



# Best Practices on Regulatory Impact Analysis in OECD countries

Regulatory Governance Initiative  
in South East Europe

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# Strategies for Assuring Regulatory Quality

## I. Building a regulatory management system

- Regulate the regulators through transparency and accountability mechanisms (laws, policies, institutions, enforcement, etc.)

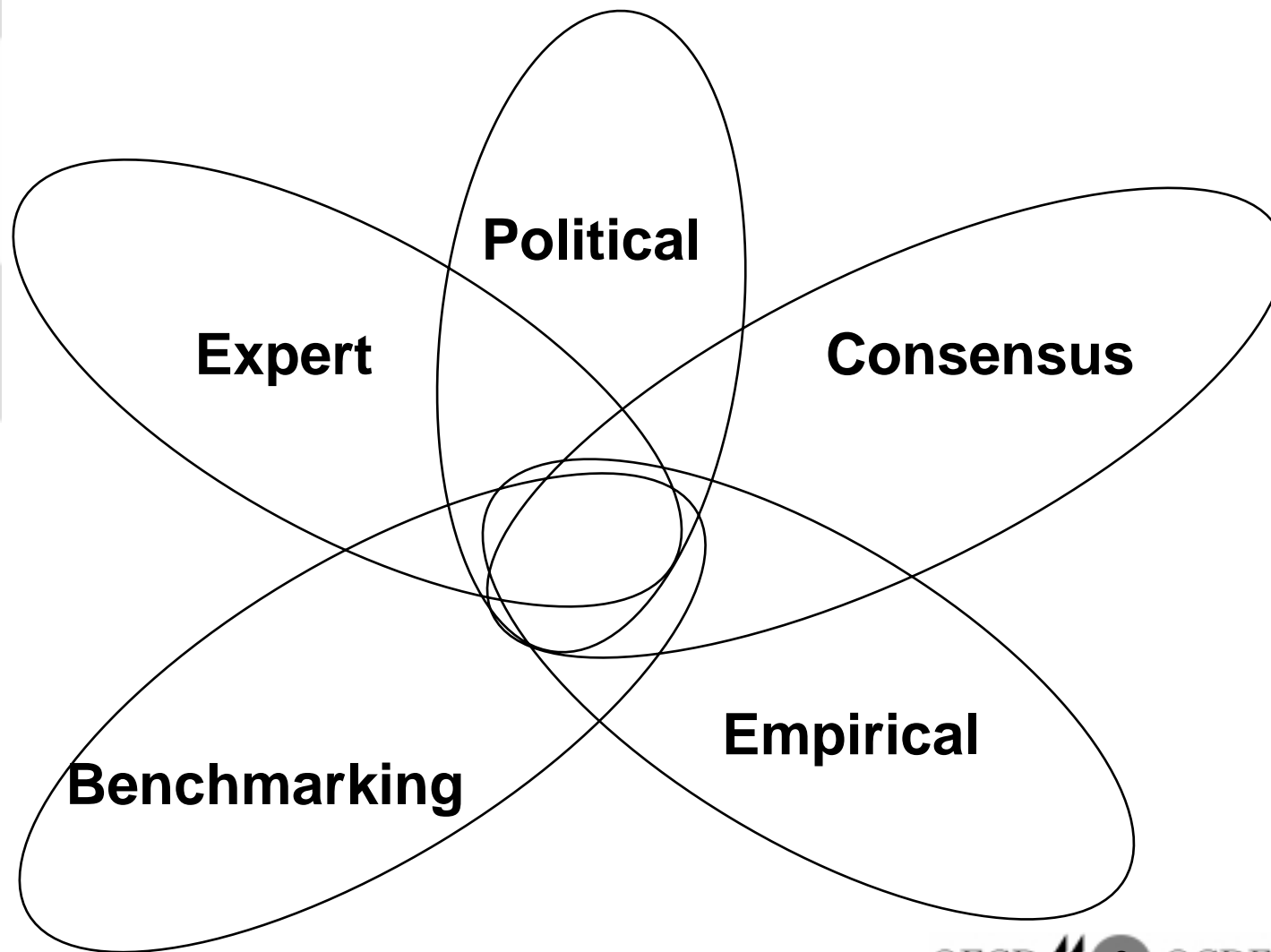
## II. Improving the quality of new regulations

- Control of the flow (**RIA**, consultation, alternatives, co-ordination, etc.)

## III. Upgrading the quality of existing regulations

- Control of the stock (deregulation, up-dating, codification and restatement, formalities, etc.)

# Methods to take a regulatory decision

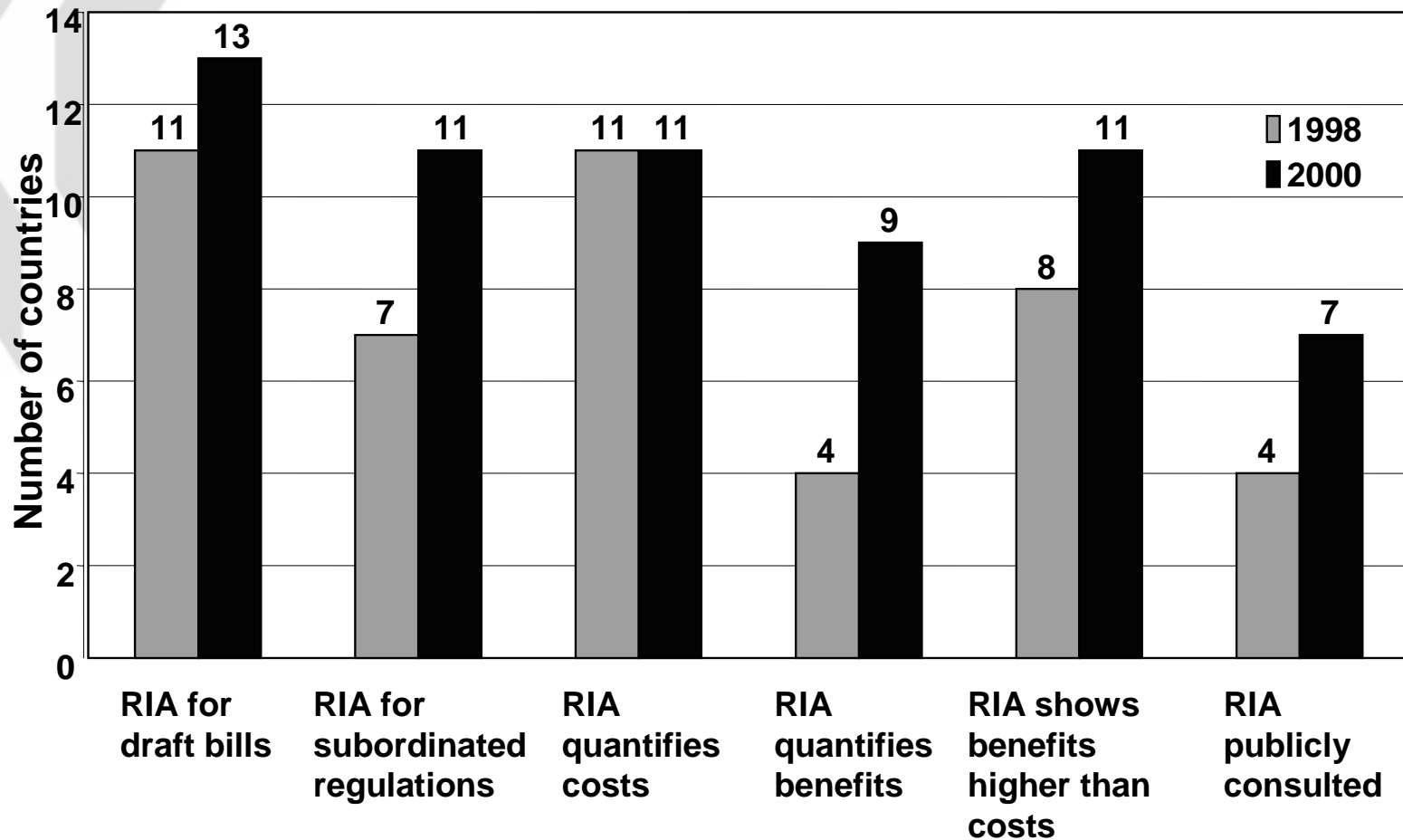


# RIA Best practices

- RIA is required before adopting a regulation in 13 OECD countries
- OECD developed ten criteria
  - OECD 1997 *Regulatory Impact Analysis: Best Practices in OECD countries*, Paris
- Based on
  - 16 countries reviewed under OECD Regulatory Reform Programme
- Key issues
  - Theory VS. Practice
    - Experimental period and the enforcement
  - Fine tuning the instrument(s)
    - A continuous quality process
    - Start small, scale rapidly
  - Shifting and balancing the emphasis on 'carrots' and 'sticks'
  - Periodic external evaluation of the instrument(s)

# Aspects of RIAs in OECD countries

(28 countries)



# 1. Maximise political commitment to RIA

- Endorsement at the highest levels of government
- Supported by clear ministerial accountability

## Key issues

- Embedded in law or secondary regulation
- Cabinet level document
- Fragmentation of governance structure and administrative culture
- Scope of RIA (primary, secondary regs, sectoral regulators, soft-law, subordinated regulations, etc).
- The role of Parliament

## 2. Allocate responsibilities for RIA programme elements carefully

- Decentralisation
  - to ministries and regulators to favour 'ownership' and integration into decision-making
- Central unit functions:
  - manage RIA process
  - challenge RIAs
  - training and guidance for RIA drafters
  - (also advocate reforms)

### Key issues

- Resources for RIA drafter... and for the central unit
- Credibility of 'challenge' function of the central unit
- Technical Vs political 'gate keeper'

### 3. Use a consistent but flexible analytical method

- Qualitative Vs. Quantitative analysis
- Benefit-cost analysis
- Risk assessment

#### Key issues

- Difficulty to assess benefits
- Difficulty to assess dynamic effects
- A standard methodology to provide comparability
- Low technical skills in the public sector (rule-making training)
- individual VS cumulative impacts



## 4. Develop and implement data collection strategies

- Experts (e.g. interviews)
- Surveys & studies
- Panel tests
- Models

### **Key issues**

- Clarity and precision of guidance
- Evidence-based training
- Resources for data gathering

## 5. Target RIA efforts

- Primary and Secondary regulations
- Thresholds
- ‘Common sense’
- Two-step approach

### Key issues

- Setting thresholds
- The onus of the proof
- Underestimation of the first RIA in a two-step approach

## 6. Integrate RIA with the policy making process and begin as early as possible

- Avoid to transform RIA on a justification report or internal 'red tape'
- Assessment of alternatives to regulations

### Key issues

- Emphasis on alternatives (including 'do nothing' one)
- Understanding regulatory compliance
- Costing enforcement (including lower levels of governments)
- Tradition of economic instruments
- Capture of the 'challenge' function

## 7. Involve the public extensively

- Democratic/participation dimension
- Data gathering mechanisms
- Increase compliance
- Accelerate and ease the implementation

### Key issues

- Time constraints
- The power of exposure
- Mandatory publication or not
- Active consultation techniques (e.g. panel tests)
- Passive consultation (notice and comments)

## 8. Communicate the results

- Improves transparency and accountability
- Improves regulatory compliance
- Increases trust in government and RIA

### **Key issues**

- Parliament may require RIAs for draft laws
- Response to comments to draft RIAs

## 9. Train the regulators

- A decision-making technique
- A vehicle for a cultural change for regulators

### **Key issues**

- Guideline and training material (including e-based)
- Legal Vs evidence-based culture

# 10. Apply RIA to existing as well as new regulations

- RIA as a performance assessment instrument

## Key issues

- *Ex ante* Vs *ex post* evaluation
- Maximising investment
- Strategic approach to massive reforms

# Conclusions

## • Achievements

- A better designed and more effective instrument
- Better understanding of regulatory impacts

## • Challenges

- Implementation
- Quantification & targeting
- Increasing objectives/criteria