

Regulatory Impact Assessment in India

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Outline

- Introduction
- RIA in India
- Making RIA useful for India

Introduction

Regulatory Impact Assessment

- *A systematic policy tool used to examine and measure the likely benefits, costs, and effects of new or exiting regulation, and assist decision makers in taking correct decisions. (OECD, 2008)*
- A mechanism for holding regulatory agencies accountable.
- Usual structure:
 - an evaluation of the problem
 - the objective and intended effect
 - consideration of alternative options
 - assessment of all their impacts distribution
 - results of public consultation
 - compliance strategies
 - processes for monitoring and evaluation

The Case for RIA

- The standard argument for regulation:
 - ① *Competitive markets* maximise social welfare by efficiently allocating resources
 - ② *Market failures* hinder efficiency: market power, information asymmetry, public goods, and externalities
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- The regulatory state: relatively independent agencies with extensive powers.
- Problems of under-regulation, over-regulation, delay or haste.
- RIA can help improve efficiency by embedding a comprehensive assessment of impact in the making and review of laws/regulations.

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- *Such analysis does not come naturally to humans.*

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 - In moral and political matters, we are particularly amenable to group think.
 - Power makes good reasoning less likely to happen.
- RIA can help overcome behavioral/cognitive biases: confirmation bias, availability heuristic, optimism bias, hindsight bias

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RIA in India

FSLRC recommendations

- Section 52 of draft Indian Financial Code:
 - Draft regulations must be accompanied by an analysis of costs and benefits
 - As the proposals undergo changes, the analysis should be updated
- Section 53: Cost benefit analysis not required for emergency regulation-making
- Section 54: Consider costs and benefits for all affected stakeholders, and use best available data and best scientific method

Committee recommendations

- **Committee for Reforming the Regulatory Environment for Doing Business in India (2013):** *A regulatory impact assessment of every proposed regulation should precede the public consultation process.*
- **Ajay Shankar Committee:** *Regulatory impact assessment with analysis of direct and indirect costs and benefits, conducted by a Standing Expert Committee*

Making RIA useful for India

Effectiveness of RIA

- Potential uses and abuses of RIA
 - **Exploratory**: seek the truth and solve a problem
 - **Confirmatory**: provide evidence for a given conclusion
 - **Reputational**: signal credibility by conducting RIA in name only
- Specific use depends on the context
- Odds are against *exploratory use*
 - Human nature
 - Institutional design
 - Political economy
 - Weak external accountability mechanisms
- *These are problems to solve*

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 - weightage of impact on low-income households
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- Examples:
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 - inter-generational equity
- Most of the existing models leave too much to the *experts*.

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- Investment in information collection and research systems, and enable information sharing across agencies

Institutional Environment and Political Economy

A dominant interest group hostile to agency's goals	Central Drugs Standard Control Organization
Two or more rival interest groups in conflict over agency's goals	AERA, TAMP
A dominant interest group favoring agency's goals	ICAI, ICSI
No important interest groups	CCI

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- Judiciary has occupied the space for accountability - this is far from ideal
- Civil society consumer groups are weak, but this may be changing (eg. net neutrality)
- Limited policy-relevant academic research in India

Introducing RIA in India

- Allies:
 - politicians interested in holding bureaucrats accountable
 - businesses worried about ease of doing business
 - bureaucrats keen to assert intellectual independence and enhance credibility
 - consumers worried about under-regulation.

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- Primary laws must start mandating RIAs
- Modest beginning, and then gradual build-up of capacity and quality
- Mechanism for independent review of RIAs?

Thank you.