They should also be judged in a larger context: whether they advance the objectives of the overall regulatory process. We will start with the origin of RIAs, their purposes, both stated and unstated, and the various uses to which they have subsequently been put. It is impossible to evaluate an RIA without an understanding of where RIAs fit in the overall regulatory process. We take most but not all of our examples of RIAs and discussion of their use from federal government of the United States, where the RIA requirement is oldest and best established. Similarly, most but not all concern environmental policy, but we believe our arguments are applicable to other policy areas.

### *What is regulatory impact analysis?*

A perhaps apocryphal story has it that the state legislature in Georgia, in order to simplify calculations made by engineers, architects and others, once decreed that the value of  $\pi$  was henceforth to be 3. Usually, however, public policy is not made with this degree of whimsy, especially in democratic governments. Usually policymakers want some assurance that the cure will not be worse than the disease. It is this desire that creates a demand for impact analysis of governmental actions.

More specifically, regulatory impact analysis has come to mean the use of economic analysis – in particular benefit-cost analysis or cost-effectiveness analysis – to examine the implications of government regulations. Although the typical RIA examines a proposed health, safety or environmental regulation directed against the behaviour of private firms, RIAs have also been used for other kinds of regulations (*e.g.* bankruptcy) and against other types of actors such as subordinate governmental units or public enterprises (*e.g.* publicly owned wastewater treatment plants).

The first appearance of the RIA as a formal government requirement was in the United States. In 1981 one of the earliest acts of the Reagan Administration was to require each “major” proposed federal regulations to be accompanied by an assessment of benefits and costs and an examination of alternatives to the proposed regulation. Such regulations were also subject to review by the influential Office of Management and Budget (OMB). Centralized review imposed common practices and quality standards across all executive agencies. It contested Congressional influence over regulatory decision-making, which was growing throughout the 1970s as a result of the mass of social legislation enacted at this time.<sup>15</sup> The establishment of the RIA requirement in the United States is described in a more detail in the Appendix.

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<sup>15</sup> Morris Fiorina (1977) was evidently the first to argue that Congress, interest groups and Executive Branch agencies were locked in a triangle of self-interest, with interest groups seeking economic rents, members of Congress seeking re-election and executive agencies seeking bigger budgets, which led to high levels of regulatory activity.

### *How RIAs and Regulatory Review Have Changed Rulemaking*

Now that some time has passed since RIAs and regulatory reviews have become important elements of decision-making by governments, it is natural that assessments of these tools should begin to appear. Most of these assessments are based on case studies of regulatory process. These include Morgenstern (1997), which contains 12 case studies of regulatory processes at the US Environmental Protection Agency (EPA) and Delphi Group (2000), a survey of six case studies of various types of regulation in Canada.<sup>16</sup>

The case study results and the casual observations of most observers suggest that well-done RIAs bring new discipline and rigor to the rulemaking process. They force decision-makers and analysts to think critically about the implications, both positive and negative, of the regulations they propose. While regulatory review doesn't add to the legal hurdles associated with rulemaking, it does place on regulators the burden of explaining why a regulation with negative net benefits should go forward. For these reasons, successful RIAs are thought to improve the decisions made by government agencies.

Beyond this stated purpose, RIAs can serve several other functions in the rulemaking process. First, the need to prepare an RIA provides regulators with a framework for thinking through the consequences of regulations, determining what they do and do not know about those consequences, and subsequently eliciting information from the regulated community and the general public. Second, the RIA requirement often encourages capacity-building in regulatory agencies, for they have to have expertise in economics, policy analysis and statistics in order to prepare RIAs or to supervise their preparation by consultants. Third, the completed RIA in turn informs and potentially instructs the interested community – the advocates on either side of the issue. As a result of providing this information, RIAs can set the terms of the debate over the proposed regulation. Of the many disputes that attend the typical regulatory process, the RIA can help determine which are factual and therefore can potentially be resolved by more data, and which are philosophical and much less amenable to scientific or technical analysis. Finally, it can induce an improved understanding of the implications of federal regulatory activity by officials in all branches of government. As one close observer in the US has argued, these officials “would know less about regulation than they know now were it not for the development of ... a tradition of scrutinizing regulatory proposals.” (Portney 1984)

Other studies – statistical studies of large numbers of rules – are less sanguine about the quality of RIAs or the performance of the regulatory review process. Necessarily such studies can only focus on a small number of outcomes and cannot approach the level of detail in a case study. For example, Robert Hahn (Hahn 1996, Hahn et al. 2000, 2001) has conducted several surveys of RIAs in the United States, focusing primarily on whether these documents contain all the elements that are essential to a proper analysis. As we discuss further in the next section, his surveys find that many RIAs perform poorly in this respect. Scott Farrow (2000) asks a more utilitarian question, namely, whether the regulatory review process, of which the RIA is an important component, has led to the promulgation of more cost-effective rules, also in the US context. He also found that rules never issued (for whatever reason) were not much less cost-effective than rules that were issued, and that the RIA could not be credited with any improvements in cost-effectiveness between the proposed and final rule. This work will also be considered further in a later section.

The effect of RIAs on the overall economic efficiency of regulations is limited in other ways that will not be possible to overcome. First, it is possible for the statutes enabling regulation expressly to forbid the development of regulations on the basis of net benefits, even forbidding in some cases the consideration of costs in setting standards. The US Clean Air Act is a notable example, disallowing cost considerations in

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<sup>16</sup> Bankruptcy rules, meat inspection regulations, industrial hemp regulations, motor vehicle safety regulations, energy efficiency regulations, and gasoline sulphur content regulations.

the setting of ambient standards, although it does allow costs to be considered when writing source-specific regulations. (Despite this prohibition, RIAs are prepared for ambient air quality standards, such as the recent revision to the primary national ambient air quality standards for ozone and particulate matter.) Second, in the United States at least, the RIA requirement applies only to actions by executive branch agencies. There is nothing in the legislative process that corresponds to the comprehensive evaluation found in a good RIA.<sup>17</sup> For statutes that provide the authority to write regulations, this means that many important features of regulations could be determined before the regulatory review process begins.<sup>18</sup>

### ***Evaluation Methods for RIAs***

There are at least three ways to evaluate the performance of RIAs: *content* tests, *outcome* tests, and *function* tests. Each contributes something valuable, and each complements the other two. In this section we examine them in turn.

#### *Content tests*

These are *ex ante* tests of the material contained in the RIA, *i.e.* they are assessments that only examine material that was available to the RIA authors at the time the RIA was prepared, even if the assessment itself was prepared long afterwards. Typically such assessments ask whether the RIA meets the applicable guidelines for preparation of RIAs. For example, current OMB guidelines in the US require each RIA to do four things: state the need for the proposed regulation, discuss alternatives, assess benefits and costs of each, and explain why the proposed regulation is preferable to the alternatives.<sup>19</sup> Beyond these requirements, content tests examine whether the RIA contains the elements required of a good economic analysis of the issue, and whether those elements themselves meet acceptable standards of quality. Essentially, these approaches judge RIAs by the standards of applied microeconomics, asking only whether they pass muster as benefit-cost analysis.

All draft and final RIAs are subjected to a quality test by OMB and are subject to remand to the agency for redrafting if they are inadequate. This is one of the methods used by OMB to assure quality and accountability. Observers outside the government have also examined the content of RIAs.

#### *Extensive tests*

The most extensive examination of RIA content can be found in ongoing work by Robert Hahn and colleagues. Hahn et al. (2000) examined 48 RIAs in federal agencies in the United States prepared between 1996 and 1999, with particular attention to two aspects. First, they determined whether they met

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<sup>17</sup> For important legislation there are often competing bills, each accompanied by reams of analysis and argumentation prepared by supporters and opponents outside of Congress. However, there is no steady source of unbiased information, although academic groups without an axe to grind often weigh in with analyses. It was suggested to me that perhaps the closest Congressional analogue to the RIA is the committee reports that must accompany each bill reported to the floor of the House and Senate (Personal Communication, J. Clarence Davies, August 2003). Certainly proposed legislation is often subject to close analysis, especially if it is of major import, but there are no requirements to conduct analysis in a certain way or include a comprehensive analysis of benefits and costs.

<sup>18</sup> A US example is the Corporate Average Fuel Economy Standards (CAFE) mandating minimum fuel economy standards in light-duty vehicles, required by the 1975 Energy Policy and Conservation Act. This Act explicitly set fuel economy standards for cars and directed the National Highway Traffic Safety Administration (NHTSA) to set them for light trucks. As a result, only the truck standards can be changed by agency actions, and only they are subject to the RIA requirement.

<sup>19</sup> OMB guidelines. Specific agency guidelines, such as EPA.

the legal requirements of the Executive Order and satisfied the guidelines produced by the OMB. Hahn et al. refer to their method as “scoring;” it essentially is a checklist to determine whether certain items are included.<sup>20</sup>

The authors conclude that many RIAs fail to include items that they regard as essential for a quality product and frequently do not contain the items required by the Executive Order. While 90 percent monetized costs, 50 percent monetized benefits and only 29 percent calculated net benefits. Only two thirds of the RIAs discussed alternatives to the regulation, and in only 25 percent were benefits and costs of alternatives calculated. A follow-up on this study (Hahn and Dudley 2002), but including a sample of earlier RIAs as well, attempted to discern whether there were differences in the quality of RIAs over time, particularly among RIAs completed during various presidential administrations. (They concluded that there were few differences.)

Hahn et al. also subjected the content to two other tests: whether it was “transparent” – so that the reader could easily find what was being assumed in the analysis and could follow all the calculations – and whether it was internally consistent, so that the same assumptions were used throughout. In these areas, Hahn et al. (2000) also found that recent RIAs left much to be desired. The authors’ operational tests for these criteria were the presence of an executive summary (Only half of RIAs had one) and the treatment of the discount rate (86 percent used the OMB-specified rate throughout).

Hahn et al. are quick to point out that the inclusion of these items is a necessary but not a sufficient condition for a good RIA. If these items are not present, they argue, the RIA can hardly be considered of good quality, for they speak to matters that are essential for being able to assess regulatory impact. However, if they are of poor quality, the RIA may not measure up even though it satisfies the checklist. The fact that so many RIAs omit essential information leads Hahn et al. to conclude that RIAs as a group have serious quality problems.

However, Hahn et al. treat all RIAs the same in the analysis. The results might have been different if the RIAs had been weighted by a measure of the economic importance –such as the expected costs or benefits – of the rule. EPA budgets resources for preparation of RIAs in part on the significance of the regulation, which depends in turn on the anticipated benefits or costs. Arguably, larger budgets should mean higher quality, a supposition generally supported by the RIAs examined in Morgenstern ed. (1997), which we discuss further below. Hahn and his colleagues may be correct that the typical RIA is deficient in a number of areas, but it could also be that the RIAs representing the lion’s share of benefits and costs are far from typical.

#### *Intensive tests*

In addition to these tests, there are also *intensive* tests of RIA content, concerned with the quality of the components, rather than simply their existence. Ordinarily such work is undertaken during the rulemaking process with the objective of influencing the final rule. Often this work is carried out by researchers at independent research organizations, such as the AEI-Brookings Joint Center in the United States. Studies by the Joint Center apply standards of quality similar to those used by academic economics journals. At the most basic level this sort of analysis examines whether the RIA avoids egregious errors, such as double counting of benefits or costs, confusion of costs and expenditures, improper definitions of benefits, failure to distinguish between cost or benefits and transfer payments, improper discounting, etc. It also examines the transparency and clarity of the RIA. Do the authors explain how they arrived at their conclusions? Can quantitative outcomes be linked to inputs? Are the authors clear what assumptions they

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<sup>20</sup> Delphi Group (2000) contains a much more extensive checklist for RIAs.

are making? Are those assumptions reasonable? Do the authors define an appropriate counterfactual or baseline?

Beyond the basics, conclusions about the quality of RIA analysis are more elusive. Certainly, it is not difficult to find extensive critiques of individual RIAs, but often they are submitted on their own initiative by advocacy organizations or research organizations identified with a point of view (*e.g.* the Center for Progressive Regulation or the Mercatus Center at George Mason University). It is less common to find RIA evaluations conducted by individuals or organizations whose positions on regulatory matters are not entirely predictable. In any case it is uncommon, at least at the EPA, for the agency to seek outside comment on economic analyses until the proposed regulation appears in the Federal Register and the RIA is essentially complete.

It is possible to visualize a more systematic approach to real-time evaluation of RIAs by consulting a wide variety of opinion and experience outside the agency. For example, Morgenstern and Landy (1997) describe a “scoping process,” in which the agency begins to solicit input from interested parties to identify important issues and approaches as soon as the economic analysis is initiated. It would not be inconsistent to include disinterested experts among those solicited, who can provide what amounts to a rolling peer review as the RIA is developed. As Morgenstern and Landy put it, “The earlier the analytic template is laid out, the greater its claim to serve as the relative impartial basis for subsequent policy discussion and debate. If it appears only after different parties have advanced their own analyses, it is less likely to guide the debate.” (p. 475)

#### *Outcome tests*

Another way of assessing RIAs is to examine the outcomes of regulations *ex post* and compare actual results to their predicted counterparts in the RIA. If RIAs cannot accurately predict what will happen if the regulation is adopted, they will eventually lose credibility and hence value in the decision-making process. In fact, assessment of RIA performance is only one of two good reasons for conducting *ex post* analysis; an even more important reason is to assess the performance of the regulation itself.

By some reckonings, *ex post* analysis is very common in both the EU and the US. There is no shortage of *ex post* evaluation of regulatory programs in almost every area of public policy. To speak only of environmental policy, we have numerous colleagues at academic centres in the EU who have devoted resources to the examination of regulatory implementation. For example, the Centre for Clean Technology and Environmental Policy (CSTM) at the University of Twente in the Netherlands has conducted *ex post* examination of all Dutch environmental regulation (*e.g.* Bressers 1991). Researchers at the University of Gothenburg, Sweden, have also analyzed the outcomes of numerous policies in both the European context and also for particular countries (*e.g.* Hammar and Löfgren 2001). We are also aware that considerable *ex post* analysis takes place in France, Germany and the United Kingdom.

In the US, examination of implementation issues has also captured the attention of numerous academics. *Ex post* analysis has also been institutionalized in the federal government and in federal legislation. For example, the EPA is required to issue a report every five years on the benefits and costs of regulations promulgated by the agency. The US Geological Survey (USGS) issues periodic reports from USGS stream monitoring networks showing the rate of progress in improving water quality. EPA also publishes periodic reports on levels of ambient air quality and estimated pollutant emissions into air and water. *Ex post* analysis of social policy is also very far advanced. For example, organizations such as the Manpower Development Commission conduct sophisticated experiments on the behavioural effect of cash incentives or work requirements for welfare recipients.

All these studies, however, are incomplete in crucial ways. They focus on the effectiveness of the regulation, which for environmental regulations means the measurement of pollution reduction, reduction in measured risk, and in some cases on improvements in environmental quality. It is much less common to find *ex post* studies examining other aspects of regulation, in particular studies that also examine the actual costs incurred and to compare them to the estimated costs. To be sure, *ex post* estimates of regulatory costs can be found, but they are difficult to tie to particular regulations (as is often the case with regulatory benefits, for that matter). For example, from 1982 until 1994 and again beginning in 2000 the US Census Bureau administered the Pollution Abatement and Control Expenditure Survey (PACE) to a randomized sample of establishments, inquiring about expenditures on air and water pollution abatement and solid waste reduction. Unfortunately, the survey instrument makes it impossible to associate expenditures with particular regulations.

Several years ago the authors were working together on a project to study the ability of regulators to estimate the cost of regulation by comparing the cost estimates produced during the rulemaking process with the actual costs of the regulation (Harrington et al. 2000). We were surprised that despite extensive efforts in which we contacted a wide range of experts around the world, in the end we could find only a handful of *ex ante/ex post* pairs of studies that considered both effectiveness and cost of regulations.

At first blush it seems odd that *ex post* studies of regulatory effectiveness are common, while cost studies are not. In principle, both the benefits (or effects) and the costs of regulation are unobservable, because although the world with the regulation is observed, but the counterfactual is not and must be modelled. If this were the only factor at work, it would suggest that *ex post* studies of effectiveness and cost ought to be rare or common, but not that studies of one should be rare and of the other common. Perhaps part of the explanation is that government authorities, who produce most of the estimates of regulatory performance, have more incentive to estimate the effects of regulation than the costs.

It is also quite likely that *ex post* estimation of costs is considerably more difficult than *ex post* estimation of pollution abatement, environmental improvement, or other measures of regulatory performance (and, of course, more difficult than *ex ante* cost estimation used in RIAs). Instead of the “model plant” or hypothetical cost estimates generally used in *ex ante* studies, an *ex post* cost study requires the actual expenditures of the plants subject to the regulation.<sup>21</sup> This information is often proprietary and not available to the analyst, and even when available it is often difficult to interpret. Abatement costs are notoriously subject to joint cost allocation problems, because plant activities to comply with one regulation can increase (or decrease) plant output or make it more (or less) difficult to comply with other regulations. For example, analysts are still arguing about the costs incurred by the automobile industry in complying with the 1970 Clean Air Act. To what extent can the cost of electronic fuel injection, which was disseminated from a small group of high-performance vehicles to the entire fleet during the 1980s, be attributed to the exigencies of the pollution abatement regulations? If there had been no such regulations, would the corporate fuel economy (CAFE) regulation, which was also enacted about this time, have diffused this technology through the industry as rapidly? In the absence of both regulations, would competitive pressures have done the job?

Some regulations also have costs that are difficult to estimate because they are not readily observable in market transactions. For example, OSHA’s cotton dust regulation in the 1970s considered, as an alternative to stringent limits on cotton fibres within textile plants, less stringent limits accompanied by mandatory use of respirators by some plant workers. The cost of this alternative would have to include a measure of workers’ discomfort and inconvenience associated with respirator use, unless it was fully

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<sup>21</sup> It also requires the analyst to be able to distinguish between an expenditure and a cost. Sometimes a cost is not an expenditure, such as when regulated firms use land or other resources already in their possession to comply with the regulation. And sometimes an expenditure is not a cost, for example transfer payments.



compensated by wage increases (in which case the wage increases would measure the cost), as well as increased risk resulting from worker non-compliance. Similar considerations have arisen with asbestos and pesticide regulations.

Examination of this relatively meagre collection of cases produced some surprising conclusions about the RIA. We were expecting to support one of the two stories frequently told about cost estimates in *ex ante* studies. On the one hand political conservatives and other foes of social regulation argue that RIAs routinely underestimate the cost of regulatory statutes and, to a lesser extent, individual regulations. On the other hand, advocates counter that costs of individual regulations are nearly always overestimated. While we found this to be true insofar as it concerned the total costs, we also found that the effects of the regulation – the emission or risk reductions – were overestimated as well. To the extent that unit costs could be calculated, we found that overall there was no bias toward overestimation or underestimation. The main reason the costs and benefits were overestimated was a failure to implement the regulation fully. We also found that there was one category of regulations where costs were almost always overestimated in the RIA – economic incentive policies. Primarily the unit costs were overestimated because the environmental improvement was underestimated. This was something of a surprise, inasmuch as the main criticism of EI from the early seventies (mainly of price instruments such as effluent fees) was that they could not be relied upon to achieve the desired environmental results.

Another conclusion of our research was that there were systematic differences between government agencies in the accuracy of the cost estimates. For regulations promulgated by the EPA, we found no bias in regulatory estimates. For regulations issued by the US Occupational Safety and Health Administration, however, we found that RIAs usually overestimated costs substantially. The result for OSHA has been supported by a survey of recent RIAs (Seong and Mendeloff 2003), which shows that the estimated benefits of recent workplace safety regulations are seriously overestimated, possibly because of incomplete implementation. Seong and Mendeloff also observe that OSHA RIAs are required to assume complete implementation, perhaps in part accounting for the overestimates.

Comparisons of *ex post* outcomes to *ex ante* predictions offer an essential element of “ground-truthing” to the practice of regulatory evaluation. The comparison of regulatory outcomes to the predictions made in the RIA is a valuable test of both the RIA and the regulation itself. A well-done *ex post* analysis, moreover, is not limited simply to an examination of the effectiveness and cost of the regulations, but can test other assertions made during the regulatory process. Investigation along these dimensions can inform future regulations and RIAs. The nature of these additional claims depends on the situation. Some examples:

*Did the regulation lead to job losses or plant closures?* In Sweden, a ban on the use of chlorinated solvents prompted the industry to threaten plant closures and relocation to other more hospitable countries (presumably located in the third world). An *ex post* study by Thomas Sterner (2003) has shown that virtually no plants shut down. On the other hand, the ban was not entirely successful as plants producing a third of all output were granted exemptions to continue production (Sterner 2003).

*Is it difficult to implement?* In the US the Effluent Guidelines, which were very detailed regulations of point-source industrial wastewater dischargers. During the first round of standard setting (about 1974-1981) nearly all of the promulgated regulations were challenged in court, resulting in substantial delay and in many cases remand of the regulations to EPA (Harrington 2003). Of course, not much of the litigation was attributable to the regulatory documentation (most of which was prepared before the Reagan executive order in any case). Rather, it is best seen as a test of EPA’s political will and power to implement its regulations.

*Has new technology been developed to comply with the regulation?* The classic case of new technology in the US is the vinyl chloride case, where evidence of a strong link between exposure and liver cancer caused the Occupational Safety and Health Administration (OSHA) to promulgate, despite industry's claims of technical infeasibility, very stringent worker exposure regulations. Within a year of the issuance of the final rule, a substitute had been developed at a tiny fraction of the predicted cost of the regulation. On the other hand, exposure to coke-oven emissions was regulated similarly, but on this occasion the needed innovations did not emerge, and the industry had to be granted regulatory relief. These cases and others are discussed in a retrospective examination of OSHA regulation conducted in 1995 by the US Office of Technology Assessment (USOTA 1995).

Like the content tests, *ex post* analysis of regulatory outcomes can be very informative but doesn't tell us everything we'd like to know. In particular it doesn't give any information on the effect of the RIA on the outcome of the regulatory process itself.

### *Function tests*

The idea of evaluating RIAs presupposes that RIAs make a difference, that the outcome of regulatory processes is in some way different from what it would have been in the absence of the RIA. The counterfactual is difficult to conceptualize, because even without the current RIA requirement it is nonetheless likely that some analysis of the effects of regulation would have been done. In any case, there has been remarkably little analysis of the effect of RIA characteristics on regulatory outcomes.

To a certain extent, the content tests discussed earlier can tell us something about the uses of the RIA in decision-making. A particularly important instance is the RIA's treatment of alternatives. As noted by Hahn, examination of alternatives to the chosen regulation is more the exception than the rule in recent RIAs. Absence of alternatives suggests, more than anything else, that the RIA did not, nor was expected to, play a significant role in the design of the proposed regulation. However, presence of alternatives does not indicate whether these alternatives are merely straw men in the regulatory process. Also, even without considering other alternatives, the regulation may have served other purposes, such as whether to go forward with the regulation at all.

One relevant though somewhat dated study of the impact of regulatory documents is Magat et al. (1986), which examined the effect of the quality of regulatory support documents generally on the outcomes of the Effluent Guidelines regulatory process during the 1970s. Two documents were examined: the "development document" and the "economic analysis." The former gave the technical information on the industry, its technological options for wastewater treatment and the one identified as the basis of the regulation; while the latter assessed the effect of the proposed regulation on costs, prices, profits, plant closures and unemployment. The authors used a fairly elementary definition of document quality; namely, were the numbers consistent? Did the report leave a trail that a careful reader follow to connect the input data with the outputs, *i.e.* the estimated effects?

What they found was that document quality, defined in this simple way, made a substantial difference in how much the Agency changed the regulation during the rulemaking process. The more coherent the document, the more the effluent standards changed. For example, when the development document failed their quality test, the promulgated BPT standards were made 33% less stringent for biochemical oxygen demand (BOD) and 44% less stringent for total suspended solids (TSS) than the proposed standards. We don't mean to imply that a more stringent regulation is a "better"; only that document quality can affect the regulatory outcome. It is possible that poor documentation simply indicated an industry that was both difficult to regulate and difficult to characterize in a technical report. But though possibly affected by spurious correlation, we know of no other study that provides statistical evidence that the quality of regulatory support documents make a difference to the outcome of the regulation.

There is, however, one recent econometric study that examines the effect of regulatory review more generally on the rulemaking process. Farrow (2000) uses multivariate regression methods to examine a database of 69 regulations proposed by several US agencies and reviewed by the OMB, of which 7 were rejected (*i.e.* sent back to the agency for further consideration. Eventually all 7 were dropped.) This database, first developed by John Morrall of OMB (Morrall 1986) and updated and refined by Farrow and other researchers, consists of health and safety regulations for which researchers were able to calculate the implicit value of saving a life. Cost per life saved became the cost-effectiveness standard by which these regulations were judged.

The purpose of Farrow's study is to examine several potential effects of regulatory review, including whether rules with poor cost-effectiveness are more likely to be rejected and whether the cost-effectiveness of rules improved during the regulatory review process. The results suggested that the regulatory review process had at best a slight effect on cost-effectiveness. Rejected rules were only slightly less cost-effective than rules that were not, and the cost effectiveness of rules did not improve during the process. However, the small sample size suggests caution in interpreting the results. With only 7 failures, their characteristics could easily be unduly influenced by one observation. In addition, many of the rules in the database date from the early 1980s, when the regulatory review process at OMB was very new and possibly much different from what it is today. A third qualification to this study is that it cannot take account of the potential effects of the existence of the review process on the proposed rule and the preparation of the RIA. If regulators within an agency know its proposed rules will later be scrutinized and possibly returned to them if they are deemed not cost-effective, that knowledge is likely to affect their behaviour. Thus, although this study is creative and its methodology is interesting and potentially useful, with the data that are currently available, not conclusive.

In addition, there is a body of case-study evidence that we can draw upon to examine the effects of regulation. Among studies we are aware of, the most relevant is a set of studies of RIAs conducted by current or former EPA economists (Morgenstern ed. 1997). The case studies in this volume are unusually complete analyses of government regulations, examining not only the preparation of the RIA and, to a limited extent, the comparison of *ex post* results with *ex ante* expectations. They also examine how the RIA is used in the rulemaking process.

In looking at these cases two qualifications should be kept in mind. First, this is a highly non-random sample. The regulations examined tend to be highly visible cases – large in both expected costs and benefits (*e.g.* lead in gasoline) or having direct effects on household behaviour (such as the Enhanced Inspection and Maintenance rule for light-duty vehicles). For those reasons, these RIAs tended to have large budgets and with one or two exceptions were, like the retrospective studies of them, reasonably complete and carefully done. Second, the authors of these case studies were in most cases closely connected to the regulatory process they were writing about, either as EPA officials or as consultants or other close observers outside the Agency. The advantage provided by this set of authors is their intimate familiarity with the regulatory histories. On the other hand, the authors' close involvement in the rulemaking processes might lead one to question their detachment. Attempts were made to answer this criticism by subjecting each case study to peer review by outsiders almost as knowledgeable and without a connection to the issue.

One of the clearest lessons of these case studies is the critical importance of *timing* to the usefulness of RIAs. Several case study authors mentioned the fact that many RIAs are not initiated until after the regulatory process is well underway, often after the preferred alternative has been selected (Morgenstern and Landy, 1997). In this situation an RIA obviously has difficulty being influential. Worse, it puts pressure on the analyst not to deliver bad news about benefits and costs, especially about the preferred alternative, leading to cynicism about the role of RIAs in the regulatory process. Most analysts believe the

RIA should begin before the regulatory process begins, in order to develop information useful in decision-making.

Even in cases where the RIA got off to a late start, however, the authors of all 12 of these case studies believe *their* RIA did have an effect, although often it was not as influential as it could have been. According to the authors, all the RIAs led to improvements that decreased costs, and five of the 12 introduced changes that increased benefits (Morgenstern and Landy 1997, Table 1), although it is conceded that with multiple influences on the process, it is difficult to ascribe with certainty any specific influences to the RIA.

In addition, RIAs were credited by these authors with other accomplishments. In the organic chemicals effluent guidelines, the RIA identified cross-media pollution (*e.g.* volatilizing organic chemicals into the air rather than discharging them into the water) as an important issue; it had been overlooked in other analyses up to that point. (Caulkins and Sessions 1997) Other studies identified and quantified new benefits. The leaded gasoline rule found, for example, that the monetized benefits of reduced blood pressure dwarfed other benefits of reduced lead exposure and led to a tightening of the rule. (Nichols 1997) The innovative market studies done in the asbestos study found that for many products the cost of a ban would be modest because of the ready availability of substitutes (Augustyniak 1997).

Some RIAs also promoted innovative regulatory alternatives, at least for their time. The leaded gasoline rule examined the use of refinery averaging and banking, both of which became cornerstones of the path-breaking lead trading policy governing the lead phase down between 1984 and 1988. The CFC RIA also examined a banking and trading alternative that was adopted in the final regulation, which was adopted in 1991. Trading was also examined in the RIA for asbestos, but was ultimately discarded because of Agency inexperience and serious practical difficulties (*e.g.* asbestos embedded in imported products).

It goes without saying that quantifying the benefits of RIAs would be very difficult, not least because it is not even clear what the effect of the RIA is. The RIA can also impose costs, some of which we can all agree with in principle although we may disagree strongly in practice (such as the effect of the RIA on the time required to push a regulation through the process).

### ***Some Suggestions for Future Inquiry***

Regulatory processes need timely, high-quality economic and technical analysis that is also capable of speaking to both general and technical policy audiences to assist in decision-making and to assure the integrity of the regulatory process. But how do we know when RIAs actually achieve these goals? We have discussed three different vantage points from which RIAs can be evaluated: their content, their outputs and their function. However, we do not think it is possible to “choose” one way to evaluate RIAs. These approaches are not substitutes but complements.

A medical analogy might be helpful. We can think of intensive content tests of RIAs as a routine check-up. It can take place before the regulatory process is complete and the regulation is implemented and therefore can be used to make improvements to the RIA and to the regulation in question. The approach could perhaps be enhanced by Morgenstern and Landy’s suggestion to bring in outside review both by the public and by experts at the earliest stages of the rulemaking process, continuing through until the rule is promulgated.

It is a little more difficult to put the extensive content tests such as Hahn et al. in this framework. However, a slight change in research design might make the medical analogy work better and make the research more relevant to the present purposes as well. A simple modification to Hahn’s methodology would be to link his descriptive data – the content of individual RIAs – to outcomes, both of the regulatory

process and the results on the ground. The closest medical analogue now is that of retrospective epidemiology. That is, having observed a diversity of outcomes among a set of individuals, can we link those outcomes to characteristics of those individuals or to events that happened at an earlier time?

In contrast, the case studies examined in Morgenstern (1997) and Delphi Group (2000) are autopsies, in that no improvements to the RIA under examination would be of use to that RIA or rulemaking process. By examining the successes and failures of the past, their principal use is to help find problems in the regulatory process, improve future RIAs, and most importantly, improve future regulations.

To that end, we think the most important and most difficult item on the agenda is to develop a procedure for the routine completion of *ex post* analyses of regulatory outcomes. As noted above, comprehensive *ex post* analyses that examine physical outcomes *and* costs are very rare, and yet one of the research needs most often cited in policy-analytic circles is the need for more *ex post* analysis. If a type of research is both rare and highly desired, then most likely it is quite difficult to do. So, the concluding question before us is: what are the barriers to complete *ex post* analysis, and what can be done about them?

One barrier is institutional: the need to find a home for audits of regulatory performance, cost, and other implications of regulation. “Line” agencies – the agencies that prepare the rules in the first place – appear to be reluctant to undertake such studies, at least in the US. They rarely have the budget to do it, and many in the agency would think it to be beyond their mission. Most regulators faced with a choice between funding a study of the performance of an existing regulation and a study of potential need for a new regulation would have an easy choice. Also, some may question whether the promulgating agency would have conflicts that would get in the way of a balanced assessment.

Another barrier is data. Those who have tried to do *ex post* studies of regulatory outcomes quickly run into numerous data problems. Some of these, relating to the definition of costs and the difficulties of allocating joint costs, were touched on previously. In addition, there are often problems just finding out what the outcomes were. This may be a particular problem in a federal system such as the US, where data on regulatory outcomes often exist, but are stored by state rather than federal agencies and therefore difficult to assemble. Even when centralized data sets exist, often they are poorly audited or collected in a way that does not easily permit scientific analysis. For example, the EPA and especially state governments in the US have at times in the past set protocols for collecting ambient environmental data or pollutant discharge data for enforcement purposes, in order to build cases against offenders, a use that is often incompatible with scientific analysis. Frequently there are also historical problems, trying to determine the *status quo* (what the world was like before the regulation was implemented) or establish a baseline (what would have happened in the absence of regulation). The baseline problem is more than a data problem; it is also a modelling problem. The world will either be observed with the regulation or without it; one cannot rewind the tape of life and play it again.

To a considerable degree, these well-known problems of policy analysis can be reduced by the RIA itself. In particular, a well-done RIA will have data on the pre-regulatory environment and models establishing the baseline. Beyond that, the analysts preparing the RIA are in the best position of anyone to determine the time that must elapse before a useful *ex post* analysis can be performed, as well as the data and models that may be needed to complete it.

Perhaps, then, it would be a useful addition to the regulatory process to consider the design of a potential *ex post* analysis: when it should be done, how it could be done, and what it would cost. Sometimes the data required may already be collected by one or more agencies; other times new data collection efforts will be needed. With this information in hand, policy-makers can decide at the time the regulation is issued whether to invest in that data and model development that would permit an *ex post* analysis. For a relatively modest investment in data development, the cost of a subsequent *ex post* analysis

could be substantially reduced and its quality greatly improved. In short, the best time to begin an *ex post* evaluation of a regulation is before the regulation becomes effective.

## References

- Augustyniak, Christine. 1997. "Asbestos." In Morgenstern, ed. *Economic Analyses at EPA*.
- Caulkins, Peter and Stuart Sessions. 1997. "Water Pollution and the Organic Chemicals Industry." In Morgenstern, ed. *Economic Analyses at EPA*.
- Center for Progressive Regulation (CPR). 2003. "Comments on the Draft 2003 Report to Congress on the Costs and Benefits of Federal Regulations. Submitted to OMB April 3, 2003. Found at [http://www.progressiveregulation.org/commentary/OMBCommentary\\_03.pdf](http://www.progressiveregulation.org/commentary/OMBCommentary_03.pdf), accessed September 6, 2003.
- Delphi Group. 2000. "Assessing the Contribution of Regulatory Impact Analysis on Decision Making and the Development of Regulations."
- Farrow, Scott. 2001. "Improving Regulatory Performance: Does Executive Office Oversight Matter?" Working paper, Center for the Study and Improvement of Regulation, Carnegie Mellon University.
- Hahn, Robert W. and Patrick M. Dudley. 2002. "How Have Government Cost-Benefit Analyses Changed Over Time?" Working Draft, AEI Brookings Joint Center, Washington, D.C.
- Hahn, Robert W., Jason K. Burnett, Yee-Ho I. Chan, Elizabeth A. Mader, and Petrea R. Moyle. 2000. "Assessing Regulatory Impact Analyses: The Failure of Agencies to Comply with Executive Order 12866." *Harvard Journal of Law and Public Policy* 23(3) pp. 859-884.
- Harrington, Winston, Richard D. Morgenstern and Peter Nelson. 2001. "On the Accuracy of Regulatory Cost Estimates." *Journal of Public Policy and Management* 19(3).
- Harrington, Winston. 2003. "Regulating Industrial Water Pollution in the United States." RFF Discussion Paper 03-03.
- Magat, Wesley, Alan J. Krupnick and Winston Harrington. 1986. *Rules in the Making: A Statistical Analysis of Regulatory Agency Behaviour*. (Washington, D.C. Resources for the Future)
- Mercatus Center, 1999. "Comments on EPA's Tier 2 Standards for Vehicle Emissions and Gasoline Sulphur Content."
- Morgenstern, Richard D. 1997. *Economic Analyses at EPA: Assessing Regulatory Impact*. (Washington, D.C. Resources for the Future).
- Morgenstern, Richard D. and Marc Landy. 2003. "Economic Analysis: Benefits, Costs, Implications." in Morgenstern, ed. *Economic Analyses at the EPA*.
- Morrall, John. 1986. "A Review of the Record." *Regulation* Nov.-Dec. pp. 25-34.
- Nichols, Albert. 1997. "Lead in Gasoline." In Morgenstern, ed. *Economic Analyses at EPA*.

Portney, Paul. 1984. "Will E.O. 12291 Improve Environmental Policy Making?" In V. Kerry Smith ed., *The Benefits and Costs of Regulatory Analysis in Environmental Policy Under Reagan's Executive Order*. (Chapel Hill: University of North Carolina Press)

Seong, Si Kyung and John Mendeloff. 2003. "Assessing the Accuracy of OSHA's Projections of the Benefits of New Safety Standards." Working paper, Graduate School of Public and International Affairs, University of Pittsburgh, Pittsburgh, PA.

Sterner, Thomas. 2003. "Policy Instruments for Chlorinated Solvents: A Comparison of policy instruments in some European countries to Phase Out Trichloroethylene." Working paper, Department of Economics, University of Gothenburg, Sweden.

US Office of Technology Assessment. 1995. *Gauging Control Technology and Regulatory Impacts in Occupational Safety and Health: An Appraisal of OSHA's Analytic Approach*. Washington, D.C.

## Appendix

### *Regulatory Impact Analysis in the United States*

Since its inception in the 1970s RIA has grown enormously in scope and sophistication, and no institution has contributed more to this trend than the executive branch of the US government. The growth of RIA paralleled the substantial growth of “social” regulation that began in the United States in the 1970s.<sup>22</sup> Social regulation was concerned with workplace safety and health, environmental quality, exposure to hazardous chemicals, unsafe consumer products, and like concerns. Ironically, as social regulation waxed, economic regulation waned, with deregulation of airlines, trucking, railroads, banking, and, currently in progress, electricity.

Greater scrutiny of regulations would probably have occurred in any case, but its development was greatly enhanced by the long period of “split government” in the US, in which Congress is in the hands of one party and the presidency belongs to the other. Between 1969 and 2001 power was split except for four years of the Carter Administration (1977-1981) and the first two years of the Clinton Administration (1991-1993).

Split government meant a wider-than-normal separation between the executive and legislative branches of the federal government at a time when Congress was beginning to take a more activist approach to environmental, health, and safety regulation. The Democratic Congress would propose sweeping legislation directing executive agencies such as the Environmental Protection Agency (EPA) or Occupational Safety and Health Administration (OSHA) to implement detailed regulations, in some case by industrial sector and in others by product. These agencies, in effect, had to serve two masters: the Congress and the President, and were further under the watchful eye of advocacy groups supporting or opposing the new legislation and hoping to influence its implementation.

Because presidents didn’t have complete control over the agendas of executive agencies, since the 1970s they have sought to put the brakes on this regulatory process by requiring a review by economists of the costs, benefits and effects of all regulations. The key event was Executive Order 12291, issued on February 17, 1981 shortly after President Reagan took office, announcing new rules governing the issuance of regulations by federal agencies. E.O. 12291 introduced two revolutionary innovations into federal rulemaking. First, it required federal agencies to produce, before any “major” proposed regulation could appear in the Federal Register,<sup>23</sup> an assessment of the benefits and costs of the proposal and alternatives to it. Before the Reagan Administration, economic assessment of regulations was concerned not with benefits and costs, but with “economic impacts,” which included the effect of the regulation on the inflation, employment, and the profits of affected industries.<sup>24</sup> In addition, E.O.12291 required centralized review of regulations and the accompanying RIA by an oversight group, the Office of Information and Regulatory Affairs (OIRA), housed in the Office of Management and Budget.

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<sup>22</sup> Earlier, federal regulation tended to be economic, concerned with such matters as regulating the prices of goods or services produced by industries thought to be natural monopolies and whose activities crossed state lines. These included railroads, airlines, and transmission of natural gas and electricity. Federal regulation also restricted activities of banks and sought to prevent excessive concentrations of market power. See Portney (1990, ch. 1) for a discussion of differences between “old” regulatory agencies such as the now-defunct Interstate Commerce Commission and “new” agencies such as the EPA.

<sup>23</sup> “Major” regulations are those with an anticipated annual cost in excess of \$100 million or those that may have adverse environmental or distributional consequences.

<sup>24</sup> See Magat et al. (1986) for a discussion of the preparation and use of such studies in the Effluent Guidelines rulemaking process.



The regulatory review process in the US is now governed by E.O. 12866, issued by Bill Clinton on September 30, 1993.<sup>25</sup> The main changes to the Reagan procedure were to increase the public's accessibility to the process, to add requirements to examine distributional consequences of rules, and to require only that the benefits of proposed regulations have to "justify" the costs, not "outweigh" the costs as it had been in E.O. 12291. Presumably, this last change in particular would make it easier to proceed with the regulation even if measured benefits do not exceed measured costs.

For the most part, however, the Democrat Clinton retained and streamlined the procedures put in place by the Republican Reagan. In other words, recent presidents of both parties support the regulatory review requirements, including the RIA. It has ceased to be the partisan political issue it once was.

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<sup>25</sup> President Bush made some minor procedural amendments in E.O. 13258, but the major elements were unchanged.

## EVALUATING INDEPENDENT REGULATORS

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### *Summary*

This paper addresses the question of how independent regulators can be evaluated. It suggests that independent regulatory agencies (IRAs) are best conceptualised as non-majoritarian institutions, *i.e.* as institutions that are not directly elected by citizens, nor directly managed by elected officials. It is argued that IRAs can be evaluated according to their impact on the performance of the markets they regulate (which includes the interests of both firms and consumers), their capacity to strike a balance between conflicting goals, the quality of their regulatory output, and their respect of accountability standards. The latter should not be the same as those used for other, more traditional democratic institutions, but, rather, should take into account their non-majoritarian nature and consist mainly of procedural requirements. While the effect of IRAs on markets and on regulatory quality can be assessed through an econometric analysis allowing for some generalisations, their accountability needs a case-by-case examination. The paper begins with a theoretical analysis that is relevant for all economic regulators, and continues with a methodological discussion that, for practical reasons, is focused on the telecommunications and electricity sectors only.

### *1) Introduction*

The purpose of this paper is to outline the main dimensions along which the performance of independent regulators, also known as independent regulatory agencies (hereafter IRAs), can be evaluated. The paper proceeds as follows. It will be firstly be argued that IRAs, in the perspective of an evaluation exercise, are best conceptualised as non-majoritarian institutions (NMIs). Secondly, the rationales for the establishment of IRAs will be detailed. A distinction will be made between positive and normative arguments. Thirdly, there will be an attempt to conceptualise the performance of IRAs. It will be argued that, although the quality of the output (*i.e.* regulation) and its impact on the functioning of markets is a key factor in the performance of IRAs, the input side should not be neglected, notably in reference to accountability. Input and output are thus the two main dimensions for the evaluation of IRAs. An evaluation strategy will be suggested that involves assessing whether, and how, IRAs improve the performance of markets (broadly defined to include the interests of both firms and consumers) and are able to strike a balance between multiple and possibly conflicting goals, lead to "regulatory quality", and respect accountability standards. Finally, methods to perform this evaluation will be discussed. While the conceptual discussion applies to economic regulators in general, the methodological discussion will be focused on telecom and electricity regulators. The conclusion summarises the main arguments and discusses the feasibility of an empirical research along these lines.

### *2) IRAs as non-majoritarian institutions (NMIs)*

Although IRAs are a relatively new and uncommon organisational form for public bureaucracies in reason of their increased autonomy from elected politicians, they share their core characteristics with other, better-known institutions such as central banks and courts. Governmental entities that possess and exercise some grant of specialised public authority, separate from that of other institutions, but are neither directly

elected by the people, nor directly managed by elected officials, are known as non-majoritarian institutions (NMIs) (Thatcher and Stone Sweet 2002: 2). The conceptualisation of IRAs as NMIs is useful to find the appropriate standards for their evaluation, and in particular for the accountability dimension (Majone 1998, 1999).

### 3) *Rationales for the establishment of IRAs*

In order to evaluate IRAs, it is important to understand what are the rationales behind their creation, or, in other words, what are the functions they are intended to fulfil. A distinction must be made between normative and positive arguments; some arguments can be both positive and normative. Positive arguments aim to explain the observed pattern of establishment of IRAs, without judging its desirability or appropriateness. Normative arguments, on the other hand, do not try to explain observed behaviour, but, rather, supply prescription for action by stating what institutional solution is best for regulation. The following rationales for the establishment of IRAs can be identified (*e.g.* Majone 1994, 1999, 2001; Horn 1995; Moe 1990; OECD 2002a: 95):

*Expertise.* IRAs are closer to the regulated sector than ordinary bureaucracy and can thus more easily gather relevant information. Their more flexible organisational structure also constitutes a more attractive working environment for experts, who are thus more willing to work for IRAs than for traditional bureaucracies.

*Flexibility.* IRAs' autonomy makes them more able to flexibly adjust regulations to changing conditions<sup>26</sup>.

*Credible commitments.* IRAs are insulated from day-to-day political influence and electoral constraints, have a longer time-horizon than politicians and can thus increase the credibility of the pro-market and fair-regulation commitments of governments. This is important notably to attract investment (Levy and Spiller 1994). The function of IRAs in introducing clarity in the various role of the state (most notably, shareholder and regulator) also falls under this heading, as the set-up of IRAs can signal the commitment of governments to fair regulation even in the presence of conflict of interests.

*Stability.* For roughly the same reasons, IRAs provide a stable and predictable regulatory environment. Stability differs from credible commitments in that the latter assumes pro-investors behaviour, while the former simply means that rules will not be subject to sudden and unexpected change, but is much more open with respect to the content of such rules. A stable regulatory environment may exist that is only moderately investor-friendly. Credible commitment capacity, on the other hand, involves the stability of investor-friendly rules.

*Efficacy and efficiency.* As a result of the previous factors, IRAs lead to better regulatory outputs, which are translated into a better performance of markets. This is a broad claim that is subject to many different interpretations. It will be clarified below in section 4.

*Public participation and transparency.* The decision-making process of IRAs is more open and transparent than that of ministerial departments, and is thus more sensitive to diffused interests such as those of consumers. This is partly due to the fact that, being insulated from electoral politics, independent regulators are less easily captured by strong particularistic interests such as those of the regulated industry.

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<sup>26</sup> This is a normative argument. The fact that, empirically, some regulators may not be flexible does not undermine its value, unless it is found that independent regulators are systematically associated to a lack of flexibility.

This is likely to contribute to the achievement of better regulation. Openness and transparency are not only means but also ends in themselves, as they are related to accountability.

*Decision-making costs.* Delegation to IRAs reduce decision-making costs, as, in the presence of disagreement about policies, majorities are more easily found to "let someone else decide", especially if the political gains and losses of policies are not clear.

*Blame shifting.* IRAs enable politicians to avoid blame when regulatory failures occur or when unpopular decisions are taken. This behaviour is not due to the costs of reaching an agreement, but on the desire to shift responsibility in cases where problems are likely to arise, *i.e.* in cases where political costs are likely to outweigh political benefits.

*Political uncertainty.* As institutions are less easily changed than policies, IRAs are a means for politicians to fix policies so that they will last beyond their term of office. When politicians set up a policy, they know that this may in future be changed if a different party or coalition wins the elections. To prevent this, policy may be insulated from politics. Politicians currently in office lose some control, but prevent future governments to undo their policy choices.

Not all these arguments constitute a sound basis for the evaluation of IRAs. In particular, arguments 7 to 9 are positive only, and have no normative value. Again, positive arguments aim to explain, while normative arguments give prescriptions for action. It could hardly be sustained that governments ought to delegate powers to IRAs because, for example, this will enable them to avoid the blame for wrong or unpopular choices, although this could surely be an acceptable explanation of why governments actually delegate, should evidence in favour of it be found. Arguments 1 to 6, on the other hand, have both positive and normative value, and can thus be used as a basis for the assessment of IRAs' performance. It is also important to note that not all these arguments rest on sound empirical basis. For example, independent regulators have recently been criticised for their lack of flexibility, which contrasts with argument 2. Indeed, the evaluation of regulators involves assessing whether such normative claims are justified or not.

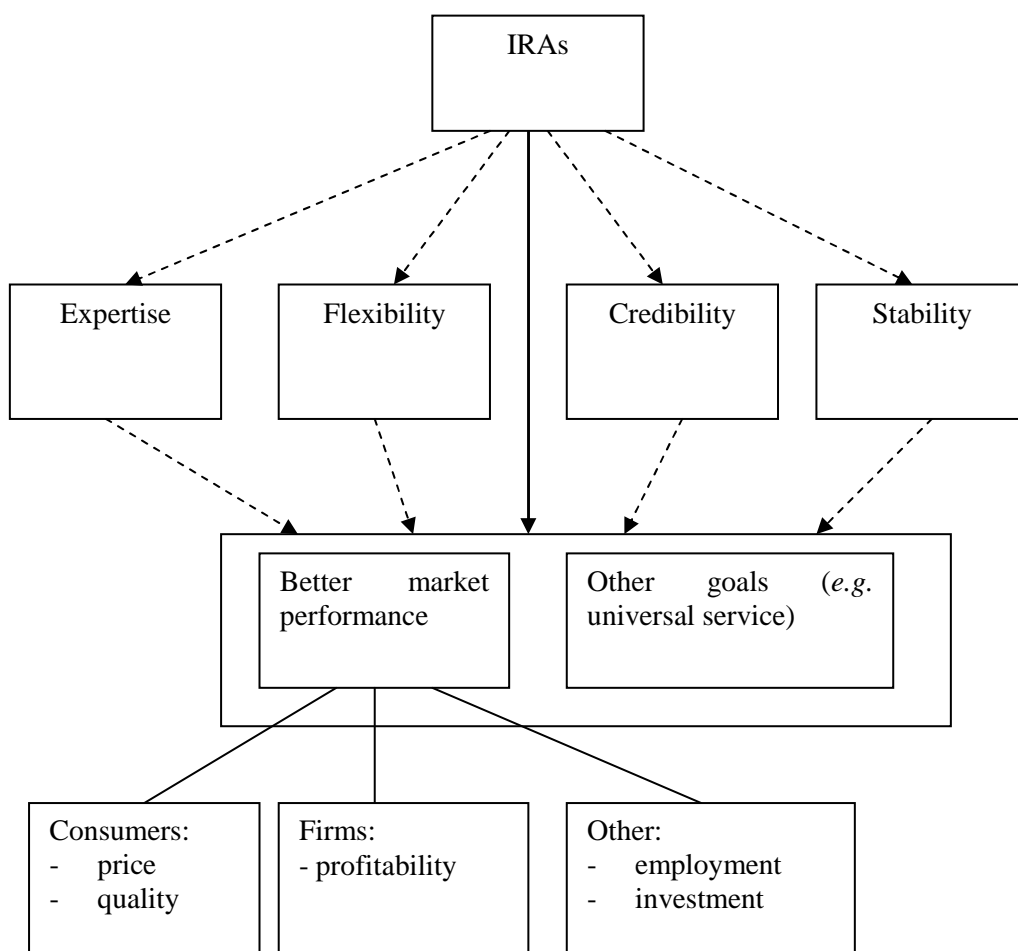
#### **4) Theoretical dimensions of IRAs' evaluation**

Arguments 1 to 6 in section 3 provide a basis for the evaluation of IRAs, because they detail what they are supposed to do, or what functions they are supposed to fulfil. Most of them are focused on the output of IRAs, or, in other words, the quality of the regulation they can produce. Regulatory quality, in turn, is valued because is assumed to have beneficial effects on regulated markets. Two strategies can be identified to evaluate IRAs with respect to their output. The first involves the assessment of their performance on dimensions 1 to 4. In this perspective, it should be evaluated whether IRAs do actually lead to increased expertise, flexibility, credibility and stability in the regulatory process. In Figure 1 below, this would involve determining empirically the consistency of the dashed arrows that go from IRAs to expertise, flexibility, credibility and stability. In addition to the methodological problem of how this can be determined, a second drawback of this strategy is that nothing would be inferred on the final outcome of IRAs in term of the quality of regulation. This is why I suggest that a second strategy would be more appropriate. It involves jumping directly to point 5, *i.e.* the impact of IRAs on the performance of markets, and, in Figure 1, focusing on the solid arrow that goes from IRAs to market performance. This line of reasoning seems to have been followed also by the OECD, which, in a recent report (OECD 2002a: 95), infers that IRAs have led to better regulation from the observation that the benefits of market opening have been greater in the presence of IRAs. In the end, at least in a first step, determining why IRAs matter in terms of the final outcome seems less important than assessing whether they matter.

Market performance can be defined as the joint maximisation of the economic surplus of consumers and firms. From the perspective of consumers, performance includes at least price and quality of the

service. From the perspective of firms, it includes mainly profitability. In addition, a broader definition of market performance could include also employment and investment. One of the most problematic points for regulators is that these dimensions may be in conflict. The pursuit of one goal may be at the expenses of the other. For example, the profitability of firms may conflict with the requirement that consumers are charged reasonable prices. The problem for the regulator is how the different goals can be jointly maximised. The aim of this paper, however, is not to supply guidelines to regulators, but to discuss how their performance can be evaluated. The capacity to achieve multiple, possibly conflicting objectives is surely one dimension of performance. How this can be assessed will be discussed in the methodological section below.

Figure 1. Normative arguments about the benefits of IRAs (output: market performance)



Although I argue that the best way to evaluate regulators with respect to their output is to look at their impact of market performance (broadly defined), it may be useful to shortly discuss how a measurement of the intermediary variables could be developed. It is worth noting that, to the best of my knowledge, there is no study supplying ready-made conceptualisations and measures for these variables. This discussion, then, sketches some possibilities rather than reviewing established practices. An indicator for expertise could be the share of economists and other relevant skilled people (*e.g.* engineers, lawyers, etc.) in the regulator's staff. Another possible measure could be the share of people having working experience of the regulated industry. If the argument linking IRAs with expertise is correct, then higher shares of economists, engineers, staff with experience in the regulated industry, etc. should be expected for independent regulators.

Secondly, flexibility could be assessed by looking at how regulators respond to crises, external shocks, or changing economic conditions. An example for the latter could be an increase in the extent of competition in the regulated sector. As competition increases, regulation should reduce its scope, especially in the control of prices. If the argument linking IRAs to flexibility is correct, then independent regulators should more readily recognise the need to reduce (some) intervention when competition increases.

With respect to credible commitment capacity, a direct measurement could be achieved by asking firms what they think about the regulatory commitment of their regulator. The set-up of an IRA is a signal sent by governments to firms. It is supposed to persuade them that regulation will create and/ or protect a fair playground, thus increasing their willingness to invest. Thus, if the credible commitment argument is correct, firms (but also other economic actors) should feel that regulatory commitments are more credible where the regulator is independent. Arguably such information can be obtained only through costly surveys of the relevant actors, but the result would be highly interesting, as in fact we simply do not know if independence really leads to credibility.

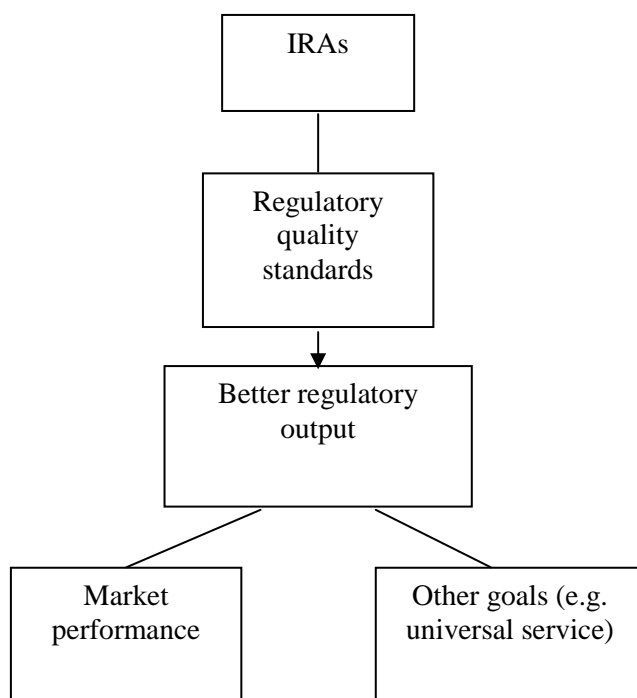
Finally, the stability of the regulatory environment means that the basic rules regulating firm's behaviour are not easily changed. An example could be the technique used to regulate prices that can be charged to consumers. In this context stability means that, once a given instrument for price regulation is chosen, for example price caps, this will not easily be replaced by another one, for example rate of return. Another example could be, in the case of electricity, the rules for access to distribution and transmission. Stability here involves that the instrument chosen (*e.g.* negotiated third party access, regulated third party access, singly buyer) will not change over time. If the stability argument is correct, then, IRAs should be associated to higher stability of regulatory instruments.

A further step would then be to link each of these characteristics to market performance, which is ultimately the variable of interest. Thus, it should be investigated whether expertise (measured by, for example, the share of economists in the regulator), flexibility (measured by, for example, the delay between an increase competition and the adaptation of regulation), credibility (measured through surveys of the perceptions of regulated firms), and stability (measured by, for example, the duration of regulatory instruments) have an impact on market performance and other goals. This makes clear that these intermediary variables are just a means to achieve an end, and not an end in themselves.

A second output dimension that is relevant for IRAs is related to the respect of "regulatory quality standards" (OECD 1995). These standards are built around ten key questions, referring to the definition of the problem, the assessment of the justification of government action, its form (regulation or other), and its level, the legal basis for regulation, cost-benefit analysis, transparency on distributive effects, clarity and accessibility of regulation, openness of the decision-making process, and compliance mechanisms. The task here is to assess how IRAs behave with respect to these standards, both in absolute terms and in comparison with non-independent regulators. Further, it would be interesting to study how the respect of

regulatory standards is related to market performance. The quality of the output of IRAs can be assessed against standards such as those expressed in the 1995 OECD recommendation. The line connecting the two in the figure (rather than an arrow) indicates that there are in principle no theoretical reasons to believe that independence leads to better performance against these standards. In turn, the respect of these standards is hypothesised to a positive impact on regulatory outcomes, notably in terms of market performance. In this case, a causal relationship is hypothesised.

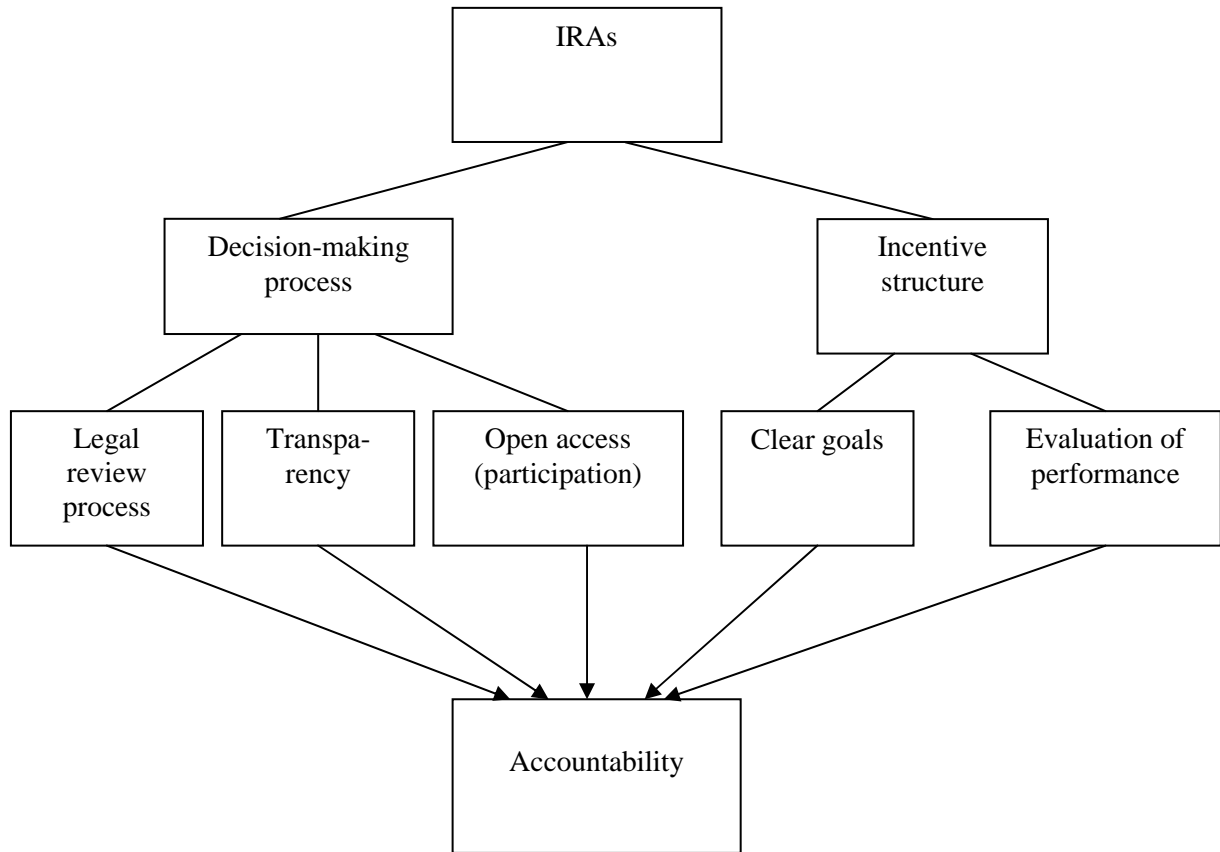
Figure 2. The output of IRAs: respect of regulatory quality standards



In addition to the output, the input is also highly important for IRAs. There are two reasons for this. Firstly, it has been noted that NMIs, being outside of the democratic chain of legitimacy (Strøm 2000), increasingly suffer from legitimacy problems (Majone 1999; Scott 2000a; Elgie 2002; OECD 2002b). Secondly, although it can be argued that regulatory policies have fewer redistributive consequences than other policies and can thus be conducted mainly on technical grounds, they cannot avoid redistributive implications, which means that, like monetary policy (Taylor 2000: 185; Stiglitz 1998: 216-217), they involve important and complex value judgements and are thus not "above politics". Legitimacy has thus an intrinsic value for IRAs, although it is also an important asset for the enforcement of decisions (Scharpf 1997: 152-153).

The legitimacy of IRAs, like that of other NMIs, has a substantive and a procedural component (Majone 2001: 77). Substantive legitimacy depends on the capacity of IRAs to deliver good policy output. In the words of Majone, "the democratic legitimacy of non-majoritarian institutions depends on their capacity to engender and maintain the belief that they are the most appropriate ones for the functions assigned to them" (Majone 2002: 389). This largely corresponds to Scharpf's "output legitimacy" (Scharpf 1970, 1997, 1999), where political choices are legitimate if they promote common welfare. This dimension of legitimacy has been implicitly discussed in the first part of this section.

Figure 3. Normative arguments about accountability of IRAs (input)





Procedural legitimacy, on the other hand, means that IRAs must be accountable for their actions. This, in turn, corresponds to Scharpf's "input legitimacy" (Scharpf 1970, 1997, 1999), where political decisions are legitimate if they are based on the agreement of those who are asked to comply. It is important to note that the standards of accountability of NMIs are not the same as those of representative institutions such as parliaments and governments (Majone 1998). Although the standards are different, however, IRAs still have to be accountable to their democratic principals, *i.e.* elected politicians and, ultimately, citizens. As shown in Figure 3, accountability for IRAs (and other NMIs) can be related to two main dimensions, namely the characteristics of their decision-making process and their incentive structure. Firstly, the decision-making process must be characterised by transparency and open access, and be subject to legal review opportunities. Secondly, the incentive structure is determined by the ease with which misbehaviour can be identified and sanctioned. As Stiglitz puts it, "accountability requires that: (1) people are given certain objectives; (2) there is a reliable way of assessing whether they have met those objectives; and (3) consequences exist for both the case in which they have done what they were supposed to do and the case in which they have not done so" (Stiglitz 2003: 111). Accordingly, it is important for the accountability of IRAs that their goals are clearly specified and that a periodical evaluation procedure is carried out.

To sum up, IRAs can be evaluated against three key dimensions: first, their impact on the performance of the markets they regulate (broadly defined to include protection of consumers' interests), and the capacity to strike a balance between multiple and possibly conflicting goals; second, their capacity to comply with "regulatory quality" standards; and finally, their accountability.

### ***5) Evaluation of IRAs: methodology***

It follows from section 4 that the performance of IRAs can be assessed by looking at the performance of the markets they regulate and the capacity to achieve multiple, possibly conflicting goals, their capacity to comply with "regulatory quality" standards, and their accountability. Market performance, regulatory quality, and accountability are thus the three key dependent variables of the analysis. The three parts of the evaluation require very different strategies. It seems possible to analyse the impact of IRAs on market performance and regulatory quality through an econometric analysis, which will make it possible to isolate the effect of IRAs from that of a battery of control variables (to be determined, but comprising the economic and institutional factors that can also have an impact on market performance). The assessment of the accountability of IRAs, on the other hand, would consist of a "quality check" on a case-by-case basis more than of a conventional analysis leading to broadly applicable conclusions. This notwithstanding, it would also be interesting to study the impact of accountability, as independent variable, on various aspects of market performance.

#### ***5.1) IRAs and market performance***

I have found no study addressing the impact of IRAs on market performance. A partial exception is the studies by Bortolotti et al. (2002) and Wallsten (2001). The problem in these two studies is that the measure for IRAs is very rough (the problem of the operationalisation of IRAs is discussed in section 5.3). Both use a dummy variable indicating whether a country has a separate regulator not directly under the control of a ministry. Interestingly, while Wallsten (2001) finds that IRAs matter, Bortolotti et al. (2002) come to the opposite conclusion.

There is a big literature that studies the impact of privatisation and liberalisation on market performance (for a review see Megginson and Netter 2001). These studies supply many different operationalisations of market performance, which could quite straightforwardly (assuming data availability) be used as dependent variables for an analysis having IRAs as the key independent variable (see below for the problem of the operationalisation of IRAs). Unfortunately, the literature is essentially on telecommunications and electricity. Thus, although the focus of this paper is broader and encompasses all

economic regulators, this methodological part will be directly relevant only for these two regulatory domains.

Market performance measures can be divided into two main categories, according to which group, namely firms or consumers, is most concerned (see also Figure 1). An overview of the variables and measures that can be found in the literature is presented in Appendix 1. Market performance that concerns mainly consumers includes network expansion and modernisation, the introduction of new services, prices, quality, and universal service. Three dimensions of quality can be identified (CEER 2001), namely commercial quality (quality of the relationship between a supplier and a user), quality of supply (*e.g.* continuity of the service in utilities), and quality of the product (*e.g.* voltage in the case of electricity). Universal service deserves special mention as it is an aspect of big concern in many European countries, and is often perceived as being challenged by the privatisation and liberalisation processes to which the establishment of IRAs is related. Universal service is the core of the concept of public service, and can be defined as the obligation for operators to provide "all" users with services of "good" quality at "affordable" prices (Cremer et al. 2001: 7; Scott 2000b: 314; Valletti 2000: 205).

Market performance that concerns mainly firms, on the other hand, includes operating costs, debts, efficiency, productivity, profits and profitability, revenues, and stock markets reactions. Other market performance indicators that are less easily classifiable are employment, investment, and output.

All these variables could in principle be used as dependent variables in econometric analyses where the main independent variable would be IRAs. The goal would be to assess whether, controlling for other variables of interest, IRAs have an impact on, for example, prices, quality, efficiency, profits, and so on. A less straightforward question is whether IRAs are better than regular bureaucracy for achieving multiple, conflicting goals. For illustration purposes, let me assume that the two main market performance goals are low prices for consumers and reasonable profitability for firms. The first goal is of obvious relevance, and the second is a precondition for giving incentives to new firms to enter the market and thus achieve competition. To study how regulators perform in combining these two goals, I suggest including one of the two as independent variable when analysing the impact of IRAs on the other, along with an interaction term. Let me assume that we are interested in price. Price would then be the dependent variable. On the right-hand side of the regression equation would be included, in addition to control variables, a measure for IRAs (say, an independence index) in given countries and sectors, the (average) profitability of firms in those countries and sectors, and an interaction term for IRAs and profitability. Formally,

$$\text{price} = \alpha + \beta_1(\text{indep}) + \beta_2(\text{profit}) + \beta_3(\text{indep}) \times (\text{profit}) + \beta \text{control}, \quad (1)$$

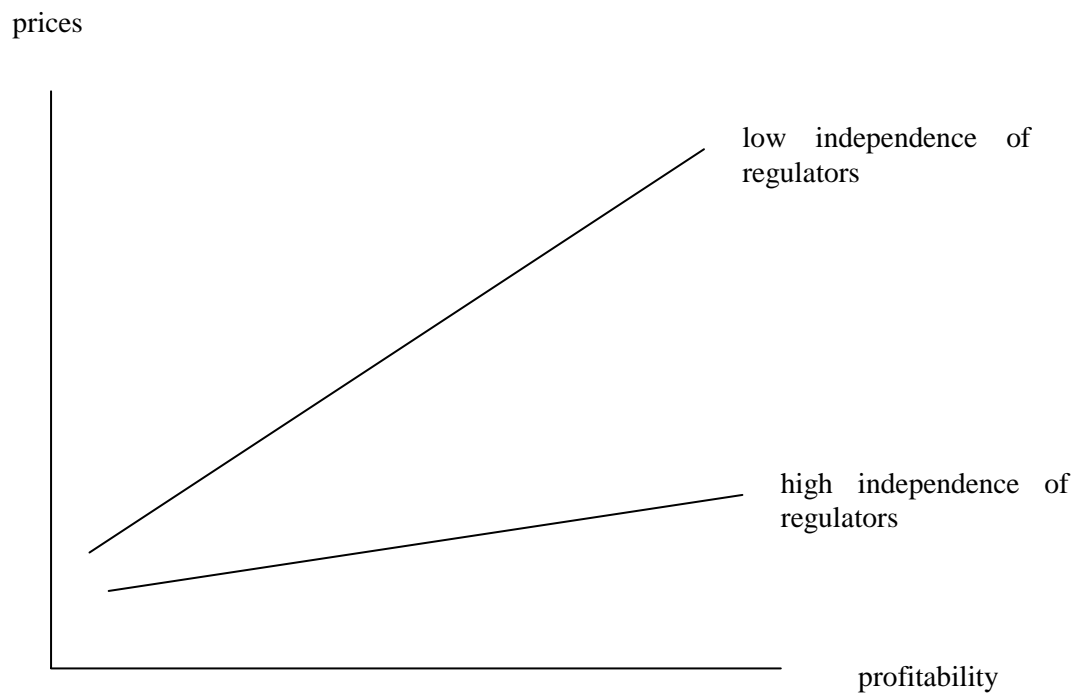
where "price" is a measure of the prices charged to consumers, "indep" is an independence index for regulators, "profit" is a measure of the (average) profitability of firms, and " $\beta$ control" is a vector of control variables with their coefficients.

The idea is that profitability is expected to be positively correlated with prices (the higher the profits of firms, the higher the prices charged on consumers), but the correlation depends on IRAs. In other words, if IRAs are in fact more capable to achieve conflicting goals than regular bureaucracy, then the correlation between profitability and prices should depend on IRAs. This hypothesis can be represented graphically as in Figure 4. The figure shows that, if independent regulators are better in dealing with conflicting goals, then the empirical trade-off between profitability and prices should be less important in the presence of independent regulators. In other words, profitability should not be at the expense of prices. The estimation of parameters in equation 1 would permit to assess the empirical consistency of this hypothesis.

This example is based on a conflict between prices and profitability for the regulator, but the same logic can be applied to other variables of interest. For example, it could be analysed if benefits for

consumers in terms of lower prices are at the expense of the interests of employees in terms of jobs, or salaries, and if independent regulators make a difference in the attempt to avoid such trade-offs.

*Figure 4. Hypothesised relationship between profitability and prices, conditional on the independence of regulators*



The discussion so far has assumed the existence of reasonably refined measures for market performance and other outcomes of interest, as well as the availability of relevant data. This requirement may in practice not be easily met. I thus put forward a more indirect strategy that could serve as second best option, which involves focusing on market competitiveness as a proxy for final outcomes. The assumption here is that the more the market is competitive, the better is its functioning. A standard measure for competitiveness is the Herfindahl index, which measures competitiveness indirectly by assuming that it is negatively correlated with the concentration of an industry. The index can be expressed as follows:

$$HI = \sum_{i=1}^n \left( \frac{X_i}{X} \right)^2$$

Where  $X_i$  is a size measure (*e.g.* sales) for each firm, and  $X$  is the total value of the variable for the industry. There is however a problem with this index. Non-competitive behaviour can exist also in non-concentrated markets, in which case the Herfindahl index is a good measure of competition only in special cases. To cope with this problem, Cesari (2000) puts forward a measure based on the idea that market power and non-competition are correlated with customer loyalty. His fidelity index can be expressed as

$$FI = \sum_{i=1}^n f_{ii} y_i = \sum_{i=1}^n p(F_i^* | F_i) p(F_i^*)$$

where  $f_{ii}$  is the probability of not switching from firm  $i$  in year 1 to firm  $j$  in year 2 (*i.e.* of staying loyal to firm  $i$ ),  $y_i$  is year 2 market shares of firm  $i$ ,  $p(F_i^* | F_i)$  is the probability of being a customer of firm  $i$  in year 2, conditional on being already its customer in year 1, and  $p(F_i^*)$  is the unconditional probability of being a customer of firm  $i$  in year 2. Note that, following Stigler (1964), Cesari (2000) assumes that market shares are a proxy of the unconditional probability of being a customer of firm  $i$  in year 2, *i.e.*  $p(F_i^*)$ . This means that when there is perfect mobility of customers (*i.e.* when  $p(F_i^* | F_i)$  is equal to  $p(F_i^*)$ ), the fidelity index reduces to the Herfindahl index. Data on customers' mobility should be available, at least for telecoms and electricity industries. In this case, the fidelity index could replace or supplement the Herfindahl index in the analysis.

## 5.2) IRAs and regulatory quality

Whether IRAs lead to better regulatory quality can be assessed through the same strategy as for market performance (see section 5.1). The goal is to determine if the independence of regulators matters for the quality of the regulatory output. This can in principle be assessed through an econometric analysis where the dependent variable is a measure of regulatory quality, and the main independent variable, in addition to the relevant control variables, is a measure of the relevant characteristics of the regulator, and notably its independence. The important question is how regulatory quality can be measured. In fact, "regulatory quality" is a concept developed by the OECD in its 1995 recommendation (OECD 1995), and is related more to procedural requirements than to actual effects of regulation (see the short discussion in section 4). Several indicators can be identified on the basis of OECD research in this direction (OECD 2000, 2001). I have selected those that seem most relevant for IRAs and specific regulators (in opposition to the general attitude of governments towards regulation and regulatory reform). Table 1 presents them in abbreviated form.

*Table 1. Operationalisation of the regulatory quality of IRAs' output*

Variable	Indicator
Communication	1) Use of procedures for making regulation known and accessible to affected parties
Assessment of regulatory impacts	2) Requirement to provide written justification of the need for new regulation 3) Assessment of alternative policy instruments 4) Use of regulatory impact analysis 5) existence of regulatory review and evaluation
Training	6) Existence of training programs for civil servants to develop high quality regulation skills

### ***5.3) IRAs as independent variable***

Two main strategies can be followed for the operationalisation of IRAs in view of an econometric analysis. The first involves using a dummy for the presence or absence of an IRA in a given sector/country/year, while the second requires a more detailed measure. It is important to remind here that the characteristic feature of IRAs is their independence from direct political control, and most of the rationales for the establishment of IRAs presented in section 3 derive directly from it. It is clear that a dummy can only very roughly capture the differences between regulators in this respect, as independence is best conceptualised as a continuous rather than a dichotomous variable (Horn 1995). Efforts in this direction have been made by Gilardi (2002), who has developed an independence index for IRAs based on that for central banks (notably Cukierman et al. 1992). The index is constructed around five dimensions, namely the status of the head of the agency, the status of the management board, the relationship with government and parliament, the financial and organisational autonomy, and the regulatory competencies. Its major drawback is that it is focused on formal independence only, although informal independence is also very important. A measure of informal independence that can be used comparatively could be, following further work on central banks (Cukierman and Webb 1995), the link between changes in the partisan composition of governments and turnover at the head of IRAs (for which, however, no data are available to my knowledge). Most recently, it has been argued that what matters for central banks (and arguably other regulators) in relation to credible commitment is not formal independence, but the audience costs that politicians associate to the creation of the regulator (Lohmann 2003). The concept of audience costs could be related to informal independence, but an operationalisation that can work well comparatively does not exist.

### ***5.4) IRAs and accountability***

As mentioned above, while the relationship between IRAs and market performance can in principle be assessed through an econometric analysis that will be able to draw some generalisations about the effects of IRAs, the evaluation of IRAs' accountability is of a different nature. The exercise here will be to assess, on a case by case basis, whether the accountability standards sketched above are met, and to what extent (although it has been stressed that the investigation of the impact of accountability on market performance

would also be interesting). To this end, it is necessary to develop an operational definition of key concepts such as "legal review", "transparency", "open access", "clear goals", and "evaluation of performance" (see section 4).

The literature on central banks, again, is of great help. There has recently been a lively debate on the accountability of independent central banks, notably after the establishment of the European Central Bank (*e.g.* de Haan 1997; Buiters 1999; Issing 1999; de Haan and Eijffinger 2000), and several of the insights are highly relevant for IRAs. In particular, efforts have been undertaken to define accountability rigorously. De Haan and Eijffinger (2000) have developed an indicator of central bank accountability based on three dimensions, namely the ultimate objectives of monetary policy, final responsibility, and transparency. Further work has been addressed especially to the conceptualisation and measure of transparency, partly because, in addition to democratic concerns, transparency seems also related to the performance of central banks (Geraats 2000). Transparency can be defined as "the extent to which [regulators] disclose information that is related to the policy-making process" (Eijffinger and Geraats 2002: 2). Five dimensions of transparency can be identified (Eijffinger and Geraats 2002):

- political transparency, which refers to openness about what the policy objectives are;
- economic transparency, which refers to the economic information that is used for policy, such as data, models, and forecasts;
- procedural transparency, which refers to the way policy decisions are taken, and can be achieved through the release of minutes and voting records;
- policy transparency, which refers to announcements and explanations of policy decisions;
- operational transparency, which refers to the implementation of policy actions.

This conceptualisation has been quantified in an index of central bank transparency that consists of fifteen indicators.

On the basis of the conceptualisation of accountability summarised in Figure 3, and of the discussion of accountability issues in the central bank literature, I suggest that an operationalisation of accountability can be done through the indicators presented in Table 2. The indicators refer to six variables (grouped in four dimensions), namely the objectives of regulatory policy, the evaluation procedure, economic and procedural transparency, participation, and appealing mechanisms. Several ways to aggregate them can be imagined, depending on the precise purposes of the analysis. For example, a single accountability index could be constructed by taking the mean of all indicators, weighted by the importance that is given to the various variables and dimensions.

*Table 2. Operationalisation of accountability*

Dimension	Variable	Indicator
Incentive structure	Objectives of regulatory policy	1) Do governing laws stipulate the objectives of regulation?  2) In case of multiple objectives, is there an explicit prioritisation?  3) Are the objectives quantified (or stated in unambiguous terms)?

	Evaluation procedure	4) Is there a periodic evaluation procedure assessing to what extent the regulatory objectives have been met?
Transparency	Economic	5) Are the basic data for the conduct of regulatory policy (e.g. the calculation of price caps) publicly available?  6) Does the regulator disclose the formal economic models it uses for policy analysis?  7) Does the regulator publish its own economic forecasts?
	Procedural	8) Does the regulator provide an explicit rule or strategy that describes its policy?  9) Does the regulator explain policy decisions within a reasonable amount of time?  10) Does the regulator disclose how each decision was reached?  11) Does the regulator disclose explicit indications of likely future actions?  12) Does the regulator regularly evaluate to what extent its objectives have been achieved?
Decision-making openness	Participation	13) Does the regulator consult advisory committees?  14) Are advisory committees standing or ad hoc?  15) Which groups are represented in advisory committees, and in which proportion?
Legal review	Appealing mechanisms	16) Can the regulator's decision be appealed?  17) If yes, through which body can decisions be appealed?  18) On which grounds are decisions appealable?

## 6 Conclusion

In conclusion, this paper has argued that IRAs, as NMIs, can be evaluated by looking at 1) their impact on the performance on markets they regulate and the capacity to strike a balance between possibly conflicting goals, 2) their capacity to produce high quality regulation, and 3) the extent to which they respect accountability standards. These three dimensions of the performance of IRAs are summarised in Table 3, along with possible variables and indicators. The first and second points can be addressed through an econometric analysis assessing the link between IRAs and various indicators of market performance

(defined broadly to include the interests of both firms and consumers) and regulatory quality, while the third needs an evaluation on a case-by-case basis. This basic framework can in principle be applied to all economic regulators. The problem with sectors other than telecom and utilities is that the identification of indicators for market performance seems less straightforward.

*Table 3. Summary of indicators for the assessment of independent regulatory agencies*

Dimension of performance	Dimension of the concept	Variables	Indicators	
Market performance (final outcome)	Consumers' benefits	price		
		quality		
		introduction of new services	see Appendix 1	
		network expansion / modernisation		
	Firm performance	market competitiveness		Herfindahl index
				Fidelity index
		costs		
		debts	see Appendix 1	
		efficiency		
		productivity		
		profits		
		stock market reactions		
Other goals (final outcome)	Universal service	--	see Appendix 1	
Intermediary variables for final outcomes	Expertise	Relevant people in staff	skilled Share of economists (or other relevant staff categories) in the regulator's staff.	
			Share of regulator's staff with working experience in the regulated industry.	
	Flexibility	Response to external crises / chocks	Adaptation of regulation following an increase of competition in the regulated	



changing economic industry.  
conditions

Credibility Perception of --  
regulated firms on the  
credibility of  
regulatory  
commitments of the  
relevant regulator.

Stability Duration of regulator instruments Duration of price caps.

Duration of instruments for access to  
distribution and transmission (negotiated  
or regulated TPA, single buyer).

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Regulatory quality	Regulatory quality standards	Compliance with OECD standards	Does the regulator use regulatory impact analysis?
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Does the regulator assess regulatory  
alternatives?

Does the regulator consult affected  
parties?

Does the regulator have plain language  
drafting requirements?

Does the regulator evaluate the results of  
regulatory programs?

Does the regulator use procedures for  
making regulation known and accessible  
to affected parties?

Does the regulator have training  
programs for staff to develop high quality  
regulation skills?

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Accountability	Incentive structure	Objectives of regulatory policy	Do governing laws stipulate the objectives of regulation?
----------------	------------------------	------------------------------------	--

In case of multiple objectives, is there an  
explicit prioritisation?

Are the objectives quantified (or stated in  
unambiguous terms)?

Evaluation procedure Is there a periodic evaluation procedure

		assessing to what extent the regulatory objectives have been met?
Transparency	Economic	<p>Are the basic data for the conduct of regulatory policy (<i>e.g.</i> the calculation of price caps) publicly available?</p> <p>Does the regulator disclose the formal economic models it uses for policy analysis?</p> <p>Does the regulator publish its own economic forecasts?</p>
	Procedural	<p>Does the regulator provide an explicit rule or strategy that describes its policy?</p> <p>Does the regulator explain policy decisions within a reasonable amount of time?</p> <p>Does the regulator disclose how each decision was reached?</p> <p>Does the regulator disclose explicit indications of likely future actions?</p> <p>Does the regulator regularly evaluate to what extent its objectives have been achieved?</p>
Decision-making openness	Participation	<p>Does the regulator consult advisory committees?</p> <p>Are advisory committees standing or ad hoc?</p> <p>Which groups are represented in advisory committees, and in which proportion?</p>
Legal review	Appealing mechanisms	<p>Can the regulator's decision be appealed?</p> <p>If yes, through which body can decisions be appealed?</p> <p>On which grounds are decisions appealable?</p>

What are the next steps towards an empirical analysis? Although the various indicators can and should be further refined, I think they are precise enough to guide data collection and empirical investigation. They are explicitly related to the various dimensions of each concept, and indicate which kind of data is needed. In most cases, the information can be collected through questionnaires sent to regulators. In some cases, data already exist for at least some countries, namely data on regulatory quality (OECD 2001)<sup>27</sup> and on IRAs independence (Gilardi 2002), and missing data can be collected through questionnaires. More problematic is the situation for market performance indicators. On the one hand a plethora of indicators exist; on the other, I suspect that it is difficult to collect comparable data, especially if one is interested in time-series. Many authors complain about the difficulty of finding good comparable data for prices, quality, etc. The problem is bound to be even more serious if one wants to compare not only countries, but also sectors. Thus, my suggestion would be to choose specific indicators pragmatically, on the basis of data availability. For example, it is clear that data on prices are needed, but one can be open about the specific indicator, namely, for telecoms, price of monthly access to the telephone network, average peak one minute to OECD countries, trunk tariff basket, and so on (see Appendix 1). On the other hand, the paper says little on the control variables that are needed. Those should be linked to economic models of market performance, but I cannot identify them with precision. In any case, data problems are likely to arise.

In sum, the feasibility of the evaluation of regulators depends much on data availability. However, for a first evaluation one does not necessarily need time series over ten years for all OECD countries. The analysis could very well be cross-sectional only, or longitudinal but including only a few countries. In addition, one could start with running simple models with a limited number of control variables. Though the results should be interpreted with care, they would still supply important new information.

The person who will perform the evaluation should have a strong background in economics, at least as far as the market performance part is concerned. In effect, the reliability of the analysis depends much on the capacity to include IRAs in a sound model of market performance. Although in the paper the issues of control variables and model specification have remained in the background, it must be emphasised that they are crucial for the success of the analysis, although, as mentioned, as a first step simple analyses could already give important insights. For the other aspects of the evaluation, on the other hand, someone with competence on institutions and institutional theories would be needed. It can be the same person or someone else. The evaluation can also be broken in several separate projects, or conducted in a team project. In fact, many options are open.

In conclusion, this paper gives enough information to go ahead with preliminary empirical analyses, which are likely to lead to interesting findings. In order to reach fully-fledged conclusions, however, more work is needed on the economic models in which IRAs should be included.

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<sup>27</sup> In the document, data are aggregated, but I assume that they exist for individual cases.

Appendix 1. Indicators for the performance of markets (telecoms / electricity)

Dimension	Variables	Sector	Measures	References
consumers	network expansion	T	number of main lines per 100 inhabitants	Ros (1999), Wallsten (2001)
consumers	network modernisation	T	% of digital stored program control switches in a network	Ai and Sappington (2002)
		T	% of fibre optic cable in a network	Ai and Sappington (2002)
consumers	new services	T/E	introduction of new services	Prieger (2001, 2002a, 2002b)
		T/E	regulatory approval delay for new services	Prieger (2001, 2002a, 2002b)
consumers	price	T	price of monthly access to the telephone network	Ai and Sappington (2002)
		T	average of peak 1 minute to OECD countries	Boylaud and Nicoletti (2000)
		T	revenue from international service / outgoing minutes of international communications	Boylaud and Nicoletti (2000)
		T	trunk tariff basket (excluding tax)	Boylaud and Nicoletti (2000)
		T	revenue from mobile service / number of mobile subscribers	Boylaud and Nicoletti (2000)
		T	OECD basket of national leased lines charges (64 Kbit/sec) (excluding tax)	Boylaud and Nicoletti (2000)
		T	price of a peak rate three-minute call within the same exchange area using the subscriber's own terminal ( <i>i.e.</i> not from a public telephone)	Wallsten (2001)
		E	industry electricity prices (pre-tax)	Steiner (2000)
		E	ratio of industrial to residential prices (pre-tax)	Steiner (2000)
		E	average price per kWh (total sales revenue / total unites sold)	Lam (1999)
consumers	quality	E	pool prices	Acutt et al. (2001)
		E	number of power outages per year	Steiner (2000)
		T	answer seizure ratio <sup>28</sup>	Boylaud and Nicoletti (2000)
consumers	universal service	T	service reliability (average of call success rate and fault clearance rate) <sup>29</sup>	Boylaud and Nicoletti (2000)
		T	number of payphones per capita	Wallsten (2001)
		T	price	Barros and Seabra (1999)
		T	telephone density (mainlines / 100	Barros and Seabra

<sup>28</sup> Proportion of international calls that successfully seize an international circuit and are answered in the terminating country.

<sup>29</sup> Call success rate defined as one minus the number of faults per mainline. Fault clearance rate defined as the number of faults repaired in 24 hours.

			inhabitants)	(1999)
		T/E	existence of an obligation of service availability	McElhinney (2001)
		T/E	existence of uniform pricing obligation	Valletti et al. (2002), Cremer et al. (2001), Choné et al. (2000, 2002)
		T/E	existence of obligation to cover at least a given area	Valletti et al. (2002), Choné et al. (2000, 2002)
		T/E	existence of quality requirements	Cremer et al. (2001)
firms	cost	T/E	firms' annual operating expenses	Ai and Sappington (2002)
	debts	T	total debt / total assets	Bortolotti et al. (2002)
		T	long-term debt / total assets	Bortolotti et al. (2002)
	efficiency	T	number of main lines per employee	Ros (1999)
		E	capacity utilisation rate (energy production / total average capacity)	Steiner (2000)
		E	distance of actual reserve margins from "optimal" reserve margins <sup>30</sup>	Steiner (2000)
		T	normalised real sales per employee	Bortolotti et al. (2002)
		T	normalised average number of access lines in service per employee	Bortolotti et al. (2002)
		T	variations in capacity utilisation	Fraquelli and Vannoni (2000)
	productivity	T	outgoing minutes of international communications / total employment	Boylaud and Nicoletti (2000)
		T	number of mainlines / total employment	Boylaud and Nicoletti (2000)
		T	number of mobile subscribers / mobile employment	Boylaud and Nicoletti (2000)
		T	productivity ratio	Fraquelli and Vannoni (2000)
	profit	T/E	difference between firms' revenue and sum of operating expenses and taxes	Ai and Sappington (2002)
	profitability	T/E	operating profit margin	Parker (1997)
		T/E	return on capital employed	Parker (1997)
		T/E	internal rate of return to investors	Parker (1997)
		T	operating income / sales	Bortolotti et al. (2002)
		T	return on sales	Bortolotti et al. (2002)
		T	return on assets	Bortolotti et al. (2002)
		T	return on equity	Bortolotti et al.

<sup>30</sup> Reserve margin = (capacity - peak demand)/(peak demand). Optimal reserve margin = 15%. Greater deviations from "optimal" capacity mean lower efficiency of supply.

				(2002)	
		T	return on investment (operating profits / assets)	Fraquelli and Vannoni (2000)	
		T	price recovery ratio	Fraquelli and Vannoni (2000)	
		E	returns on shares of electricity companies, compared with an index of market returns	Dnes and Seaton (1999)	
	revenue	T/E	firms' annual revenue	Ai and Sappington (2002)	
	stock market reactions	T/E	volatility of share prices	Morana and Sawkins (2002)	
		T/E	return on shares of companies	Robinson and Taylor (1998)	
varia	employment	T	absolute change in the number of employees	Bortolotti et al. (2002)	
		T	normalised level of employees	Bortolotti et al. (2002)	
	investment	T	firms' investment in telecommunications plant	Ai and Sappington (2002)	
		T	normalised real capital expenditures	Bortolotti et al. (2002)	
		T	capital expenditures / sales	Bortolotti et al. (2002)	
		T	capital expenditures / total assets	Bortolotti et al. (2002)	
	output	T	real sales	Bortolotti et al. (2002)	
		T	number of access line in service	Bortolotti et al. (2002)	
		T	connection capacity <sup>31</sup>	Wallsten (2001)	

<sup>31</sup> Defined as the maximum number of main lines which can be connected.

## References

- Acutt, Melinda, Caroline Elliott and Terry Robinson (2001), "Credible Regulatory Threats", *Energy Policy*, 29, pp. 911-916
- Ai, Chunrong and David E. M. Sappington (2002), "The Impact of State Incentive Regulation on the U.S. Telecommunications Industry", *Journal of Regulatory Economics*, 22 (2), pp. 133-160
- Barros, Pedro P. and M. Carmo Seabra (1999), "Universal Service: Does Competition Help or Hurt?", *Information Economics and Politics*, 11, pp. 45-60
- Bortolotti, Bernardo, Juliet D'Souza, Marcella Fantini, and William L. Megginson (2002), "Privatization and the Sources of Performance Improvement in the Global Telecommunications Industry", *Telecommunications Policy*, 26, pp. 243-268
- Boylaud, Olivier and Giuseppe Nicoletti (2000), "Regulation, Market Structure and Performance in Telecommunications", *Economics Department Working Paper No. 237, ECO/WKP(2000)10*, Paris, OECD
- Buiter, Willem H. (1999), "Alice in Euroland", *Journal of Common Market Studies*, 37 (2), pp. 181-209
- CEER (2001), *Quality of Electricity Supply: Initial Benchmarking on Actual Levels, Standards and Regulatory Strategies*, Council of European Energy Regulators
- Cesari, Riccardo (2000), "A Generalized Measure of Competition", *Applied Economics Letters*, 7, pp. 479-481
- Choné, Philippe, Laurent Flochel and Anne Perot (2000), "Universal Service Obligations and Competition", *Information Economics and Policy*, 12, pp. 249-259
- Choné, Philippe, Laurent Flochel and Anne Perot (2002), "Allocating and Funding Universal Service Obligations in a Competitive Market", *International Journal of Industrial Organization*, 1, pp. 1247-1276
- Cremer, H., F. Gasmi, A. Grimaud and Jean-Jacques Laffont (2001), "Universal Service: An Economic Perspective", *Annals of Public and Cooperative Economics*, 72 (1), pp. 5-43
- Cukierman, Alex, Steven B. Webb and Bilin Neyapti (1992), "Measuring the Independence of Central Banks and Its Effects on Policy Outcomes", *World Bank Economic Review*, 6(3), pp. 353-398
- Cukierman, Alex and Steven B. Webb (1995), "Political Influence on the Central Bank: International Evidence", *World Bank Economic Review*, 9 (3), 397-423
- de Haan, Jakob (1997), "The European Central Bank: Independence, Accountability and Strategy: A Review", *Public Choice*, 93, pp. 395-426
- de Haan, Jakob and Sylvester C. W. Eijffinger (2000), "The Democratic Accountability of the European Central Bank: A Comment on Two Fairy-Tales", *Journal of Common Market Studies*, 38 (3), pp. 393-407
- Dnes, A. W. and Seaton, J. S. (1999), "The Regulation of Electricity: Results from an Event Study", *Applied Economics*, 31, pp. 609-618

Eijffinger, Sylvester C. W. and Petra M. Geraats (2002), "How Transparent Are Central Banks?", Discussion paper No. 3188, London, Centre for Economic Policy Research

Elgie, Robert (2002), "The Politics of the European Central Bank: Principal-Agent Theory and the Democratic Deficit", *Journal of European Public Policy*, 9 (2), pp. 186-200

Fraquelli, Giovanni and Davide Vannoni (2000), "Multidimensional Performance in Telecommunications, Regulation and Competition: Analysing the European Major Players", *Information Economics and Policy*, 12, pp. 27-64

Geraats, Petra M. (2000), "Why Adopt Transparency? The Publication of Central Bank Forecasts", Discussion paper No. 2582, London, Centre for Economic Policy Research

Gilardi, Fabrizio (2002), "Policy Credibility and Delegation to Independent Regulatory Agencies: A Comparative Empirical Analysis", *Journal of European Public Policy*, 9 (6), pp. 873-893

Horn, Murray J. (1995), *The Political Economy of Public Administration. Institutional Choice in the Public Sector*, Cambridge, Cambridge University Press

Issing, Otmar (1999), "The Eurosystem: Transparent and Accountable or 'Willem in Euroland'", *Journal of Common Market Studies*, 37 (3), pp. 503-519

Lam, Pun-Lee (1999), "Regulatory Effects on Electricity Prices in Hong-Kong", *Energy Economics*, 21, pp. 529-545

Levy, Brian and Pablo T. Spiller (1994), "The Institutional Foundations of Regulatory Commitment: A Comparative Analysis of Telecommunications Regulation", *Journal of Law, Economics, and Organization*, 10 (2), pp. 201-246

Lohmann, Susanne (2003), "why Do Institutions Matter? An Audience-Cost Theory of Institutional Commitment", *Governance*, 16 (1), pp. 95-110

Majone, Giandomenico (1994), "The Rise of the Regulatory State in Europe", *West European Politics*, 17 (3), pp. 77-101

Majone, Giandomenico (1998), "Europe's 'Democratic Deficit': The Question of Standards", *European Law Journal*, 4 (1), pp. 5-28

Majone, Giandomenico (1999), "The Regulatory State and its Legitimacy Problems", *West European Politics*, 22 (1), pp. 1-24

Majone, Giandomenico (2001), "Nonmajoritarian Institutions and the Limits of democratic Governance: A Political Transaction-Cost Approach", *Journal of Institutional and Theoretical Economics*, 157, pp. 57-78

Majone, Giandomenico (2002), "The European Commission: The Limits of Centralization and the Perils of Parliamentarization", *Governance*, 15 (3), pp. 375-392

McElhinney, Stephen (2001), "Telecommunications Liberalisation and the Quest for Universal Service in Australia", *Telecommunications Policy*, 25, pp. 233-248



Meggison, William L. and Jeffrey M. Netter (2001), "From State to Market: A Survey of Empirical Studies on Privatization", *Journal of Economic Literature*, 39, pp. 321-389

Moe, Terry M. (1990), "Political Institutions: The Neglected Side of the Story", *Journal of Law, Economics, and Organisation*, 6, Special Issue, pp. 213-105

Morana, Claudio and John W. Sawkins (2002), "Stock Market Reaction to Regulatory Prices in the English and Welsh Water Industry", *Journal of Regulatory Economics*, 22 (2), pp. 185-204

OECD (1995), *Recommendation of the Council of the OECD on Improving the Quality of Government Regulation*, Paris, OECD

OECD (2000), *The OECD Country Reviews on Regulatory Reform: Revised Review Questionnaire for 2001*, SG/RR(2000)6, Paris, OECD

OECD (2001), *Results of Member Countries' Answers to OECD's Regulatory Indicators Questionnaire on Government Capacity to Produce High-Quality Regulations*, Paris, OECD

OECD (2002a), *Regulatory Policies in OECD Countries. From Interventionism to Regulatory Governance*, Paris, OECD

OECD (2002b), *Distributed Public Governance. Agencies, Authorities and other Autonomous Bodies*, Paris, OECD

Parker, David (1997), "Price Cap Regulation, Profitability and Returns to Investors in the UK Regulated Industries", *Utilities Policy*, 6 (4), pp. 303-315

Prieger, James E. (2001), "Telecommunications Regulation and New Services: A Case Study at the State Level", *Journal of Regulatory Economics*, 20 (3), pp. 285-305

Prieger, James E. (2002a), "Regulation, Innovation, and the Introduction of New Telecommunications Services", *Review of Economics and Statistics*, 84 (4), pp. 704-715

Prieger, James E. (2002b), "A Model for Regulated Product Innovation and Introduction with Application to Telecommunications", *Applied Economics Letters*, 9, pp. 625-629

Robinson, T. A. and Mark P. Taylor (1998), "The Effects of Regulation and Regulatory Risk in the UK Electricity Distribution Industry", *Annals of Public and Cooperative Economics*, 69 (3), pp. 331-346

Ros, Augustin J. (1999), "Does Ownership or Competition Matter? The Effects of Telecommunications Reform on Network Expansion and Efficiency", *Journal of Regulatory Economics*, 15, pp. 65-92

Scharpf, Fritz W. (1970), *Demokratietheorie zwischen Utopie und Anpassung*, Konstanz, Universitätsverlag

Scharpf, Fritz W. (1997), *Games Real Actors Play. Actor-Centred Institutionalism in Policy Research*, Boulder, Westview Press

Scharpf, Fritz W. (1999), *Governing in Europe: Effective and Democratic?*, Oxford, Oxford University Press

Scott, Colin (2000a), "Accountability in the Regulatory State", *Journal of Law and Society*, 27 (1), pp. 38-60

Scott, Colin (2000b), "Services of General Interest in EC Law: Matching Values to Regulatory Technique in the Public and Privatised Sectors", *European Law Journal*, 6 (4), pp. 310-325

Steiner, Faye (2000), "Regulation, Industry Structure and Performance in the Electricity Supply Industry", *Economics Department Working Papers No. 238, ECO/WKP(2000)11*, Paris, OECD

Stigler, George J. (1964), "A Theory of Oligopoly", *Journal of Political Economy*, 72 (1), pp. 44-61

Stiglitz, Joseph E. (1998), "Central Banking in a Democratic Society", *The Economist*, 146 (2), pp. 199-226

Stiglitz, Joseph E. (2003), "Democratizing the International Monetary Fund and the World Bank: Governance and Accountability", *Governance*, 16 (1), pp. 111-139

Strøm, Kaare (2000), "Delegation and Accountability in Parliamentary Democracies", *European Journal of Political Research*, 37 (3), pp. 261-289

Taylor, Christopher (2000), "The Role and Status of the European Central Bank: Some Proposals for Accountability and Cooperation", in: Crouch, Colin (ed.), *After the Euro. Shaping Institutions for Governance in the Wake of European Monetary Union*, Oxford, Oxford University Press, pp. 179-202

Thatcher, Mark and Alec Stone Sweet (2002), "Theory and Practice of Delegation to Non-Majoritarian Institutions", *West European Politics*, 25 (1), pp. 1-22

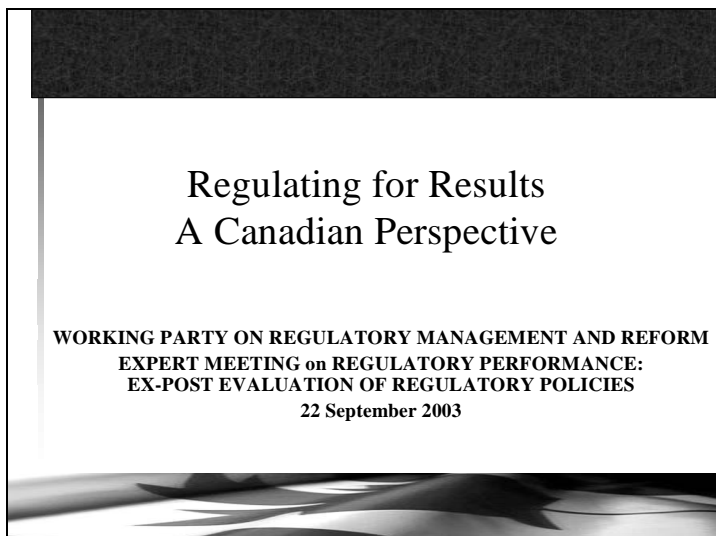
Valletti, Tommaso M. (2000), "Introduction: Symposium on Universal Service Obligation and Competition", *Information Economics and Policy*, 12, pp. 205-210

Valletti, Tommaso M., Steffen Hoernig and Pedro P. Barros (2002), "Universal Service and Entry: The Role of Uniform Pricing and Coverage Constraints", *Journal of Regulatory Economics*, 21 (2), pp. 169-190

Wallsten, Scott J. (2001), "An Econometric Analysis of Telecom Competition, Privatization, and Regulation in Africa and Latin America", *Journal of Industrial Economics*, 49 (1), pp. 1-19

## PRESENTATIONS

*Regulating for Results - a Canadian perspective*  
*Hélène Quesnel*



## Experience from 1990`s to today

- 1995-2000: Regulatory Policy - inclusion of the Regulatory Process Management Standards (RPMS) and assessment of the capacity to implement
- 1990`s to 2001 - growing recognition of accountability and performance measurement - Evaluation Policy (2001)
- 2001- ongoing: *Regulating for Results* initiative:
  - Phase 1(2001): assess state of the art - how institutions measure the results and effectiveness of their regulatory programs.
  - Phase 2 (2003 - 04): assess progress on Smart Regulation agenda and develop an evaluation framework
  - Phase 3 (ongoing): capacity/community – continuous learning

## Capacity for regulation making

- RPMS: Quality standards for regulatory processes - each Regulatory Policy requirement has a corresponding standard
- Outcomes of assessment activities:
  - Measures to enhance regulation-making capacity (e.g., strengthen regulatory coordination units; increase training, specialists; management committees)
- PCO coordinating government-wide initiatives
  - Web based learning tool and guidance; best practices sessions
  - RIAS streamlining
  - Performance measurement
  - Assess benefit cost analysis assumptions

## Trends - accountability and performance

- Evaluation Policy: accurate, objective and evidence-based information to help managers make sound, effective decisions and provide results for Canadians
- Three fundamental principles:
  - Achieve/report results: primary responsibility of managers
  - Rigorous and objective evaluation: important tool to help managers manage for results
  - Institutions are responsible for the rigour and discipline of evaluation within their jurisdictions.
- Reports on Plans and Priorities; Performance Reports

## Regulating for Results – Phase 1

- Objective: assessment of the state of the art
  - How/when regulatory performance indicators are developed
  - How regulatory results are captured, transmitted and communicated
- Methodology:
  - Interviews, workshops, document review and best practices
- Conclusions:
  - Performance Orientation (flexibility and adaptation)
  - Level of Implementation (towards managing for results)

## Regulating for Results – Phase 1 (continued)

### Key Lessons:

- Focus on outcomes - logic model or chain of results
- Involvement and support across corporate and line functions, between regions and headquarters
- Interested people; small, incremental steps; significant and ongoing resource effort at all levels
- Integration of management concepts into key processes
- Good performance measurement requires a climate of trust that is built and sustained throughout the system.

## Regulating for Results – Phase 2

- Objective: develop an evaluation framework to track and assess contributions to the Smart Regulation agenda
  - Specific smart regulation initiatives
  - External Advisory Committee on Smart Regulations (EACSR)
  - System-wide issues involving regulatory governance
- Methodology:
  - Interviews, focus groups, documentation review
  - Performance indicators to reflect outcomes at different levels
  - Measurement and reporting approaches – learning opportunity
- Status: early stages, link to institutional efforts

## Regulating for Results – Phase 3

- Objective: framework for the application of performance measurement principles to regulatory programs
- Demonstrate and further support:
  - Transparency and accountability in the public sector
  - Capacity building and community-wide continuous learning (e.g., through learning events, lessons learned, tools)
  - Responsiveness to interested parties (e.g. private sector, the Office of the Auditor General and parliamentarians)
  - Horizontal assessment of regulatory programs, their priorities and resource allocations
- Status: identify key partners and scope out a work plan

## Conclusion – What can be achieved

- Benefits of an initial stock-taking exercise
  - Better understanding of OECD Member Countries' experiences (e.g., challenges in the evaluation of tools and institutions; how policies or strategies guide evaluations)
  - Identify lessons learned and avenues for broader understanding
- Linkages / synergy with other work?
  - Inform review of the OECD checklist
  - Inform countries' domestic efforts
  - Early opportunity to create potential convergences and address key divergences

## *Audit of the legislative functions in Dutch Ministries*

*By Jan Tom K. Bos*

### **Background**

As more often is the case, incidents though in itself regrettable may produce valuable policy results. Such an incident formed the start of the audit of the legislative function in the Dutch ministries.

In 1997 gradually it became clear that at least in some cases the Netherlands had not fulfilled the obligations laid down in the EC directive on notification (directive EC 83/189 L 109, 26 April 1983). Court decisions stating that the Dutch regulations that contrary to the Directive were not notified, were not binding, were the result. This of course created some uneasiness at government level and in a quick search, a few hundred regulations were identified as unduly not being notified in Brussels. A lot of effort of course was immediately invested to do the omitted. But at the same time the question was raised how these mistakes could have been made in all the relevant ministries responsible for drafting these regulations. One would expect that more attention would have been paid to one of the most important quality requirements for legislation *i.e.* the demand that all regulations shall be in conformity with binding higher (European or international) law.

It was clear that the violation of the EC directive was not an incidental mistake but rather a widespread flaw. This gave reason to investigate the performance of the ministries in the field of their responsibility to draft legislation with a view to elementary quality demands.

This investigation took the form of an audit of the legislative function in the Dutch ministries. Content, scope and results of the audit will be discussed later on in more detail.

### **Legislation / general policy for its quality**

At a national level legislation in the Netherlands shows three instruments. In ranking order from highest to lowest level we have:

1. statutes, enacted in co-operation between government and both chambers of parliament;
2. government decrees, enacted by government decision after receiving advice from the Council of State;
3. State;
4. ministerial regulations, enacted by decision of a minister in the Cabinet.

Government decrees and ministerial regulations can only be enacted in so far the relevant statute and/or decree grants the power to legislate to the government respectively the minister. For all three legislative instruments mentioned above it applies that the initiative to bring legislation into being is taken by the minister responsible for the policy topic that is to be regulated (apart from rare initiatives in parliament). Therefore the initiative to change *f.i.* the environmental protection law is taken by the minister of environmental protection, a change of the competition law is initiated by the minister of economic affairs, a change in the civil code by the minister of justice etc. etc.

Apart from his responsibility for the legislation in the field of justice the minister of justice also has an overall responsibility for the quality of legislation in general. Since there are as a rule some 12 different ministers (with ministerial departments) in a Dutch cabinet there also are some 12 fields of legislation to be guarded. Theoretically it is difficult to distinguish the responsibility of the minister of justice for legislation



from the responsibility an other minister has for the policy of which the regulation of certain topics is a part. In practice however we see some border conflicts, but they usually do not develop into war. Leading principle in these discussions is: the debate is not about the policy itself but about the correct use of legislation as an instrument in that framework.

In the ministry of Justice the department for legislative quality (part of the directorate for legislation) is charged with the tasks stemming from the overall responsibility I just mentioned.

As has been laid down in several position papers by different cabinets the responsibility for legislative quality implies the task to warrant – as much as possible in a political decision making process – that legislation is in conformity with the following requirements:

- Legitimacy and conformity with law of higher order
- Necessity
- Subsidiarity and proportionality
- Effectiveness and efficiency
- Consistency (in itself and with other legislation)
- Practicability and enforceability
- Technical quality (simplicity, clarity etc.).

In order to meet these demands the interventions of the ministry of Justice are directed to:

1. the legislative products (statute, government decree etc.)
2. the processes in which preparation takes place
3. the experts in the legislative departments of the ministries

The activities of the department for legislative quality therefore are:

- 1.a. review of all proposed (national) legislation with the status of statute or government decree
- b. projects to review selected complexes of the existing legislation with a view to the degree to which they in conformity with the actual demands of society
- 2. forming and maintaining of co-ordination mechanisms between the legal specialists in the different ministries
- 3. developing and maintaining all kinds of tools to be used by lawyers and policy makers in the legislative process, providing for an active knowledge centre for legislation, maintaining an Academy for Legislation (courses for fresh and experienced legislators), taking steps to further co-operation between ministries in HRM.

With a view to his overall responsibility for the quality of legislation it is no wonder that the minister of Justice was also held responsible for the incident seemingly showing a fairly general failure to comply

with European legislation, or at least the failure comply fully in all respects. Since the detected failure could be seen as a failure somewhere within the institutions that produce legislation there was reason to examine that aspect in particular. Therefore the minister of Justice installed an audit commission charged with the task to investigate the quality of the organisation of the ministries with a view to the preparation of legislation.

### **Audit of the legislative function in the ministries**

The audit of the legislative function in the ministries took place in two rounds of visits of the commission to the ministries between 1998 and 2001; the final report of the audit committee was presented to the minister of Justice in April 2002.

Preceding the first visit of the commission the ministries provided for a self evaluation which formed the basis for the interviews during the visit of the commission. At the start in 1998 the idea of an audit of such a key function in the ministries was innovative. There was very little relevant experience available to the commission. To a large extent therefore it had to find its own way.

The commission consisted of 9 persons, the presidency of 3 included. This presidency was headed by a former secretary of state at the time member of the Council of State; the other members were a barrister former president of the national bar, and a well known professor in management science. The other 6 were professor at law or economics, CEO, management consultant, legal adviser in a multinational or provided for a combination of these qualifications.

Starting point of the audit as the commission pointed out in its report is the idea that well trained participants a well organised process of legislation contribute to the quality of the legislative products brought into being in that process. It was explicitly not the task of the audit commission to review the intrinsic quality of the products themselves. A constitutional conception was the reason for this restriction. It is according to the principles of the constitution up to parliament and not to the government or its advisory commissions to give the final political judgement.

Since the focus of the investigation was on the process of legislation and specific criteria for judging that process were lacking the audit commission had to "translate" the existing quality demands related to the products of legislation into quality standards related to the process of preparation. The elements on which the commission focused were co-operation, management and structure of working processes, preconditions like availability of adequate numbers of adequately trained staff supported by adequate (ICT) facilities. As was mentioned before, preceding the actual audit the departments performed a self evaluation that was structured by the commission. A detailed questionnaire was to be completed on the following topics:

- a. the precise structure of the way in which the different departments within the ministry that are involved in legislation are organised;
- b. the structure of the co-operation of the relevant departments (with regard to formal structures, authority to take initiatives, cultural aspects, informal habits etc.)
- c. formal and informal relations with public services charged with the application or enforcement of legislation, the use of prognostic instruments, relations with those groups in society directly affected and the public in general;
- d. the management of the legislative processes in the ministry (division of decision making power, mutual involvement between separate departments, political steering of a legislative programme, influence of the legal experts at the top of the ministry)

- e. preconditions concerning the level of expertise, the availability of adequate documentation, the use of existing tools, possibilities for professional training, access to the internet;
- f. detailed information on the actual expertise available in the organisation, knowledge management policies and practice, recruitment policy and personnel management.
- g. planning of improvements.

The completed questionnaires in combination with documentation provided to substantiate the answers given formed the basis of the interviews the audit commission held in the ministries. The findings of the commission were laid down in reports for each separate ministry and a general report after the first and second round. The reports concerning the different ministries were not made public, the general reports were or will be (by presenting them to parliament).

The most important findings of the commission after the first round of audits were the following:

- a. The political pressure to come to a continuous policy renewal inevitably goes with a continuous pressure to create new legislation necessary to instrument new policies chosen. This pressure creates risks for the attention given to the juridical approach and to the possibilities to maintain or further legislative expertise; those risks also affect the effectiveness of the policies.
- b. The impression has arisen that within ministries the legal dimension is of relatively small importance. Legislation is seen as an instrument that can be framed to support any given policy goal.
- c. Legislators are high-professional lawyers who are difficult to manage and therefore too often are not managed adequately; continuity in the process then may become dependent on individual skills and preferences rather than management policies.
- d. Given the importance of European law the level of expertise in the directorates for legislation is too low; this shortcoming is not compensated for elsewhere in the organisation and the existing expertise is not used fully since legislators are too little involved in the Brussels negotiation processes that are in the hands of others in the ministries.

These findings lead the commission to recommend that:

- a. measures should be taken to guarantee adequate influence for the legislative branch within the departmental organisation (direct access to the minister is a necessary element in that respect)
- b. co-operation between legislators and others should be organised in a way it cannot be avoided or is not attractive to avoid;
- c. expertise among legislators should be shared and developed together, supported by adequate ICT supplies; knowledge management is necessary and possibilities for continuous professional training should be available
- d. ministries should co-operate in their recruitment and personnel policies and share their knowledge centre for European and international law and for legislative expertise
- e. to keep up the quality in the law making processes permanent quality systems should be provided for.

As will be clear from the foregoing the commission stresses very much the importance of an adequate position for the thoroughly skilled legislator in continuous communication with policy makers in the ministries, affected parties outside and the public in general. One might question this position as a "oratio pro domo" to please the minister of justice. But even so that does not mean that the position is untenable with a view to legislative quality. The quality requirements mentioned before reflect the crucial notion that legislation is the result of balancing different interests and weighing different aspects. legislative quality implies that all relevant aspects and interests have duly been taken into account in this balancing process in that way warranting that the outcome is a reasonably explainable result. The position of the legislator in this process of balancing is special because his responsibility is not to attribute a certain weight to certain aspects or interests but to guarantee that all relevant elements in fact are taken into account.

### **Audit continued: results and second round**

In the different ministries the specific findings and recommendations of the audit commission generally were welcomed as useful impulses to improve the quality of the organisation with a view to an important task. Also the cabinet was pleased with the general findings and recommendations and agreed with their general bearing. Apart from the decision that each ministry should implement measures in accordance with the recommendations of the commission, it was decided to join activities in the field of recruitment, professional training and knowledge management. As a result of these decisions an Academy for Legislation and knowledge centres for European law and legislative questions have been created in 2000 and 2001.

On the recommendation concerning permanent quality systems the cabinet did not take a decision but it invited the audit commission to give further suggestion after the second round of audits.

The second round in the audit of the legislative function in the ministries (2000, 2001) had a more limited scope. The commission focussed on the question to what extent the recommendations from the first round had been implemented, what new developments had occurred, and in what direction more permanent quality systems should be developed. The findings of were – briefly – sketched the following:

1. Many of the recommendations indeed have been implemented, but without much co-operation between the different ministries.
2. The relative importance of the legislative departments seems to be growing and organisational measures to further co-operation are taken and effective. This is also the case in the co-operation between ministries and the services charged with the enforcement of legislation, although organisations "outside" the ministries complain about poor feedback on their intervention.
3. There still is room for improvement of the management of legislative processes.
4. Important steps are taken to further expertise in the field of European law and continuity in this approach is necessary.
5. The co-operation on the field of knowledge management and personnel policies (especially the facilities for professional training) should be maintained and expanded.

To guarantee the quality of the process of preparation of legislation the commission suggests to distinguish 4 levels:

- concrete legislative projects
- intra ministerial quality management

- co-operation between ministries
- “outside” quality control.

At the first three levels specific recommendations are given to clarify and formalise the relevant quality requirements, to clearly attribute responsibilities for quality care and to provide for mechanisms to account for this responsibility. On the 4th level the commission suggests to continue audits of the legislative function. The frequency may be reduced to once every 4 years. The commission charged with the audits should have opportunity to look into the quality systems at work and the accounts given in between.

The position the Cabinet will take vis-à-vis these findings and recommendations will be clear in a few weeks. It is to be expected however that again it will agree in substance.

### **Final remarks**

The audit of the legislative function in the ministries seems to have a double relation to the subject of this expert meeting. On the one hand the audit is a form of ex post evaluation of the institutions that produce proposal for legislation. The findings give information about the effects of the organisational setting in which the process of preparation of legislation takes place, the use of the regulatory tools in actual practice. On the other hand it becomes clear the auditing of the legislative function itself is an (sort of higher order) instrument to further the quality of legislation, an element of the policy aimed at that goal.

The assertion provokes the question how the effect of auditing the legislative function will be evaluated. There are mechanisms relevant in that respect. In the first place there will be to some degree parliamentary control. Since the Cabinet takes position in relation to the public report of the audit commission in a letter to parliament it is to be expected that this letter will form part of a larger or smaller debate with the minister of justice. The second mechanism is part of the budgetary systems for the ministries. A few years ago a new budgetary was put into place which is called “from policy budget to policy annual account”. The main point in this system is the focus on a clear and demonstrable relation between policy goals, means and effects and the use of the budget. Budget and account are centred on three questions:

- What do we want to achieve? What did we achieve?
- What are we going to do to achieve it? What did we do?
- What will it cost? What was the price?

Since this budgetary discipline also applies to the policy for legislative quality the minister of justice (or other minister who have a responsibility on this topic) will have to account for plans and actions undertaken to execute the decisions of the cabinet on the recommendations of the audit commission. But at this time it is too early to present the results of that evaluation.

*Evaluating Regulatory Impact Analyses,*

*Winston Harrington*

## Evaluating RIAs

Winston Harrington  
OECD Expert Meeting  
September 22, 2003



## *Ex ante* v. *Ex post* Analysis of RIAs

- *Ex ante* analysis
  - Judges RIA using only information available to the RIA team at the time the RIA was prepared.
- *Ex post* analysis



January 04

## Three approaches to evaluation

- Content tests
- Outcome tests
- Function tests

## Content tests

- *Ex ante* evaluation of RIA content
- Intensive tests
  - OMB regulatory review
  - Reviews by NGOs
    - Public interest groups
    - Trade associations
    - Academic research institutes

## Extensive content tests (Hahn)

- Do RIAs have elements essential to a proper benefit-cost analysis?
  - Quantification/monetization of costs and benefits
  - Consideration of alternatives
  - Calculation of net benefits
- Transparency
- Internal consistency (of discount rate)
- Hahn et al.
  - Descriptive study of 48 RIAs, 1996-1999
  - High rates of failure



January 04

## Outcome tests

- *Ex post* analysis of regulatory outcomes
  - RIA predictive abilities
  - Regulatory performance
- Many studies of regulatory effectiveness
- Few studies of costs -- why?
  - Incentives
  - Difficulty



January 04



## Are regulatory costs estimated accurately?

- Environmentalist view: Costs of individual regulations are overestimated
- View of regulated community: Costs of regulatory programs are underestimated
- HMN findings:
  - Costs of individual regulations are usually overestimated
  - But so are effects.
  - No apparent bias in “unit costs”



January 04

## Other outcomes of interest

- Dynamic efficiency
- Distributional effects
- Effects on innovation
- Implementation difficulties



January 04

## US examples

- OMB review during rulemaking process



January 04

## Function tests

- Do RIAs make a difference?
  - Improving regulatory outcomes
  - Educating participants
  - Raising awareness of regulatory innovations
- Mixed results from
  - Econometric studies of rulemaking
  - Case studies
- Timing matters



January 04

## Conclusion

- Tests are complements, not substitutes
- *Ex ante studies can improve current RIAs*
- *Ex post studies can improve future RIAs*
- RIAs can improve *ex post* studies

*UK Evaluation of the Quality and Effectiveness of RIAs,*

*Ed Humpherson and Mark Courtney*

National Audit Office (NAO) Report “Better Regulation: Making Good Use of Regulatory Impact Assessments,” 15 November 2001

This was one of a series of NAO “value for money” studies, looking at the effectiveness of government policies.

It involved examining a sample of 23 RIAs from 13 Departments and agencies; benchmarking against regulatory appraisal processes in other countries; checks on the availability and accessibility of RIAs; and interviews with the Regulatory Impact Unit, Small Business Service, government departments and a range of external organisations.

The main conclusions were:

- RIAs have helped contribute to better policy making by providing a rigorous framework in which to analyse the potential effects of new regulations.
- There is much good practice in preparing RIAs but room for improvement
- Three factors characterise good RIAs:

Starting early

Consulting effectively

Analysing costs and benefits appropriately

The Parliamentary **Public Accounts Committee** held hearings on the NAO report and published its own report on 12 April 2002. Its main recommendations were:

- the Cabinet Office and Small Business Service should improve their guidance on alternatives to regulation and on the effects of regulation on small businesses
- the Cabinet Office should encourage Departments to set targets for regulatory reform
- it should issue more guidance about effective consultation
- it should set minimum standards for placing RIAs on web-sites
- it should challenge RIAs where no Office of Fair Trading Advice had been taken on competition
- it should work with the NAO to develop a programme of external evaluation of RIAs.

**Revised RIA Guidance published January 2003**

This included:

- strengthened guidance on alternatives to regulation
- examples of good practice
- increased emphasis on wider economic, social and environmental impacts
- strengthened guidance on the small firms impact test
- guidance on the new competition test
- incorporates the guidance on assessing European proposals

The Cabinet Office also launched an expanded programme of training on RIAs, including seminars in Departments and sections on RIA in the main Civil Service College courses.

### **Public Service Agreement (for the Cabinet Office)**

The Public Service Agreements are published, high-level targets agreed by government departments with the Treasury – they are not comprehensive but identify the key government objectives. Relevant are:

- for 2001/02: “ensure rigorous RIAs undertaken”
- from 2002/03 onwards: “full compliance with the RIA process ...”[there is also a target for regulatory simplification]

December 2002 survey showed 92% of measures requiring RIAs had the appropriate stage of the RIA completed on time;

June 2003 survey showed 98% compliance.

### **EMPHASIS NOW IS ON IMPROVING RIA QUALITY**

#### **Departments’ Annual Reports**

It was announced in the Budget, April 2003, that from this financial year onwards, Departments’ annual reports must include a report on their better regulation performance and that their performance will be taken into account in the next spending round. Reports are expected to include:

- their compliance with the RIA process
- how they have met their targets for regulatory simplification
- examples of good practice, such as the use of alternatives to regulation.

#### **National Audit Office Review of RIAs**

##### *Remit*

- Invited by the Cabinet Secretary to undertake the role

- Looking at a sample of ten RIAs, across different departments completed in the last 18 months – the NAO took advice from the Better Regulation Task Force on which RIAs to choose (especially on which were particularly bad ones)
- Examining the quality and thoroughness with which they have been carried out.

#### *Objectives*

- To analyse the use of RIAs in effective policy-making and thereby to contribute to better regulation
- To provide examples of good and bad practice in the form of case studies and thereby to supplement existing guidance
- To provide assurance to Parliament on the way in which RIAs are being carried out.

#### *Criteria*

Six areas of consideration:

- Objectives, risks and options
- Consultation
- Analysis of costs
- Analysis of benefits
- Monitoring and evaluation

#### *Product*

- Detailed feedback on individual RIAs to departments
- Published compendium report to Parliament on cross-cutting issues raised by the RIAs in the sample.

#### *Emerging Findings*

- RIAs can play an important role in policy-making
- Current samples are a “mixed bag”
- Strength generally in consultation
- Further work needed in identifying objectives, costs and benefits, in the consideration of options and in setting out the objectives and the means of monitoring and evaluating the achievement of objectives

### *Timescale*

- Detailed feedback to departments already under way
- Now drafting the compendium report
- Aim to publish in early 2004

### *Future Years*

- We see this as an ongoing role for the NAO: there is scope for continuous improvement in the use of RIAs
- This has been a pilot year and we will take feedback from a variety of sources before deciding how to carry out the role in future.
- We think that the basic model of review of a sample of RIAs, with detailed feedback to Departments, followed by a published compendium report, is sound
- In future years, we may select the sample on a more structured or “themed” basis (*e.g.* RIAs which feature complex cost-benefit analysis as a “theme” for a year)

*The NNR Regulation Indicator- an assessment by the Swedish Board of Industry and Commerce for  
Better Regulation of the Swedish Government's RIA practices,*

*Lennart Palm*

NNR's principal tasks are to:

- consult with public agencies before they impose new reporting obligations on business
- coordinate the business sector' scrutiny of the Government's, public agencies' and government committees' Regulatory Impact Analyses (RIAs)
- try to assist in bringing about an improved legislative process in the EU.

**NNR**

Our main methods of working are:

- consulting with public agencies
- writing comments on proposals
- engaging in discussions with ministries, departments and central-government committees
- maintaining close contact with the SimpLex Unit (the government department for studying, furthering and coordinating efforts to simplify legislation)
- providing information for the Riksdag
- networking with other organisations and units outside and within governments.

**NNR**



## Scale

In selecting the 11 factors, we have assumed that not everyone is an expert in the field but that the regulatory impact analyses should, rather:

- provide decision-makers with documentation that enables them to understand the content and implications of a given proposal
- be sufficiently comprehensive and detailed to enable the people who will be affected by a proposal to form an opinion of its impact.

**NNR**

### **Quality factors and target fulfilment in 2003 compared with 2002 (percentages)**

	2003	2002		2003	2002
1. Summary	64	49	6. Costs per company	7	4
2. Previous regulations	56	55	7. Total costs	5	4
3. Alternatives described	37	26	8. Competition aspect clarified	20	9
4. Early consultation	36	30	9. Goldplating	3	5
5. Number of companies	9	6	10. Circulation for official comment	64	55
			11. SimpLex analysis	51	47

**NNR**

### **Proposed quality-enhancing measures**

- Setting up a body with overall responsibility for checking RIAs
- Introducing a comprehensive, uniform system of RIAs according to the NNR model
- Introducing scope for sanctions
- Appointing a senior official at every public agency, ministry and department to be responsible for work on RIAs
- Implementing early consultations with the business sector
- Reporting publicly on RIAs carried out.

**NNR**


*An ex post evaluation of a regulatory impact assessment tool - the case of the Danish Business Test Panels,*

*Katrine Andreassen*

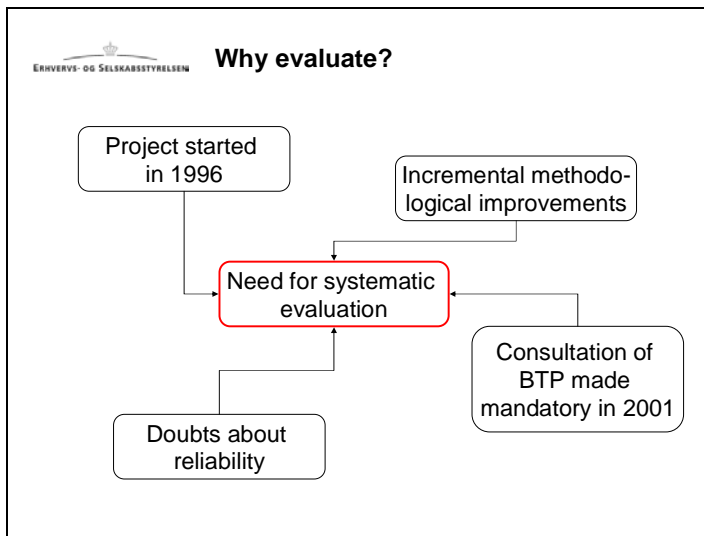
 Expert meeting on regulatory performance, OECD, 22 September 2003

**An ex-post evaluation of a regulatory impact assessment tool  
– the case of the Danish Business Test Panels**

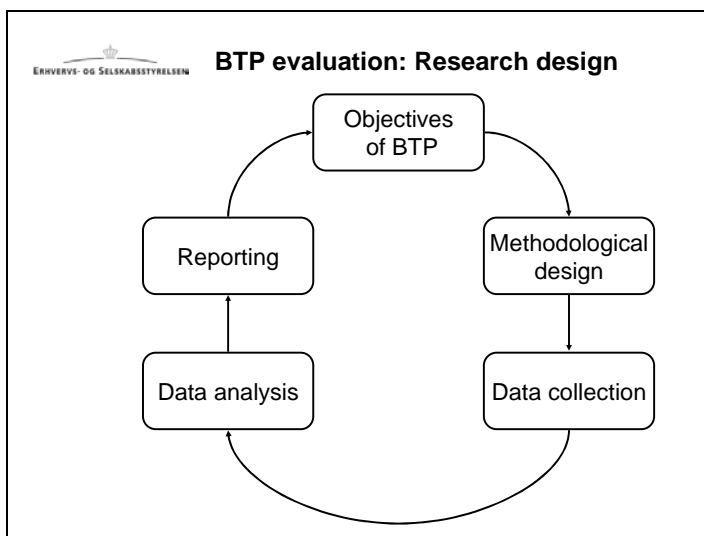
By Katrine Ring Andreassen  
Chief of Division  
Division for Better Regulation of Business  
Danish Commerce and Companies Agency  
Ministry of Economic and Business Affairs  
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 **The Danish Business Test Panels**

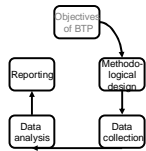
- **The purpose of BTP**
  1. Estimate the administrative consequences of new legislation, thereby ensuring a solid ground for decision-making
  2. Direct consultation of businesses
  3. Generate recommendations for simplification
- **Two types of BTPs**
  1. Testpanel: 500 businesses in standing panels, which are representative of the Danish business community. Used for measuring legislation that affects all types of businesses.
  2. Focuspanels: 250 ad hoc chosen businesses, used for measuring legislation that affects specific sectors or types of businesses.
- **Survey method**
  1. Material explaining the legislation sent out by mail
  2. Data collection carried out by telephone interviews



- Overall conclusions**
- Research design suitable for measuring expected consequences
  - Panels give a correct but often crude estimate of administrative consequences
  - Levels of uncertainty almost as low as can realistically be
  - Evaluation has given ideas for further improvements



### Everybody supports the idea



- Businesses, business organisations, authorities and politicians support purpose of BTP
- Authorities want recommendations from BTPs
- Business organisations want numbers from BTPs

### The survey design is satisfactory



Brief outline of legislation and questionnaire sent to BTP:

- Questionnaire suitable for identifying administrative consequences
- Businesses find it easy to understand material
- Estimating consequences is more difficult

Consider:

- Including measurement of economic consequences

### Combination of mail and telephone works well



- Sending out material beforehand allows participating businesses to collect data from various divisions of the company
- Telephone interviews allow quick and reliable collection of data
- Deviations in representativeness of panels between 1,9 and 2,7 pct.
- Non-response rates between 20 – 50 pct.

Consider:

- Survey by e-mail

### The uncertainty



Outliers are removed and results generated on company level are extrapolated to national level:

- Identical businesses respond differently:
  - Companies have different administrative setups
  - Businesses find it difficult to estimate consequences

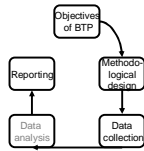
\*Average uncertainty for surveys:

	00/01	01/02	02/03
<b>Testpanels</b>	44%	42%	49%
<b>Focuspanels</b>	78%	55%	44%

Consider

- Better method for extrapolation
- Renewing panel every four years
- Increasing the sample to lower levels of uncertainty

## Re-tests



- Businesses are good at judging, whether they will be affected by new legislation
- They have more difficulties in estimating the consequences
- Re-tests require large ex-ante sample in order to give useful ex-post results

## Reporting could be more user-oriented



Results are presented in standardized report including recommendations from businesses:

- Schematised report enables fast and consistent communication of administrative consequences
- Difficult for authorities to assess the results

Consider

- Comparison of impact assessment to assessment of other legislation

*Evaluating Central Regulatory Institutions,*

*Scott Farrow.*

Evaluating Central Regulatory Institutions

Scott Farrow and Curtis Copeland  
U.S. General Accounting Office

Prepared as part of the OECD project on

Regulatory Performance:  
Ex-post evaluation of regulatory policies

September 22, 2003

Views presented are solely those of the authors  
and not that of the US GAO or the U.S. Government

Outline

- Institutional purpose
- Conceptual approaches to evaluation
  - Rational actor
  - Bureaucratic process
  - Political economic/governmental politics
- Data challenges
- Using US as a general context
- Short list of implementable methods



Purpose

- Purpose and criteria for evaluation are country and institution specific
- Some general approaches to evaluation exist
- Examination of one country (U.S.) provides one context and potentially generalizable examples

Institutional objectives

- Central regulatory agencies may have multiple objectives leading to multiple criteria for evaluating process or outcomes
  - Consistency with government priorities
  - Improvement in economic performance measures such as cost-effectiveness or net benefits
  - Improved distributional outcomes
  - Consistency with process: timeliness, transparency, use of science
  - Consistency with political influences both internal and external

Three frameworks  
(with thanks to Graham Allison)

Consider 3 frameworks: Each with a different perspective.  
Each identifies different dimensions for evaluation.

- Rational economic actor: has economic objectives that are achieved through assessing alternatives and choosing the most net beneficial or cost-effective.
- Bureaucratic process: an agency acts through its legitimately adopted processes and if the processes are met, then the outcomes are appropriate.
- Political economy/governmental politics: Agencies respond to internal hierarchy and to internal and external political forces.

Common concepts for comparison

Whatever single or mixed framework is considered, common approaches to evaluation exist. Some common comparisons are:

- Before and after implementation of central review
- Before and after with conditioning factors
- Consistency of treatment across groups in economy or types of regulations
- Meeting exogenous criteria for standard (e.g. cost per life saved)
- Accuracy of predictions of impacts

#### Conceptual models

For example, whether estimated statistically or not: Define

C: characteristic of performance (cost-effectiveness, net benefits, time, passage of rule)

X: a vector of explanatory variables that might include

X behavioral variables

A agency continuous variables (e.g. work effort)

I agency indicator variable (exists or doesn't)

Basic model:

$C=f(X, A, I, \beta)$  where  $\beta$  are parameters

Purpose: find quantitative or qualitative impact of review agency variables, A or I.

#### Data Realities

- Incentives to obscure data
  - Multiple objectives: consistent with Governmental objectives and regulatory principles may be conflicting,
  - Desire for the administration to speak with one voice (e.g. an agency and the reviewer are both part of the same Government)
  - Non-standard record keeping (tracking edits and responsibility)
- Inability to untangle (identify) source
  - If the agency and the reviewer interact to produce a regulation, the regulation is a joint product and it may not be possible to identify impact of review

US Context

- In US, primary regulatory oversight body is Office of Information and Regulatory Affairs (OIRA) within the President's Office of Management and Budget
- Some congressional and judicial oversight, but presence may be evidence of competition or failure of OIRA oversight

US official institutional objectives

- EO 12866 governs central office review by the Office of Information and Regulatory Affairs (OIRA). Says oversight is necessary to ensure that **rules** are consistent with
  - (a) the President's priorities,
  - (b) applicable law, and
  - (c) Executive Order (EO) principles.

Example: Criteria for Evaluation of OIRA

The frameworks suggest general sets of criteria for evaluation of OIRA (and possibly other oversight bodies):

1. Rational actor: Improvement in the economic quality (net benefits, cost effectiveness) of the rules.
2. Bureaucratic process: Consistency with process: (e.g., timeliness, transparency, guidelines for RIAs).
3. Political economic: consistency with President's priorities, extent of influence of internal and external forces.

8 Practical ways to Evaluate a Central  
Review Agency

8 Practical ways to Evaluate a Central Review Agency

(Reminder: author's views only)

1. Gather quantitative data on the predicted economic performance (net benefits or cost-effectiveness) of regulation over time. Test for the statistical presence of the central regulatory group or for a trend. (Rational Economic Actor)
2. Gather data on the characteristics of regulatory impact or other such assessments, such as whether they quantify impacts, monetize benefits or costs, or develop a present value net benefit measure in a way consistent with central office guidance. Determine if there are differences across agencies or over time. (Bureaucratic process)
3. Evaluate or carry out evaluations that compare ex-ante with ex-post outcome assessments. (Rational Economic Actor and Bureaucratic Process)
4. Gather data on the number of times the regulations are changed by steps outside of the process such as legislative or judicial review. (Political economy)

8 Practical ways to Evaluate a Central  
Review Agency: continued

5. Gather data on the oversight agency's adherence to procedural/**bureaucratic process** requirements (e.g., the number/percent of reviews completed within established time frames, or the extent to which the oversight body or regulatory agencies it oversees complies with transparency requirements).
6. Determine the extent to which the oversight body's review results in changes to agencies' rules, and determine whether there are statistically significant differences in the extent of the changes across agencies or issues (e.g., agricultural versus environmental). (Internal political economy)
7. Create or modify a scorecard such as that used by the U.S. OMB for regulatory agencies to reflect the country specific circumstances and repeat over time. (Rational economic actor and bureaucratic process)
8. Interview agency officials and interest group representatives, focusing on such issues as the extent to which the oversight body's review is driven by political considerations versus more objective/rational factors (e.g., maximization of economic values). (Political economy)

## *Evaluating One-stop Shops; Lessons from the Dutch case,*

*Dr. André Nijsen*

### **Introduction<sup>32</sup>**

#### *One-stop shops in OECD countries*

Through the years, many governments and international organisations have suggested that countries should instate a single office where entrepreneurs (or citizens) could make use of government services. For example in Europe, the Business Environment Simplification Task Force (BEST)<sup>33</sup> and European Commission<sup>34</sup> both gave recommendations on how national policies could strengthen entrepreneurship and competitiveness in their country. They both propose the establishment of a one-stop shop in Member States to facilitate the creation of enterprises by improving and simplifying the business environment for business start-ups and to provide good information and advice services.<sup>35</sup>

Today some of these “single location for registration purposes” and “one place to contact in order to have access to these services” have been established in a number of countries throughout the world from Ivano-Frankivsk in the Ukraine to Zambézia, Mozambique. We have come to know them under the collective noun “one-stop shops”. However, the generally accepted definition of one-stop shops is broader than mentioned above. One-stop shops are “offices where applicants and others interested in government services can obtain all the information necessary to their query in one location. One-stop shops are primarily designed to provide integrated and seamless services with as few and as easily accessible points of contacts with the clients as possible.”<sup>36</sup> One can make a distinction between one-stop shops for citizens and for businesses. In this paper, the state of one-stop shops for businesses is studied.

The one-stop shop is different in every country. No one-stop shop has the same set of functions and features as the one-stop shop in another country. They roughly consist of four main features in which they can differ per country, namely the (governmental) entities ‘being’ the one-stop shop, the types of entrepreneurs it’s aiming at, the services it provides and how entrepreneurs can draw upon these services. A fourth is the geographic range of the shop.

First, most one-stop shops have been initiated by governments and are part of a governmental structure. Often, these one-stop shops are collaborations between several governmental entities, but the level of collaboration differs per country. For instance, Ireland has set up a new government agency as one-stop shop to replace (parts of) three other government agencies that each used to perform parts of the tasks

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<sup>32</sup> The authors of this paper are Nadir James and André Nijsen, respectively researcher and director of EIM Ltd Business & Policy Research

<sup>33</sup> The BEST task force’s objective was to prepare an independent report which would make proposals for concrete measures to be taken by the European Commission and the Member States to improve the quality of legislation and eliminate the unnecessary burdens which restrain the development of European businesses, particularly SMEs.

<sup>34</sup> This refers to the recommendation of the European Commission in 1997 (c (97) 1161 def.), in which was stated that in order to simplify business start-up formalities Member States should amongst others establish single contact points for businesses.

<sup>35</sup> BEST. Report of the business environment simplification task force. Volume 1, Luxembourg: Office for Official Publications of the European Communities, 1998, p.13

<sup>36</sup> OECD. From red tape to smart tape, 2003, p.26

of the newly established one-stop shop<sup>37</sup>. Governmental entities in other countries do not attain this level of collaboration and merely house themselves in one building to create a one-stop shop feeling.

Secondly, in each country one-stop shops aim at other types of businesses or entrepreneurs. For instance, a one-stop shop may focus mainly on assisting starting entrepreneurs or on entrepreneurs from a specific sector.

Thirdly, the type of service the one-stop shop renders differs. The services range from one-stop shops that literally function as a one-stop shop. Entrepreneurs can receive all the information they need and submit all necessary registration forms at the one-stop shop. Other one-stop shops are rather first-stop shops. They are merely the first stop for entrepreneurs. Here the entrepreneur receives information about which forms to fill in and which public bodies he/she should visit.

Last, one may imagine a physically present counter for the one-stop shop, but this is of course not necessarily so. In some countries, one-stop shops are only available as a virtual counter. Mixed forms are also possible. A good example of a large virtual counter can be found in the United States of America. A great deal of information and services for (starting) entrepreneurs is there available on [www.firstgov.gov](http://www.firstgov.gov).

### ***Scope of the study***

At the present, nearly every country has set up its own type of one-stop shop. The question that remains is if the one-stop shops are as effective as policy makers hope them to be. However, in spite of the numerous one-stop shops, not much evidence or experience about the evaluation of one-stop shops is available. Insights on one-stop shops are often derived from studies on for instance administration simplification policies that also cover the topic of one-stop shops. Yet, the focus in these studies lies mainly on presenting the state of the art or good-practices and not on the evaluation of these one-stop shops.

This report will therefore try to fill this gap in the knowledge; it will not give a state of the art of one-stop shops in OECD countries, but will focus on the potential evaluation methods that one may apply on one-stop shops. The following research question guided this process.

“What methods or approaches should one use in the evaluation of one-stop shops?”

In the next chapter, we will discuss on a theoretic level how one may evaluate one-stop shops. Chapter 3 will illustrate chapter 2 by presenting a case study of the evaluation of a one-stop shop in the Netherlands. In this case, three studies have been carried out, on customer satisfaction, the reduction of administrative burdens and a cost-benefit assessment. This case study also gives an indication of the obstacles one may encounter when evaluating one-stop shops. These obstacles and advises/concluding remarks will be presented in chapter 4.

## **Evaluation in theory**

### ***Introduction***

Though many OECD countries have implemented forms of one-stop shops for businesses, there is little experience with evaluations of one-stop shops. Nonetheless, how does one appreciate the one-stop shops: how does one begin to assess the quality of such initiatives? Most important is to bear in mind that

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<sup>37</sup> The one-stop shop of Ireland, Enterprise Ireland consists of three previously separate entities, Forbairt, the Irish Trade Board and the in-company training division of FÁS.

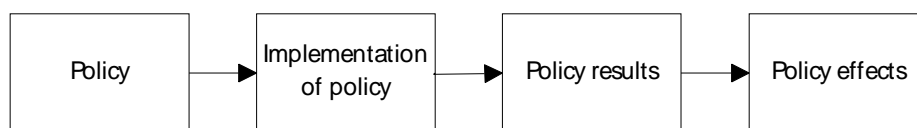
though all one-stop shops may differ in their features, all share the fact that they are policy measures and therefore one should evaluate them as a policy measure. This means that when assessing their quality, one should in short try to assess whether the one-stop shop accomplishes the goals for which it has been brought into action. This assessment can be done at different levels. In a broad perspective, policymakers may want to know if their policy measure works in terms of strategic goals. These goals may be to increase service for entrepreneurs, but in most cases, the policy measure might aim at increasing administrative simplification. The other level on which to evaluate a one-stop shop is to focus on the one-stop shops efficiency in operational management. The idea behind the one-stop shop may be excellent, but when the execution is done poorly this reflects on the factual outcomes of the policy.

Since many countries have already established their one-stop shops, we are primarily interested in the evaluating ex post. This is evaluation research done on existing policy measures. It can be defined as “systematic study on the effects of existing policy, the way the policy is carried out and/or the costs and quality of delivered products and services.”<sup>38</sup> In the next section, we will give a brief description of ex post evaluations and the different methods that one may use when evaluating one-stop shops.

### *Ex post evaluation*

In evaluating research of policy measures, one has to bear in mind the separate steps in the implementation of a policy measure. Figure 1 presents a simplified visualisation of this process.

*figure 1 From policy to policy effects*



*Source: J.A.M. Maarse from: Overheidsbeleid*

Policy is the starting point. It conveys the objectives and means available for implementation of the policy. Mind that one should make a distinction between the overall goal of policy and the purposes of the policy measure. The overall goal is the objective of a higher order, mainly concerned with strategic or programme objectives. The purpose of the policy measure indicates the direct impact or the results to be achieved. The purposes of a policy measure should be SMART (Specific, Measurable, Appropriate/Acceptable, Realistic and Time-Bound). Once policy is made, the next logic step is to start the implementation of the policy. The activities of the implementation result in specific products or services. These outputs lead to certain effects. In a good scenario, these effects are the same as the objectives that were formulated in the policy.

Ex post evaluation of policies foremost aims at identifying all effects of that policy, either expected or unexpected. Thus, this refers not only the effects that the government formulated in the policy objectives, but also the effects that have not been foreseen. Next, the effects are matched to the policy itself, considering the overall goal of the policy and purpose of the policy measure itself. In addition, policy effects are linked to the performances or results. Leading question in this case is whether one can attribute the effects to the policy measure. In earlier days, these were the main concerns in policy research. Nowadays, the financial story is as important. Governments do not want to attain great effects at all costs. Not only does that suggest that governments want to know how much money it costs to implement the

<sup>38</sup> Derived from: Regeling Prestatiegegevens en Evaluatieonderzoek Rijksoverheid, Ministerie van Financiën, March 2000.



policy measure, but they also want to assess the efficiency of the management in relation to costs and means<sup>39</sup>.

### *Ex post evaluation of one-stop shops*

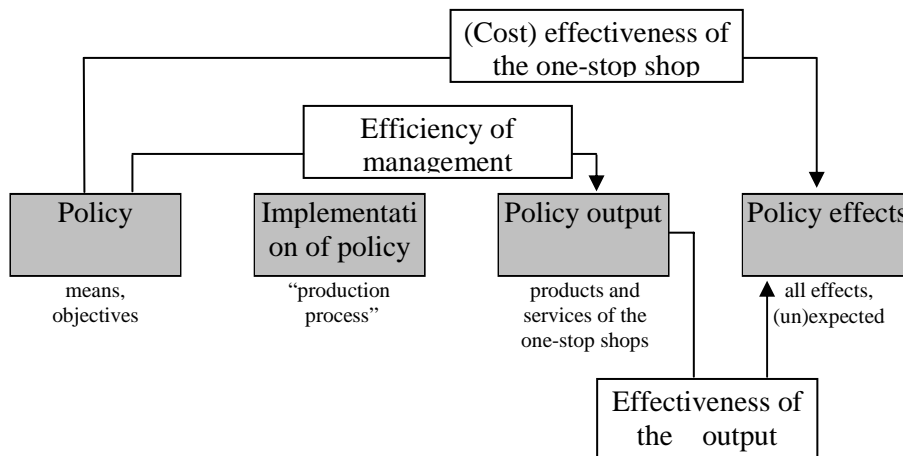
If we apply this train of thought to one-stop shops, the following picture arises as can be seen in figure 2. The government sets out policy. In this, it has overall goals. In case of the one-stop shop, the overall goal of the policy could be to improve the economy by encouraging entrepreneurship. One of the policy measures to achieve this is the one-stop shop. The purpose of the one-stop shop can be a variety of things, but in most cases, it is to reduce the administrative burdens for (starting) entrepreneurs and/or to enhance service for (starting) entrepreneurs. The implementation activities involve all difficulties in setting up a one-stop shop. Think of the decisions that have to be made which features the one-stop shop should have et cetera. Once set up the one-stop shop has some more or less immediate outputs like the services it provides and the entrepreneurs it helps. At a greater scale one may see the effects those results have. On the level of this individual policy measure, the one-stop shop, effects should be looked for in the same sphere as the policy purposes are stated. On a more abstract level, effects like an increase in entrepreneurship can be observed.

When we consider the evaluation of the policy measure one-stop shop, three main subjects attract our attention. In figure 2, these subjects, effectiveness of the one-stop shop, effectiveness of the outputs of the one-stop shop and efficiency of the management are seen in relation to the process from policy to policy effects. We will discuss these further in detail below.

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<sup>39</sup> Evaluation research on policy measures, ex ante and ex post, nowadays plays an important role in the Dutch government. In 1998/1999, the Dutch government introduced “Van beleidsbegroting tot beleidsverantwoording”, which lead to a significant increase of attention for the implementation of evaluation studies. For instance, the government has published guides for their officials on how they should conduct evaluation research.

figure 2 Important subjects in the evaluation of one-stop shops



Source: Adapted by NAJ, from “Concept 3 Februari 2003 – Wegwijzer evaluatieonderzoek ex post” and “Overheidsbeleid.”

### ***(Cost) effectiveness of the One-stop shop***

#### *Introduction*

One of the most important concerns for a policymaker is the question if the concept of the one-stop shop is effective. In order to do so, the effects of the introduction of the one-stop shop should be matched up to the objectives stated at the start of the one-stop shop. In order to do so, two matters should be settled. First as mentioned above, one should make sure that the policy objectives are stated in a way that that makes evaluation possible, for instance by SMART objectives. Second, the effects have to be measured<sup>40</sup>. As mentioned before, governments are often interested in all effects. Nevertheless, it is not an easy task to measure what you did not expect or intended to be influenced. Therefore, the practical thing to do is to first focus on the effects you intended to happen as a result of this policy measure. Thus, you will measure to what extent your policy purposes have been met. In the case of one-stop shops, there were two purposes that are mentioned by many different countries, namely the reduction of administrative burdens for (starting) entrepreneurs and the improvement of service to entrepreneurs.

#### *Reduction of administrative burdens*

There are to approaches on how to measure the reduction of administrative burdens; qualitative and quantitative. With the qualitative approach, the evaluator tries to find out what the opinion of the entrepreneurs is of the one-stop shop and if in their view a difference is being made with the old situation. For example, questions as “Do entrepreneurs feel that the administrative burdens are reduced?” can be expected. Although maybe interesting in an early stage of the implementation of the policy, most policy makers would be dissatisfied with such an evaluation. Not only does it tell you nothing about the effectiveness of the one-stop shop, more importantly there is no way of checking if what they are telling is true. Possibly the respondents are telling you only what they think you would like to hear without you being able to make a verification of their comments. For all these reasons the quantitative (objective) approach is preferred. This approach measures and compares. Since we are dealing with administrative

<sup>40</sup> For “if you cannot measure it, you cannot manage it.”

burdens, those are measured. If it would only remain at one measurement, this would almost be as insignificant as the qualitative approach. It would not tell whether objectives have been achieved or if the policy was effective. In order to do so comparison is essential. Under the best circumstances, comparison with a baseline measurement would give the best indication of the achievements of the policy. However, since in many countries the one-stop shops are already set up that is not always possible. In such cases, the next best thing is comparison with a measurement in a similar region. To keep a good view on the achievements of the one-stop shop it is recommended to perform a measurement annually or bi-annually.

There are different methods known that can be used when measuring administrative burdens, for instance benefit-costs analysis, cost-effectiveness analysis and a cost-assessment. The one most suitable for measurement of administrative burdens is the third one: cost-assessment. Many years of experience have learned that this is the most reliable and valid method.<sup>41</sup> In cost-assessment, an assessment of the costs of regulation on businesses is made. This method attempts to comprehensively determine the total price society, especially the entrepreneurial part of the society, is paying for the regulation and provides insight into its economic feasibility.

#### *Improvement of service for entrepreneurs*

Also in measurement of the improvement of the service for entrepreneurs, the qualitative (subjective) and the quantitative (objective) approach can be distinguished. And also in this case we dismiss the qualitative approach for not satisfying the needs of the policy maker. In order to assess the service quantitatively, one has to identify indicators of service. What these are has everything to do with what is stated in the policy objectives. A few examples of service indicators are: the time in days it costs to start an enterprise, how many entrepreneurs use the facility. Again, the measurement should not stand-alone. Only if compared to a baseline measurement, it will tell something about the effectiveness of the policy measure.

#### *Effectiveness of the outputs of the one stop shop*

We have argued that evaluators should match up the effects to the objectives of the one-stop shop. The question than in this view also needs to be answered is to what extent these effects can be attributed to the services of the one-stop shop. In some cases, mostly when matching effects to purposes of the project measure, it is easy to make this conclusion. For instance, the time it costs for an entrepreneur to administratively start a business (reduction of administrative burden) will be attributed to the one-stop shop without much hesitation. However, in other cases, mostly when matching effects to overall goals, it is not that simple. In that situation, one has to think of a method to solve the problem. In illustration, consider this example. The level of service and the reduction of the administrative burdens presumably should encourage people to start a business. Governments assume that the presence of a one-stop shop therefore encourages more persons to become entrepreneurs. Nevertheless, if the number of entrepreneurs increases since the one-stop shop has been introduced, you cannot be completely sure that the effect can entirely be ascribed to the one-stop shop. A whole lot of other factors also influence the entrepreneurial activity like the economical climate. The most reliable source would be the starter-entrepreneurs. Evaluators can for example ask them their motives to start an enterprise.

The chosen method is thus to simply ask entrepreneurs and participants in the one-stop shops whether the one-stop shop in their point of view contributes to certain effects. You can imagine that this strategy is not watertight, though under some circumstances, it might be the only option.

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<sup>41</sup>For a more detailed overview of the advantages and disadvantages of the possible methods, read: Kip Viscusi, W., Improving the analytical basis for regulatory decision-making, 1997, p. 176, and Nijssen, A.F.M. Dancing with the octopus, 2003, p. 272

### *(Cost) efficiency of management*

That brings us to the money factor. As mentioned before, governments cannot invest in such initiatives at all costs. One should assess if the one-stop shops management is efficient. This assessment can be done on two levels, implementation costs and the specific costs made within the one-stop shop.

The first level is of the implementation costs of the participating organisation(s). Participating organisation had other costs before than after the introduction of the one-stop shop. If these costs have increased this could mean that government can decide that the costs are too high to continue the one-stop shop. In this, you can notice the need for measurement and comparison. Again, a cost assessment appears to be a good way to do this. A disadvantage is in this case that the benefits of the one-stop shop are not taken into account.

The second level refers to the specific costs the one-stop shop itself makes. Thus, how are the actual means put into practice? Alternatively, even more concrete: does its management spend the money in a correct fashion? This relates closely to basic bookkeeping by identifying the actual costs connected to the products and services of the one-stop shop.

Though money is the most important factor while assessing the efficiency of the management, we would also like to draw attention to the implementation of the one-stop shop. And more specifically to the question: does the one-stop shop do what it is ordered to do by the governmental body? This is the evaluation of the policy instrument itself. Evaluation might be a big word; it is more like a check-up on the one-stop shop. In short, one examines if the tasks that were set down are indeed being executed.

## **CASE STUDY ONE-STOP SHOPS IN THE NETHERLANDS**

### ***The Dutch one-stop shops: background***<sup>42</sup>

In 1999, the Ministry of Economic Affairs launched, within the framework of the programme bureau 'Overheidsloket 2000'<sup>43</sup> and with cooperation of the national organisations tax administration service, the union of chambers of Commerce and the union of Dutch municipalities, the innovation project "bedrijvenloket" (literal: business counter). The aim of the project is to enhance the service for entrepreneurs through close cooperation between at least the tax administration service, the regional Chamber(s) of Commerce and local municipalities. The anticipated side effect of this would be a reduction in administrative burdens for entrepreneurs. The co-operation does not necessarily imply the introduction of a new organisation, but a co-operation in which each organisation keeps its own services and refers entrepreneurs to each other's services. In this scenario, each organisation is a one-stop shop. An entrepreneur contacts one of the participating organisations, either by a physical counter, virtual via an Internet site, or else in writing, by telephone or e-mail. The chosen organisation provides the entrepreneur with all the integrated information he/she needs.

In 2001, three "bedrijvenloketten" (hereafter referred to as one-stop shops) in three different regions in the Netherlands were established as vanguard projects, namely in the provinces Northwest-Holland, Drenthe and Groningen. These one-stop shops were given three main objectives:

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<sup>42</sup> Main source for this section is the evaluation report: *Bedrijvenloket: voorhoedeprojecten als ontdekkingsreizen*, 2002.

<sup>43</sup> In 1996, several Ministries started Overheidsloket 2000. It is a concept that helps public service providers to change over to question-oriented and integrated service. Bedrijvenloket is one of the experimental projects of Overheidsloket 2000. Overheidsloket 2000 therefore has an advisory role and coordinates in respect to content.

1. Improvement of service for entrepreneurs;
2. Improvement of the efficiency and effectiveness of public service providers;
3. Reduction of administrative burdens for entrepreneurs.

The project participants suppose that the project will achieve these objectives in succession. Therefore, the focus lies on achieving the goal: improvement of service for entrepreneurs. The one-stop shops and some consultancy bureaus developed nine tools during the starting phase of the one-stop shops that can support (future) one-stop shops, for example a summary of question patterns and a guide for the styling of internal and external communication.

The features of each one-stop shop are very different. In a nutshell, one could characterise one-stop shop Drenthe as a type with a physical counter, one-stop shop Northwest-Holland as a virtual counter and one-stop shop Groningen as shop that uses integrated service at already existing counters. This is not absolute. One-stop shop Drenthe and one-stop shop Groningen want a virtual counter in the near future. One-stop shop Northwest-Holland also has integrated service at existing counters. All three one-stop shops for now focus on the (pre)-starting entrepreneur.

### ***Research history***

From day one, the Ministry of Economic Affairs was keen on monitoring the three projects, in order to learn as much as possible of their experiences. Different research bureaus conducted three evaluation studies: on consumer satisfaction, reduction of administrative burdens and cost-benefit assessment. The chosen line in this is to assess both the qualitative and the quantitative effects. All three studies have been set up as ex post evaluations. However, since the physical one-stop shops only started in 2001, conclusions (and recommendations for that matter) are with some reservation.

### ***Consumer contentment monitor<sup>44</sup>***

The focus of this monitor lay on whether the objective “improvement of the service to entrepreneurs” had been achieved. In order to examine this, 455 customers of the three one-stop shops were interviewed<sup>45</sup>. A year before this measurement in 2001 a baseline measurement of the satisfaction was carried out before the introduction of the one-stop shops. However, because population specification and choice of sample differed between the first and the second measurement<sup>46</sup>, one can only compare the results qualitatively to find indications of increase or decrease.

Per one-stop shop, customers were asked in telephonic interviews about their contact with the one-stop shop, their contentment about the service and their own characteristics:

- Contact:

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<sup>44</sup> Based on: Wils, J. & J. Niehof (2002) *Tevredenheidsonderzoek geïntegreerd bedrijvenloket: Eén-meting. (Contentment study integrated business counter: second measurement) B2637*, Leiden: Research voor Beleid

<sup>45</sup> Only 86 of these respondents were customers of one-stop shop Groningen. Additional research has been done, but is not yet available.

<sup>46</sup> In the baseline measurement, a sample was taken in which the emphasis lays on hotel and catering industry entrepreneurs. In the second measurement, the sample consisted of all customers that had visited the one-stop shops.

Acquaintance with the one-stop shop

Occasion that lead to contact

For which service contacted the one-stop shop

Main channel of contact

Frequency of contact necessary for that specific service

- Contentment about the service: The respondents were asked to indicate in what degree they agreed or disagreed (1= totally disagree, 5= totally agree) with the following statements and to indicate which are most important:

The contact was easy to establish (contact)

The service was friendly (customer friendliness)

The help I received was expert/professional (expertness)

I know the agreements I have made will be kept (keep agreements)

The service I asked for was settled fast and efficient (fastness and efficiency)

The service has been set up in such a way that I require to perform as less effort as possible (less effort)

The service was excellent (excellent results)

In further questions, respondents could give their opinion about the cooperation of the participating organisations and the potential added value of this cooperation.

- General characteristics: Some questions in general about the enterprise, for instance branch.

The results were presented per one-stop shop in percentages. In short, the results indicate that respondents are content about the service, in Drenthe and Northwest-Holland even more than they were about the highest appraised service provider of the baseline measurement. Although the cooperation in Drenthe and Northwest-Holland is higher than in the baseline measurement, there is still relative much room open for improvement. The respondents would like to see efficiency improved. Added value is another story. Almost 50% of the customers do not see added value or do not know whether there is added value. The customers that do see added value find this in the reduction of time<sup>47</sup>.

### ***Reduction of administrative burdens monitor***

Two different research bureaus have carried out this monitor. The first was EIM in 2001. EIM carried out a baseline measurement of administrative burdens for entrepreneurs and the implementation costs for the public organisations. EIM calls this study a benefit-cost assessment, but in practice, it is primarily a

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<sup>47</sup> Apparently, entrepreneurs do not share the motto "time is money": though many thought the one-stop shop to be a timesaver, not many of them appraised the one-stop shop as also 'money-saving'. This might be because entrepreneurs do not consider themselves as persons that cost money. Further on in the reduction of administrative burdens monitor, the fee for an entrepreneur is rightly taken into account, namely 90 Euro.

cost assessment for the administrative burdens of entrepreneurs and the implementation costs for involved organisations. The study did not go well. It proved to be difficult to assess the implementation costs for the different organisations of services that were or would be matched by the one-stop shop, because the plans were not yet fixed. The one-stop shops were still in a highly experimental phase. EIM tried to assess the number of job posts and the height of the overhead costs, but this was not yet clear for the participating organisations. To determine the administrative burdens for entrepreneurs, the cost-assessment method MISTRAL® has been used, which gave an indication in Dutch guilders<sup>48</sup>.

The second chance was for Cap Gemini Ernst & Young<sup>49</sup>. They kept the definitions used in the EIM-study. Thanks to the EIM-study, they knew from the start that the one-stop shops were only just operational; therefore, they chose a different approach. In order to assess the (possible) reduction of administrative burdens they made four case studies:

1. Entrepreneur starting in the catering industry (One-stop shop Groningen)
2. Location expansion with a alteration of the zoning plan (One-stop shop Drenthe)
3. Pre-starting entrepreneur in the catering industry (One-stop shop Drenthe)
4. Information inquiry and V.A.T.-registration number (One-stop shop Northwest-Holland)

In each case study, they identified the necessary actions in the situation before and after the introduction of the one-stop shops. With aid of interviews, they estimated the time the actions would cost in the first three cases. The time reduction could potentially be between 40% and 50%. Next, they linked time to money, to calculate the administrative burdens. In this they left out the following elements that cannot be quantified, but do influence the administrative burdens, namely travel time to and from the public body and the time it takes to identify the correct public bodies that need to be informed.

### *Cost-benefit assessment*<sup>50</sup>

The cost-benefit assessment has been done by Research voor Beleid. Again all three one-stop shops have been evaluated separately. First, they determined the specific costs of the one-stop shop. They made a distinction between once only implementation costs, annual exploitation costs and development costs. These development costs are to be indicative for future one-stop shops, but only if they would set up a shop similar to the concerned one-stop shops. Thus, for one-stop shop Drenthe they calculated the costs of the physical counter without virtual electronic services. For one-stop shop Northwest-Holland the costs of a virtual counter were computed. And for one-stop shop Groningen the costs to provide integrated service at existing counters were identified. The costs for this last type were the least high of the three concepts.

The second part of the study was to assess the benefits of the one-stop shops. They did this by asking the one-stop shops what they thought were the benefits of the one-stop shop instead of the customers. Their answers were amongst others cost efficiency, a better image and broadening the view of their own employees.

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<sup>48</sup> Hauw, P.A. van der, Kosten en baten van de invoering van het bedrijvenloket. (Costs and benefit of the introduction of the business counter) Zoetermeer: EIM, 2001

<sup>49</sup> Bex, P.M.H.H., R.F. Boshouwers & P.H.H. van den Broek, Meting reductie administratieve lasten Bedrijvenloket. (Measurement reduction administrative burdens Business counter) Utrecht: Cap Gemini Ernst & Young, 2002

<sup>50</sup> Olde Wolbers, M. Investeren in dienstverlening, Bedrijvenloket: eindrapport. (Investing in service, Business counter: final report) B2580. Leiden: Research voor Beleid, 2002

## **How should one evaluate one-stop shops?**

### ***Introduction***

The Dutch Ministry of Economic Affairs has set of an extensive evaluation study: a study has been carried out to find out the (cost) effectiveness of the one stop shops by means of the customer contentment monitor and the reduction of administrative burdens monitor. The EIM-part of that monitor also gave an idea about the (cost) efficiency of the management. This was completed with the cost-benefit assessment. The evaluation studies thus provide us with an extensive view on the matter; still some shortcomings can be noticed.

### ***Pitfalls during the evaluations***

Although the will to rapidly start with evaluations of the one-stop were admirable, the lack of good planning almost annulled all efforts. Because the Ministry issued out ex post evaluations while the one-stop shops were just getting started, two problems arose. Firstly, the goals of the ex post evaluation could not be attained which led to much frustration for both the researchers as the participants of the one-stop shops. Secondly, it affected the quality of the baseline measurements and the second measurements. In chapter 2, we have already stressed the importance of being able to compare measurements with baseline measurements. In this evaluation, the baseline measurements turned out to be not comparable with the second measurements. This has undermined the worth of the evaluations. Some measurements are now isolated cases and cannot help to actually appreciate the one-stop shops. Extenuating circumstances are that evaluating was not the only reason for these studies, they were also meant to provide practical information for future one-stop shops.

Another shortcoming was the absence of SMART objectives. The purposes of the policy measure were kept vague because of the experimental nature of the project. This caused in some cases the inability of evaluators to value the results and effects in view of the objectives.

In this evaluation study, the ministry chose to do a cost-benefit assessment. We do not think that turned out to be a success. Normally a cost-benefit assessment is about identifying all costs and all benefits on all levels, thus for the one-stop shop, for the governmental bodies, for the entrepreneurs: everybody. Here, this is not the case. The costs that are identified, are primarily the costs the one-stop shop makes due to its implementation management. The identified benefits were described too concisely and concerned only the benefits for the one-stop shop self. Thus, the benefits for the other parties were not established. Additionally, we criticize the way they 'found' the benefits; they asked the one-stop shops. This does not seem to be the most reliable way to find all effects and benefits.

### **Advice and concluding remarks**

#### ***Decide what you want to measure.***

In chapter one, we have proposed a number of aspects that can be measured when evaluating a one-stop shop ex post. Nevertheless, one very well may decide not to measure everything, because the outcome may be not very useful. One should try do measure only evident topics. For example the study that concentrated on what the opinion of the one-stop shop customer is on improvement of the service, may give an indication of the improvement of the service, but is not very reliable. Customers may indicate that the present situation is much improved for service in relation to the former situation, but consider that this has happened. In the former situation, there was a rude counter-clerk but in the new situation, a friendly person has replaced him. The service has improved but not because of the one-stop shop, but because of the change of staff.



### *Choose an appropriate evaluation method and -instrument*

When the decision on what will be measured has been made, the next step is to select a method or methods. In chapter 2, we have already established three subjects that may be used in the ex post evaluation, namely (cost) effectiveness of the one-stop shop, effectiveness of the outputs of the one-stop shop and efficiency of the management. We also proposed some methods that could be used for the evaluation of the subjects. These methods were also used in the Dutch case.

Considering the outcome of the Dutch evaluation and the literature in chapter 2, we believe that a quantitative approach is advisable. Depending on what you want to measure this most likely will entail a cost assessment. Cost assessments can be carried out with help of the MISTRAL® method or through expert interviews.

### *Ex post evaluations should be carried out ex post*

Somewhere along the line, you will want to evaluate the one-stop shop. If this moment comes it is very important to plan this evaluation. When you choose to set up an ex post evaluation, the one-stop shops should be ready. This seems self-evident, but as the Dutch case shows, it is not. Because an ex post evaluation was done on one-stop shops that were not ready, both researchers and one-stop shop participants got frustrated with each other. If the one-stop shops were given time to establish their counters or if the evaluation was not ex post but ex ante, a lot of grief would have been spared.

### *Measurements should be comparable*

Measurements should not stand-alone and be isolated cases. In order to value the one-stop shop one must have measurements taken over time that can be compared. Only, in this way progress or decline can be observed and objectives and achievements can be matched up.

### *Create the conditions for good evaluation*

One has to remember when planning evaluations that people are involved. Especially in one-stop shops where several bodies work together and different goals are pursued, people are an important factor. In order to be able to perform an evaluation, all partakers should be committed to have a good evaluation. This should not be taken lightly. Since every participant within the one-stop shops and the policymaker have their own view on what is important and what the evaluator should measure. It might not always be that easy to receive cooperation during every step in the evaluation. In the Dutch case, this becomes apparent when the Ministry wants the costs for the individual participants assessed before and after the start of the one-stop shop. The participants do not see the surplus value of this to the evaluation and are then very reluctant to provide the evaluators with estimated costs.


### *Cooperation should receive attention in the evaluation*

The Dutch evaluation studies focussed on whether the one-stop shops bring benefit to the service towards entrepreneurs and in the reduction of administrative burdens. However, we think that the evaluation studies more importantly have revealed that this is not the only important issue. The underlying cooperation of public bodies should be involved as well in the evaluation and be as important. The cooperation influences the efficiency of the management to such an extent that one might state that when the cooperation is optimum, efficiency of the management is close to optimum.

*OECD's work on regulatory quality indicators,*

*Peter Ladegaard*

OECD questionnaire on evaluation of regulatory tools and institutions

- 
- I. Context
  - II. Response rates & quality
  - III. Preliminary results & observations
  - IV. Next steps

OECD  OCDE

OECD questionnaire on evaluation of regulatory tools and institutions



## Context

- **Accountability**
  - justifying the costs of regulatory policies
- **Improvement**
  - gradual development of regulatory policies
- **Complexity & Integrity**
  - towards regulatory governance
- **Evidence-based policy-making**
  - measuring and monitoring regulatory performance

OECD  OCDE

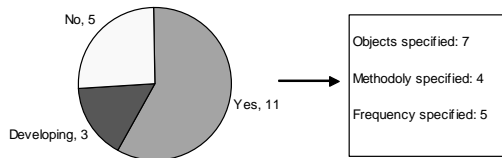
## Response rates & quality

- 19 countries participating (so far)
- Descriptions of 30-40 specific projects
- Some clarification and verification needed
- Satisfactory results, when consolidated

## Preliminary results & observations

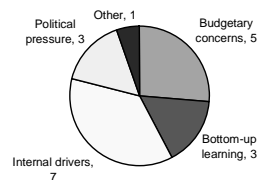
- There is an increasing interest in ex post evaluation of regulatory tools and institutions

Figure 1. Does an explicit and current policy/strategy on ex post evaluation of regulatory tools and institutions exist in your country?



- > Strategies are part of regulatory or evaluation policies, primarily internally driven

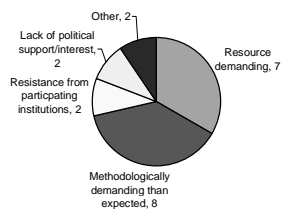
Figure 2. Which are the most significant drivers in the process of evaluating regulatory tools and institutions? (multiple answers possible)



- > Strategies reflect countries' approaches to regulatory management
- > Evaluation ethos more important than institutionalised procedures and institutions
- > OECD peer reviews and recommendations often used as benchmarks (1995 recommendations, country review)

## > Some similarity in encountered challenges

Figure 4. What have been the most significant challenges encountered in the process of assessing regulatory tools and institutions?  
(multiple answers possible)



## Next steps

- > Finalise inventory of practices with the evaluation of regulatory tools and institutions
- > Develop, explore and consolidate methodologies
  - > I.e. on RIA evaluations
  - > Indicators
  - > Other tools and institutions
  - > Country studies
- > Measuring and monitoring regulations' performance

*The European Commission's Work on Indicators on Regulatory Quality,*

*Mona Björklund*



Slide 1: OECD Expert Meeting  
Regulatory Performance: Ex-post evaluation of regulatory policies  
**The European Commission's Work on Indicators of Regulatory Quality**  
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Slide 2: Context

- A new Better Regulation Agenda
  - Part of strategy to achieve Lisbon Summit ('00) competitiveness goal
  - Adoption of Better Regulation Action Plans
    - By EU Member States ('Mandelkern Group' Report), Nov '01
    - By the European Commission, June '02

 **Calls for effective monitoring of progress**

## Starting point

- Ex. of current use of indicators related to regulatory reform
  - Monitoring of Economic reform, e.g.
    - Lisbon structural indicators
    - Cardiff process (functioning of product & capital markets)
  - Scoreboards, e.g.
    - Enterprise policy (incl. quantitative targets)
    - Internal market

But...  
3

## Starting point

At present:

- No explicit policy for ex-post evaluation of better regulation tools & processes;
- No coherent set of “better regulation” indicators.



Under discussion / development

4

## Project on Indicators of Regulatory Quality

- Launched this year
- Objective:
  - Identify, analyse & develop qualitative and quantitative indicators that could be used to monitor progress on better regulation in the EU

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## Project on Indicators of Regulatory Quality

- Study to be launched in Nov. 03
  - Part I. Identify & analyse indicators used in EU & 3rd countries, linked to following three “levels”:
    - Administrative systems (institutional set-ups, tools, procedures for better regulation)
    - Activities & outputs (practical implementation, enforcement & compliance with administrative systems in place)

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## Project on Indicators of Regulatory Quality

- Real world outcome (how administrative systems have helped improve regulatory quality in “real world”)
- Part II. Consideration of relevant indicators & data collection methods for the EU institutions and Member States.

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## Project on Indicators of Regulatory Quality

- Challenges:
  - Limitations of quantitative indicators to measure real success of regulatory policies
  - Difficulties to go beyond ex-post evaluation of procedures to assess “real world” impacts
  - Indicators & target setting at EU-level require agreement on “best practice”

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## Project on Indicators of Regulatory Quality

- EU, EFTA and candidate countries are involved through committee & “support networks”
- Ongoing discussions on co-operation with OECD
- Results in mid-2004, followed by conference & discussions with EU Member States

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