

Strategies to start a RIA programme

Antonio La Spina
Palermo University

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Short term and medium term strategic goals

RIA is a very innovative task for public bodies

Therefore, to start a RIA programme is always difficult and challenging

In the short term the aim is to introduce new norms, procedures and units concerning RIA

In the medium term the aim is the actual improvement of major regulatory measures through RIA

The apparent success of a strategy in the short term is not a sufficient condition to guarantee that medium term goals are reached

Some problems connected with the start- up phase

- effectiveness of protagonist ministers
- endorsement of the reform by the parliamentary majority
- appropriate allocation of resources (internal staff, consultants, training)
- involvement of reluctant ministers and civil servants
- spreading and experimentation of new techniques and procedures
- graduality
- legitimation

Some problems connected with the institutionalization of RIA

1) Necessity to modify the following structural features, when they are present:

- resistance on the side of legalistic bureaucracies to approaches and techniques perceived as alien
- resistance to an increase in workload
- resistance to the redistribution of regulatory powers implied by the introduction of RIA
- resistance to a real opening of the process to public scrutiny
- resistance to leave to a new group of “technicians” important decisions on matters of high political significance

2) Necessity to reach and consistently apply sound and uniform consultation and impact assessment methodologies

The essential steps required

The time sequence should be the following:

- ▼ 1) normative act (possibly a statute) on RIA
- ▼ 2) allocation of resources
- ▼ 3) institution of a central subject officially responsible for, and capable of, exerting the “quality control” of RIAs
- ▼ 4) promotion of decentralized learning
- ▼ 5) actual application of RIA in relevant cases
- ▼ 6) at this point, new normative acts might be required, to fix the results of the start-up phase, and to specify sanctions and rewards for institutions as well as for individuals (if this has not been done before); RIA must be made compulsory at an early stage of the regulatory process
- ▼ 7) emergence of a professional community and of a body of precedents

A mixed approach

It is almost impossible that regulators apply RIA in a “spontaneous” fashion; they should be required to do so by a body endowed with the necessary authority

Therefore, a top-down element is essential

On the other hand, it is possible and advisable to create a RIA system through the participation of those who will have the responsibility to produce new regulations

This can be done in several complementary ways:

by allowing for an experimental phase;

by avoiding a general application of RIA;

by accepting indications “from the bottom up” about the general criteria for exclusion, and more generally about the procedures and techniques to be chosen

The allocation of responsibilities

It would be very difficult to implement a RIA system without a central unit responsible for reviewing RIAs attached to proposals of new regulations

The most natural location of such a unit is within the apex of the executive

However, it is not strictly necessary that the Prime minister or the President have the competence on RIA

In some cases, this is given to the Ministry of Justice, or of the Ministry of the Treasury

It is also possible to have, *besides* the central unit, other bodies whose task would be that of reviewing the methodologies, the overall performance, the criteria for exemptions, and so on

The central unit will be useless if it is not assisted by formal provisions and endowed with internal technical staff, financial resources, and where necessary external consultants

The search for a common practice

Drafters and reviewers of RIAs

Not only when a RIA system is at its beginning, but also when it becomes institutionalised, is very important to avoid that the proponents of new regulations feel that their decision making power has been too severely curtailed

It would be advisable, then, that interference by the central unit stays limited to the technical aspect of impact assessment

It is better, therefore, to leave room for the proponent's choice of alternative options to consider

In the field of consultation, too, a certain degree of freedom must be allowed, although in a framework of general provisions making *some* consultation compulsory

If recruitment, training and institutional setting are sound, in due time drafters and reviewers should come to perceive themselves as belonging to the same professional community

The risks of symbolism and ritualism

Latent resistances to the introduction of RIA can be very strong

This does not necessarily mean that RIA will be totally and openly rejected

Especially in those countries where there is a felt need to show to external observers that the values of modernization, market economy, openness of decision-making process are endorsed, there can be an incentive to adopt and implement RIA, without actually rendering it effective

In such cases the risk is then that RIA be managed, in practice, as a symbolic (in the sense of ineffective) and a ritualistic (in the sense of only formally adhering to official precepts) activity

The advantages of youth

“Young” political systems, and especially young democracies suffer from a series of handicaps when trying to introduce innovations such as RIA.

Political leadership may be weak; technical expertise may be lacking; regulative procedures may be still uncertain and not fully understood; and so on

However, the fact that the general institutional setting is very recent might mean that some adjustment would be perceived as normal, and therefore widely accepted

Furthermore, the fact that bureaucratic structures are very recent too imply that the highest positions might in some cases be occupied by people whose attitude to innovation is favourable

Secondly, routines and “administrative traditions” should be either absent or easy to delegitimise, because they would be connected to the past regime